

ESTTA Tracking number: **ESTTA31937**

Filing date: **05/02/2005**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Jarrow Formulas, Inc		
Entity	Corporation	Citizenship	California
Address	1824 South Robertson Blvd., Los Angeles, CA 90035-4317 UNITED STATES		

Attorney information	Mark D. Giarratana McCarter & English, LLP CityPlace I185 Asylum Street Hartford, CT 06103 UNITED STATES mgarratana@mccarter.com, edewey@mccarter.com, jwhitney@mccarter.com Phone:2033241800
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Registration Subject to Cancellation

Registration No	2523471	Registration date	12/25/2001
Registrant	Edward & Sons Trading Company, Inc. 4420 Via Real, Suite C Carpinteria, CA 93013 UNITED STATES		
Goods/Services Subject to Cancellation	Class 005. First Use: 20010206, First Use In Commerce: 20010206 Goods/Services: nutritional and dietary supplements		

Attachments	kidsbear petitionHARTFORD-639022-v1-petition to cancel.pdf (3 pages)
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Signature	/ekd/
Name	Mark D. Giarratana and Ericka K. Dewey
Date	05/02/2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petitioner:)	Cancellation No.
Jarrow Formulas, Inc.)	
)	Registration No.
vs.)	2,523,471
)	
Respondent:)	Date of Issue: December 25, 2001
Edward & Sons)	
Trading Company, Inc.)	

PETITION FOR CANCELLATION

Petitioner, Jarrow Formulas, Inc., a corporation of the State of California, located and doing business at 1824 South Robertson Blvd., Los Angeles, CA 90035-4317, believes that it is being damaged by Registration No. 2,523,471 (hereinafter "the KID BEAR Registration") of Respondent, Edward & Sons Trading Company, Inc., a Corporation of the State of New Jersey, having an address at 4420 Via Real, Suite C, Carpinteria, California, 93013 and hereby petitions to cancel this registration.

The KID BEAR registration issued on December 25, 2001 from an application filed on March 22, 2000. Registrant claims to have first used the mark in interstate commerce on February 6, 2001. The mark is registered on the Principal Register in International Class 5 for nutritional and dietary supplements.

The grounds for cancellation are as follows:

1. Petitioner manufactures and markets dietary and nutritional supplements in the United States.

2. Petitioner is the owner of a U.S. “Intent-to-Use” Trademark Application filed on March 4, 2005, for the trademark KIDS BEARS, (Serial No. 78/580,140) for goods in International Class 5, namely dietary and nutritional supplements.

3. Petitioner has a valid intention to use the KIDS BEARS Trademark (Serial No. 78/580,140) in United States commerce, in connection with dietary and nutritional supplements.

4. Upon information and belief, Respondent’s alleged KID BEAR mark has been abandoned by virtue of non-use, thereby rendering the corresponding Registration No. 2,523,471 invalid, null and void.

5. The Respondent’s alleged invalid Registration may impede Petitioner’s legal right and ability to use, further expand its use, and to register its mark (KIDS BEARS, Serial No. 78/580,140), and therefore Petitioner is likely to be damaged by the continued existence of Registration No. 2,523,471 on the Principle Register.

WHEREFORE, Petitioner Jarrow Formulas, Inc., prays that Registration No. 2,523,471 be canceled and that this Petition for Cancellation be sustained in Petitioner’s favor.

