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

In the matter of Registration No. 88,169
Issued on September 3, 1912 91050796

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Max Rohr, Inc., :

Petitioner, :

-V- :

King Edward Technology, Inc. :

Registrant. :
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PETITION FOR CANCELLATION

July 18, 2005

Assistant Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313

PETITION FOR CANCELLATION

Max Rohr, Inc. ("Petitioner"), a corporation organized and existing under the laws of the state of Delaware, located at 300 Delaware Avenue, Wilmington, DE 19801, believes that it is being damaged by Registration No. 88,169 and hereby petitions to cancel same on the following grounds:

1. Upon information and belief, King Edward Technology, Inc. ("Registrant"), a corporation organized and existing under the laws of the state of Delaware, and doing business at 1105 North Market Street, Wilmington, DE 19801, is the owner of United States Trademark Registration No. 88,169 for "LA DILIGENCIA DE M.Y.G. and Design" for "cigars" in International Class 34.

2. Petitioner is the owner by assignment of United States Trademark Registration No. 2,341,537 for "M&G" for "cigars" in International Class 34. Petitioner hereby gives notice that, in accordance with Trademark Rule 2.122(d), it will rely on said registration as evidence on its behalf in this proceeding, and a status copy thereof showing Title will be introduced into evidence during Petitioner's testimony period.

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3. Petitioner is a wholly-owned subsidiary of Altadis U.S.A. Inc. ("Altadis"). Altadis is a major U.S. cigar manufacturer that engages in the manufacture, distribution and sale of cigars, directly and through the operations of various subsidiaries.

4. Altadis and its subsidiaries use the trademark "M&G" in interstate commerce in connection with the sale and distribution of cigars.

5. As a result of the longstanding and widespread use of the "M&G" trademark in connection with cigars by Altadis and its predecessors and various subsidiaries, the trademark has acquired great distinctiveness, secondary meaning and extensive goodwill, and is well known and recognized by consumers and the trade as identifying quality cigars which have their origin or have been authorized by Petitioner.

6. Registrant's cigars are closely related to Petitioner's cigars and, upon information and belief, will travel and be promoted through the same channels of trade for sale to, and use by, the same class of purchasers.

7. Registrant's use the "LA DILIGENCIA DE M.Y.G. and Design" mark in connection with cigars, is likely to cause confusion, mistake or deception as to the source of origin of Registrant's services in that the public, the trade and others are likely to believe that Registrant's services are provided by, sponsored by, approved by, licensed by, affiliated with or in some other way legitimately connected to Petitioner.

8. Moreover, the continued existence of Registrant's "LA DILIGENCIA DE M.Y.G. and Design" mark registration casts a cloud upon Petitioner's right to continue to use and to expand the use of its "M&G" trademark.

9. Upon information and belief, Registrant has abandoned the registered "LA DILIGENCIA DE M.Y.G. and Design" mark in that it has discontinued use of the mark with intent not to resume such use.

WHEREFORE, Petitioner believes that it will be damaged by Registration No. 88,169 and prays that this Petition for Cancellation be sustained in favor of Petitioner, that judgment be entered against Registrant and that U.S. Trademark Registration No. 88,169 be canceled.

Dated: July 18, 2005

Respectfully Submitted,

Charles W. Grimes
Attorney for Petitioner

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRANSMITTAL FORM

Registrant: **King Edward Technology, Inc.** Docket No.: **CC427USL**

Mark: **LA DILIGENCIA DE M.Y G. and Design** Int'l Class(es): **34**

Registration No.: **88,169** Issue Date: **September 3, 1912**

Petitioner: **Max Rohr, Inc.**

Enclosed herewith for filing in respect of the above-noted matter are:

- *Petition for Cancellation;*
- *Firm's Check in the amount of $300;*
- *Postcard; and*
- *Duplicate Copy of Transmittal Form.*

The Commissioner is authorized to charge any amounts due or to credit any overpayments to our firm's Deposit Account No. 07-2162. A duplicate copy of this letter is enclosed for such purpose.

Respectfully submitted,

Date: July 18, 2005

Charles W. Grimes
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CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO: ASSISTANT COMMISSIONER FOR TRADEMARKS, P.O. BOX 1451, ALEXANDRIA, VA 22313-3513 ON July 18, 2005.

CHARLES W. GRIMES		July 18, 2005
NAME OF REGISTERED REPRESENTATIVE	SIGNATURE	DATE