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Filing date: **12/15/2005**

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	THE HILSINGER COMPANY		
Entity	Corporation	Citizenship	Delaware
Address	33 West Bacon St. Plainville, MA 02762 UNITED STATES		

Attorney information	Ralph N. Gaboury, Esq. Duffy Sweeney & Scott, LTD One Turks Head Place Suite 1200 Providence, RI 02903 UNITED STATES rgaboury@duffysweeney.com, cscott@duffysweeney.com, lcardente@duffysweeney.com, smcgurk@duffysweeney.com, khague@duffysweeney.com Phone:401-455-0700
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### Registration Subject to Cancellation

Registration No	3013710	Registration date	11/08/2005
Registrant	Bacou-Dalloz Eye & Face Protection, Inc. 910 Douglas Pike Smithfield, RI 029171874 UNITED STATES		
Goods/Services Subject to Cancellation	Class 009. First Use: 2004/12/23 , First Use In Commerce: 2004/12/23 Goods/Services: Safety eyewear		

Attachments	Petition to cancel.pdf ( 4 pages ) Exhibit A.pdf ( 3 pages )
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Signature	/Ralph Gaboury/
Name	Ralph N. Gaboury, Esq.
Date	12/15/2005

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

In the matter of trademark registration No. 3,013,710  
For the mark: FITLOGIC  
Date registered: November 8, 2005

THE HILSINGER COMPANY,	:	
	:	
Petitioner,	:	
	:	
v.	:	Cancellation No.: _____
	:	
BACOU-DALLOZ EYE & FACE	:	
PROTECTION, INC.,	:	
	:	
Registrant.	:	

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**PETITION TO CANCEL**

Petitioner, The Hilsinger Company (“Hilsinger”), is a Delaware corporation and has a principal place of business located at 33 West Bacon Street, Plainville, MA 02762.

To the best of petitioner’s knowledge, the name of the current owner of the registration is Bacou-Dalloz Eye & Face Protection, Inc., a Delaware corporation with its principal place of business at 10 Thurber Blvd., Smithfield, Rhode Island.

The above-identified petitioner believes that it will be damaged by the above-identified registration, and hereby petitions to cancel the same.

The grounds for cancellation are as follows:

1. For over forty (40) years, Hilsinger has designed and sold innovative eye care and eyewear products, including safety eyewear products.
2. In addition to many other products, Hilsinger designed a line of nose pads which it promotes and sells under the brand name LOGIC. LOGIC brand pads are made of various plastic materials and are designed to fit both safety and regular eyewear. Hilsinger has sold nose

pads using the LOGIC trademark continuously since 1998, and promotes and sells nose pad products under a family of LOGIC-based marks (the “LOGIC Marks”), including:

LOGIC  
CONTOUR FIT LOGIC;  
ULTRATHIN LOGIC;  
LOGIC STRAP BRIDGES; and  
LOGIC VINYLON.

3. Of particular relevance is Hilsinger’s trademark CONTOUR FIT LOGIC, which Hilsinger has used in connection with the sale of nose pads for over five years. Hilsinger’s CONTOUR FIT LOGIC branded nose pads are designed to provide enhanced comfort for safety glass and eyeglass wearers.

4. Since January 2001, Hilsinger has featured its LOGIC brand nose pads in its line of safety eyewear.

5. Hilsinger has extensively promoted and advertised the LOGIC Marks, including CONTOUR FIT LOGIC, throughout the United States, Canada and Europe in industry publications, point of purchase materials, annual catalogs, periodic mailing brochures and its website.

6. Over the years, through its promotion and advertising, Hilsinger has developed substantial goodwill in its LOGIC and CONTOUR FIT LOGIC branded products, which are widely recognized by consumers of eyewear products.

7. To protect the substantial goodwill associated with its eyewear products, Hilsinger applied for and received United States Trademark Registration No. 2,270,731 for the mark LOGIC for a variety of eyewear products in International Class 009, including safety goggles. The registration was granted August 17, 1999, reflects first use in commerce on May 1, 1998, and is now incontestable pursuant to Section 15 of the Lanham Trademark Act, 15 U.S.C.

§ 1065. Pursuant to 37 C.F.R. § 2.122(d) and TBMP § 704.03(b)(1)(A), two photocopies of the registration showing both the current status of and current title of the registration are attached hereto as Exhibit A.

8. As a result of Hilsinger's sales, service, advertising and promotion, the LOGIC Marks, including CONTOUR FIT LOGIC, have become widely known amongst consumers and in the eyewear industry as identifying high quality eyewear products originating from Petitioner.

9. By virtue of the long history of Petitioner's use of the LOGIC Marks, the wide distribution, advertising and promotion of Petitioner's LOGIC branded products, the LOGIC Marks have established strong secondary meaning and embody substantial goodwill. The LOGIC Marks are inherently distinctive and universally recognized as identifying Petitioner as the sole source of goods and services designated with the LOGIC Marks, and as distinguishing them from the goods and services of others. Accordingly, the LOGIC Marks are an extremely valuable commercial asset.

10. Notwithstanding Hilsinger's longstanding rights in and to the LOGIC Marks, including CONTOUR FIT LOGIC, on November 8, 2005, over six years after Hilsinger began using its LOGIC Marks in commerce, Registrant received United States Trademark Registration No. 3,013,710 for the mark FITLOGIC for use in connection with "safety eyewear" in International Class 009 (the "Registration").

11. The similarity of Registrant's FITLOGIC designation to Petitioner's LOGIC Marks — especially as to Petitioner's CONTOUR FIT LOGIC mark — and the similarity of Registrant's goods, suggests that Registrant is planning to trade off the goodwill that Hilsinger has developed in its LOGIC Marks. Accordingly, Hilsinger will be damaged by the registration because consumers will be likely to believe, falsely, that Registrant's goods and services are

authorized, sponsored or approved by Hilsinger or that Hilsinger is otherwise affiliated with Registrant, in violation of Section 2(a) of the Lanham Act, 15 U.S.C. § 1052(a).

12. In addition, Registrant's registration and use of the FITLOGIC designation will damage Hilsinger because this designation is confusingly similar to the LOGIC Marks, especially with respect to Petitioner's CONTOUR FIT LOGIC mark, and Registrant's use of the designation in connection with safety eyewear is likely to cause confusion, deception, and/or mistake among the consuming public in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d). Hilsinger will be further damaged by the registration because such registration will support and assist Registrant in the confusing and misleading use of the FITLOGIC mark, and will give color of exclusive statutory rights to Registrant in violation and derogation of the prior and superior rights of Hilsinger.

WHEREFORE, Hilsinger will be damaged by said registration and prays that it be cancelled. Pursuant to 37 C.F.R. § 2.6(a)(17), please charge Deposit Account Number 502136 three hundred dollars (\$300.00) to cover the fee for filing this Petition to Cancel.

THE HILSINGER COMPANY

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Dated: December 15, 2005

Attorneys for Petitioner

**EXHIBIT A**

COPY

791116

**THE UNITED STATES OF AMERICA**

**TO ALL TO WHOM THESE PRESENTS SHALL COME:**

**UNITED STATES DEPARTMENT OF COMMERCE**

**United States Patent and Trademark Office**

**December 07, 2005**

**THE ATTACHED U.S. TRADEMARK REGISTRATION 2,270,731 IS  
CERTIFIED TO BE A TRUE COPY WHICH IS IN FULL FORCE AND  
EFFECT WITH NOTATIONS OF ALL STATUTORY ACTIONS TAKEN  
THEREON AS DISCLOSED BY THE RECORDS OF THE UNITED STATES  
PATENT AND TRADEMARK OFFICE.**

**REGISTERED FOR A TERM OF 10 YEARS FROM *August 17, 1999*  
SECTION 8 & 15**

**SAID RECORDS SHOW TITLE TO BE IN:**

***THE HILSINGER COMPANY  
A DELAWARE CORPORATION***

**By Authority of the  
Under Secretary of Commerce for Intellectual Property  
and Director of the United States Patent and Trademark Office**



**P. SWAIN  
Certifying Officer**



DEC 12 2005

Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36 and 38

Reg. No. 2,270,731

**United States Patent and Trademark Office**

Registered Aug. 17, 1999

**TRADEMARK  
PRINCIPAL REGISTER**

**LOGIC**

HILSINGER COMPANY L.P., THE (DELA-  
WARE LIMITED PARTNERSHIP)  
33 WEST BACON STREET  
PLAINVILLE, MA 027620538

FOR: PARTS AND ACCESSORIES FOR EYE-  
GLASS MOUNTINGS; NAMELY, NOSE PADS,  
NOSE PAD ARMS, NOSE PAD COVERS; TEM-  
PLES, TEMPLE TIPS, TEMPLE TIP SIZERS,  
TEMPLE COVERS, TEMPLE HINGES;  
TEMPLE PADS; TEMPLE GRIPS; TEMPLE  
KITS COMPRISING PRIMARILY OF TEMPLES  
FOR THE ASSEMBLY OF EYEGLASSES;  
READERS; EYEGLASS FRAMES; EYEGLASS  
CASES; EYEGLASS LENSES; SAFETY GOG-

GLS; CONTACT LENS CASES; EYEGLASS  
FRAME CABLE COVERS, EYEGLASS FRAME  
CABLE ENDS, EYEGLASS FRAME HEATSH-  
RINK TUBING, EYEGLASS FRAME DECORA-  
TIVE PLAQUES, EYEGLASS FRAME LENS  
GASKETS, AND EYEGLASS FRAME STRAP  
BRIDGES, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36  
AND 38).

FIRST USE 5-1-1998; IN COMMERCE  
5-1-1998.

SER. NO. 75-520,113, FILED 7-16-1998.

KATHERINE BUSH, EXAMINING ATTORNEY