

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

In the matter of Trademark Registration No.: 1,591,046/73821678

For the Mark: "ZUBAZ"

Date of Issue: April 10, 1990

Cancellation No.: \_\_\_\_\_

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KUHLMANN, Bernt,  
*Petitioner,*

v.

ZUBAZ, LLC,  
*Registrant.*  
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TRADEMARK TRIAL & APPEAL BOARD  
Commissioner of Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

**NOTICE OF CANCELLATION**

Dear Sir:

In connection with the above-entitled matter, enclosed please find a Petition to Cancel the above Registration filed by BERNT KUHLMANN.

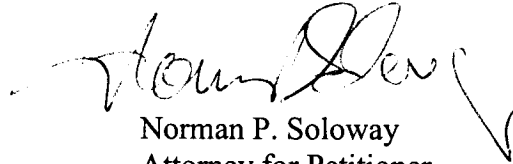
Credit Card Payment Form -2038 in the amount of \$300.00 to cover the USPTO fee for cancellation (1 class) accompanies this Petition to Cancel. In the event there are any fee

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deficiencies or additional fees are payable, please charge them (or credit any overpayment) to our Deposit Account No. 08-1391.

Respectfully submitted,



Norman P. Soloway  
Attorney for Petitioner  
Reg. No. 24,315

**CERTIFICATE OF MAILING**

I hereby certify that triplicate copies of this correspondence are being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: TRADEMARK TRIAL & APPEAL BOARD, Commissioner of Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451 on February 9, 2006, at Tucson, Arizona.

By Sharon McKniff

NPS:sm

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P.O. Box 1451  
Alexandria, VA 22313-1451

**PETITION TO CANCEL**

Dear Sir:

Petitioner BERNT KUHLMANN, an individual having a principal place of business at 310 S. Convent Avenue, Tucson, Arizona 85701, believes that he will be damaged by the existence of U.S. Trademark Registration No. 1591046 (the Registration) and hereby petitions to cancel the same.

As grounds therefor it is alleged that:

1. The Registrant, through its predecessors, obtained the above Registration for "ZUBAZ" in international class 25 for sports and leisure clothing, namely loose-fitting pants, shirts, tops, t-shirts, sweatshirts, caps and jackets. The Registration was obtained pursuant to

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1(a) based on alleged first-use date of May 18, 1988 and an alleged first-use in commerce of date of May 23, 1988.

2. Petitioner has adopted the mark "XUBAZ" in connection with the sale of clothing accessories, namely, scarves and shawls, and has filed an intent-to-use Federal Trademark Application for said mark, Serial No. 78/691,973, filed August 12, 2005. Petitioner's above-identified Application has been denied registration under Section 2(d) based on Registrant's earlier U.S. Trademark Registration No. 1591046 for "ZUBAZ".

I. ABANDONMENT

3. Petitioner repeats and re-alleges the allegations set forth in paragraphs 1-2 hereof, as if more fully set forth below.

4. Upon information and belief Registrant has never made use of the mark in connection with the recited goods set forth in U.S. Trademark Registration No. 1591046 in the United States and/or in commerce with the United States, or having once made use, has intentionally discontinued and abandoned using the mark in connection with the recited goods in the United States and/or in commerce with the United States in connection with such goods.

5. Petitioner has been or will continue to be damaged by the existence of Registration No. 1591046, since the Registration has blocked Petitioner's registration.

6. The Registration is not being used by the Registrant in connection with the recited goods set forth in the Registration. Accordingly, the mark has been abandoned, and the Registration should be cancelled.

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II. FRAUD

7. Petitioner repeats and re-alleges the allegations set forth in paragraphs 1-2 hereof, as if more fully set forth below.

8. On or about October 10, 2000, Registrant filed a Combined Declaration of Use in Commerce together with an Application of Renewal of Registration 1591046 (the Renewal Application), averring that the Registered mark was being used in connection with all of the recited goods. The Office granted the requested renewal based, in part, on Registrant's representations and Declaration of Use.

9. On information and belief, Registrant is no longer using the mark recited in the Registration, in commerce in or with the United States on or in connection with the specified goods, and Registrant was not so using the mark in connection with the recited goods at the time the Declaration of Use/Application for Renewal was filed. Further the averments in the Declaration of Use/Application for Renewal, filed to maintain Registration No 1591046 were false, and known to be false when made, or were made with reckless disregard for the truth or falsity of the claim that the mark remained in use in connection with the goods recited in the Registration.

10. Petitioner has been and will continue to be damaged by the existence of Registration No. 1591046, since the Registration has essentially blocked Petitioner's Registration.

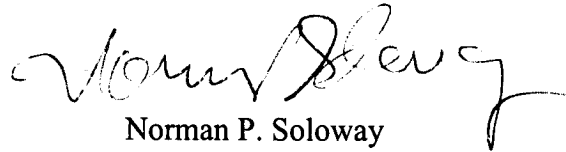
WHEREFORE, Petitioner prays that Registration No. 1591046 issued April 10, 1990 should be cancelled.

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Please direct all correspondence in connection with this Petition to the undersigned attorney.

Respectfully submitted,



Norman P. Soloway  
Attorney for Petitioner  
Reg. No. 24,315

**CERTIFICATE OF MAILING**

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By  \_\_\_\_\_

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