

ESTTA Tracking number: **ESTTA144223**

Filing date: **06/05/2007**

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	Royal Pet Incorporated		
Entity	Corporation	Citizenship	Minnesota
Address	6250 Claude Way E. Inver Grove Heights, MN 55076 UNITED STATES		

Attorney information	Peter J. Ims Westman, Champlin & Kelly, P.A. 900 Second Avenue South, Suite 1400 Minneapolis, MN 55402 UNITED STATES pims@wck.com Phone:612 334-3222		
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#### Registration Subject to Cancellation

Registration No	3249989	Registration date	06/05/2007
Registrant	Garner, Lindsay L. 10 Pembroke Lane Ithaca, NY 14850 UNITED STATES		
Goods/Services Subject to Cancellation	Class 035. First Use: 2006/12/31 , First Use In Commerce: 2006/12/31 Goods/Services: Retail store services featuring pet food		

Attachments	76334317#TMSN.gif ( 1 page )( bytes ) petition to cancel.pdf ( 4 pages )(132035 bytes )		
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Signature	/Peter J. Ims/		
Name	Peter J. Ims		
Date	06/05/2007		

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

In the matter of:

Application Serial No. 78/545,548  
Registration No. 3,249,989  
Mark: DOGGIE BAGS TO GO  
International Class: 035  
Filing Date: January 11, 2005  
Registration Date: June 5, 2007

<p>Royal Pet Incorporated,  Petitioner</p> <p>v.</p> <p>Lindsay L. Garner,  Registrant.</p>	<p>Cancellation No. _____</p>
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**Petition for Cancellation**

Royal Pet Incorporated, a corporation organized under the laws of the State of Minnesota, having a place of business at 6250 Claude Way E., Inver Grove Heights, MN, 55076, believes it is being damaged by the registration of the mark shown in U.S. Trademark Registration No. 3,249,989, which was registered on June 5, 2007, and hereby petitions to cancel the same.

The grounds for cancellation are as follows:

1. Petitioner, Royal Pet Incorporated (hereinafter "Petitioner"), is a corporation duly organized and existing under the laws of the State of Minnesota, having its principal place of business at 6250 Claude Way E., Inver Grove Heights, MN, 55076.

2. Petitioner has obtained U.S. Trademark Registration No. 2,667,251 for the BAGS TO GO mark for plastic pet refuse bags; and plastic pet refuse bags sold as a unit with a plastic dispenser for the bags in International Class 016. Petitioner is attaching a printout from the TESS website with the information contained within U.S Trademark Registration No. 2,667,251 as Exhibit A.

3. Registrant obtained U.S. Trademark Registration 3,249,989 for the DOGGIE BAGS TO GO mark for retail store service featuring pet food in International Class 035.

4. The use of the Registrant's DOGGIE BAGS TO GO mark is likely to cause confusion, mistake, or to deceive the public that the services provided under the DOGGIE BAGS TO GO mark emanate from or are otherwise sponsored by or endorsed by Petitioner.

5. Registrant has used the BAGS TO GO mark in commerce since at least March 19, 2002. Registrant's alleged a date of first use in commerce of December 31, 2006. Therefore, Registrant has priority of use.

6. If Registrant is permitted to use and maintain the registration of the mark in U.S. Trademark Registration No. 3,249,989 for the services as specified in the registration herein petitioned to cancelled, likelihood of confusion in the trade resulting in damage and injury to Petitioner will be caused and will result by reason of at least the similarity between Registrant's mark and Petitioner's mark.

7. Petitioner is thereby being damaged by Registrant's registration of the DOGGIE BAGS TO GO mark in U.S. Trademark Registration No. 3,249,989.

WHEREFORE, Petitioner, through its attorney, prays that U.S. Trademark Registration No. 3,249,989 be cancelled.

The Commissioner is hereby authorized to charge payment of any additional fees associated with this communication or credit any overpayment to Deposit Account No. 23-1123.

All correspondence should be addressed to **Peter J. Ims, Esq.**

Respectfully submitted,

Westman, Champlin & Kelly, P.A.

Dated: June 5, 2007

By:



Peter J. Ims  
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Minneapolis, MN 55402-3319  
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**ATTORNEYS FOR PETITIONER  
ROYAL PET INCORPORATED**



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**Typed Drawing**

**Word Mark** **BAGS TO GO**  
**Goods and Services** IC 016. US 002 005 022 023 029 037 038 050. G & S: PLASTIC PET REFUSE BAGS; AND PLASTIC PET REFUSE BAGS SOLD AS A UNIT WITH A PLASTIC DISPENSER FOR THE BAGS. FIRST USE: 20020319. FIRST USE IN COMMERCE: 20020319  
**Mark Drawing Code** (1) TYPED DRAWING  
**Design Search Code**  
**Serial Number** 76334317  
**Filing Date** November 6, 2001  
**Current Filing Basis** 1A  
**Original Filing Basis** 1B  
**Published for Opposition** May 14, 2002  
**Registration Number** 2667251  
**Registration Date** December 24, 2002  
**Owner** (REGISTRANT) Royal Pet Incorporated CORPORATION MINNESOTA 625 Yankee Doodle Road Eagan MINNESOTA 55121  
**Attorney of Record** Z. Peter Sawicki  
**Disclaimer** NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BAGS" APART FROM THE MARK AS SHOWN  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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