

ESTTA Tracking number: **ESTTA148908**

Filing date: **07/02/2007**

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	Ms.NiagaraHenderson		
Entity	Individual	Citizenship	UNITED STATES
Address	26508 Powers Dearborn, MI 48125 UNITED STATES		

Attorney information	Andrew Baran Giarmarco, Mullins & Horton Tenth Floor Columbia Center 101 West Big Beaver Troy, MI 48084 UNITED STATES abaran@gmhlaw.com Phone:248-457-7080
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**Registration Subject to Cancellation**

Registration No	3158060	Registration date	10/17/2006
Registrant	Svengirly Music, Inc. P.O. Box 91894 Pasadena, CA 91109 UNITED STATES		
Goods/Services Subject to Cancellation	Class 009. First Use: 1977/03/03 , First Use In Commerce: 1977/03/03 Goods/Services: Compact discs featuring musical sound recordings; Phonograph records featuring musical sound recordings		
	Class 025. First Use: 2004/11/01 , First Use In Commerce: 2004/11/01 Goods/Services: Belts; Cardigans; Hats; Jackets; T-shirts; Tank tops		

Attachments	Stmt-Grounds.pdf ( 3 pages )(31323 bytes )
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Signature	/ATB/
Name	Andrew Baran
Date	07/02/2007

**NIAGARA HENDERSON,  
p/k/a NIAGARA,**

Petitioner,

Mark No. 3158060

-vs-

**MICHAEL DAVIS**, an individual; and  
**SVENGIRLY MUSIC, INC.**, an Arizona  
corporation,

Registrants

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ANDREW T. BARAN (P31883)  
MICHAEL A. NOVAK (P31549)  
ELIZABETH A. FAVARO (P69610)  
**GIARMARCO, MULLINS & HORTON, P.C.**  
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**STATEMENT OF GROUNDS FOR CANCELLATION OF MARK  
REGISTERED AS 3158060 — DESTROY ALL MONSTERS**

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1. Plaintiff Niagara Henderson is an internationally-renowned artist. She formed the music group Destroy All Monsters in 1973 with three other individuals. Michael Davis was not a part of the group at that time.

2. From the formation of Destroy All Monsters, Niagara Henderson designed the group's logo, artwork, posters, promotional materials, record covers, and the like. Niagara Henderson's face and image were sometimes used in these works. In addition, her signature as the artist responsible for the creation of the work appeared on at least some of the works.

3. The group Destroy All Monsters disbanded in 1984.
4. From 1973 through the present, Niagara Henderson has promoted the name Destroy All Monsters, in part through the artwork that she created for Destroy All Monsters.
5. The specimens submitted in support of the Petition for Registration of the mark by Michael Davis and/or Svengirly Music, Inc. were, in fact, created by Niagara Henderson and, at least in some cases, contain her signature as the artist and creator of the works.
6. Niagara Henderson's use of "Destroy All Monsters" has been actual, continuous, and deliberate since 1973. It precedes in time and scope any use made by Michael Davis and/or Svengirly Music, Inc.

GIARMARCO, MULLINS & HORTON, P.C.  
Attorneys For Plaintiff

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DATE: July 2, 2007

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