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Filing date: **07/30/2007**

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	World Diamond Source, Inc.		
Entity	Corporation	Citizenship	Florida
Address	2560 NE 5th Avenue Pompano Beach, FL 33064 UNITED STATES		

Attorney information	Joseph R. Englander Christopher & Weisberg, P.A. 200 East Las Olas Boulevard Suite 2040 Fort Lauderdale, FL 33301 UNITED STATES ptomail@cwiplaw.com Phone:(954) 828-1488		
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Registration Subject to Cancellation

Registration No	2884990	Registration date	09/14/2004
Registrant	Mi-T-M Corporation 8650 Enterprise Drive Peosta, IA 520680050 UNITED STATES		

Goods/Services Subject to Cancellation

Class 007. First Use: 2004/01/14 First Use In Commerce: 2004/01/14 All goods and services in the class are cancelled, namely: Portable power saws for cutting metal
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Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Mark Cited by Petitioner as Basis for Cancellation

U.S. Application No.	77048807	Application Date	11/21/2006
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	COOL CUT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 007. First use: First Use: 1997/06/01 First Use In Commerce: 1997/06/01		

	Saw Blades
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Attachments	77048807#TMSN.jpeg (1 page)(bytes) Petition for Cancellation.pdf (5 pages)(34789 bytes)
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Signature	/joseph r. englander/
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Name	Joseph R. Englander
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Date	07/30/2007
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re: Registration No. 2,884,990
Issued: September 14, 2004
For COOL CUT

WORLD DIAMOND SOURCE, INC.

Petitioner,

vs.

Mi-T-M Corporation,

Registrant.

PETITION FOR CANCELLATION

World Diamond Source, Inc., a Florida corporation having a principal place of business at 2560 NE 5th Avenue, Pompano Beach, Florida 33064 (hereinafter “Petitioner”), believes that it may be damaged by the continued registration of the designation COOL CUT as shown in Trademark Registration No. 2,884,990, owned by Mi-T-M Corporation (hereinafter “Registrant”), and hereby petitions to cancel the registration. The grounds for cancellation are as follows:

1. Registrant has obtained a registration on the Principal Register for the designation COOL CUT for portable power saws for cutting metal in International Class 007 (“Registrant’s designation”). Registrant’s designation is based on an application filed July 29, 2003 and asserts a first use date of January 14, 2004.

2. Petitioner began using the mark COOL CUT in connection with power saw blades in interstate commerce at least as early as 1997.

3. Petitioner owns a pending application for registration Ser. No. 77/048,807 for its COOL CUT mark.

4. On November 21, 2006, Petitioner filed application Serial No. 77/048,807 in the United States Patent and Trademark Office to register COOL CUT for saw blades.

5. Petitioner has been and is being damaged because registration of Petitioner's designation in application Serial No. 77/048,807 has been refused under Section 2(d) of the Trademark Act because of Registrant's designation.

6. Petitioner adopted and commenced use of its COOL CUT mark as a trademark long before Registrant adopted or used the COOL CUT designation. Petitioner's continued usage of the term "COOL CUT" as a trademark commenced at least as early as 1997, over six (6) years prior to the first use date alleged in Registrant's application. Since that time, Petitioner has continued to use its COOL CUT mark. Thus, Petitioner has priority over Registrant with respect to the mark at issue.

7. Registrant's designation COOL CUT is identical in meaning, sound, appearance and significance to Petitioner's COOL CUT mark as applied to Petitioner's goods identified herein and is likely to cause confusion or mistake or to deceive within the meaning of Section 2(d) of the Trademark Act of 1946, all to Petitioner's irreparable damage and loss and/or dilution of the goodwill symbolized by Petitioner's valuable mark.

8. The goods identified by Registrant's designation are closely related to the goods identified in Petitioner's COOL CUT application and used in conjunction with Petitioner's mark since 1997. Registrant uses the designation COOL CUT on goods that compete directly and indirectly with goods sold and offered by Petitioner under its COOL CUT mark.

9. Upon information and belief, Registrant uses the COOL CUT designation in connection with power saw blades as well as portable power saws, thereby causing additional direct infringement upon Petitioner's prior established trademark rights.

10. Petitioner's COOL CUT mark is of sufficient fame and has a sufficient reputation among consumers such that when the Registrant's designation is used for portable power saws and power saw blades, consumers will presume that there is a connection with Petitioner.

11. The marketing and channels of trade associated with the goods identified in Registrant's designation are closely related to, if not identical to, the marketing and channels of trade within which Petitioner sells and markets its goods associated with its COOL CUT trademark.

12. The continued registration of Registrant's COOL CUT designation for portable power saws will likely cause confusion among the relevant consuming public, and will likely cause the relevant consuming public to mistakenly conclude that Registrant's goods are associated with the Petitioner, when in fact they are not.

13. The continued registration of Registrant's COOL CUT designation is likely to cause injury to Petitioner's business reputation and to injure and impair Petitioner's rights in the COOL CUT trademark by causing confusion, mistake, and/or deception as to the respective rights of the parties and as to the source or sponsorship of such goods.

14. Since Registrant allegedly adopted the COOL CUT designation for the goods listed in the registration (January 14, 2004), purchasers have been confused as to the source or sponsorship of the listed goods associated with that designation and have believed that Petitioner was the source of the goods.

15. Petitioner has had established trademark rights in the designation for years before Registrant's alleged date of adoption of the COOL CUT designation.

16. Continued registration of Registrant's COOL CUT designation is inconsistent with the established trademark rights of Petitioner.

17. Petitioner is harmed by the diminution of and the dilution in the value of its business and its assets by the registration and use of the COOL CUT designation by the Registrant.

18. Petitioner is likely to continue to be damaged by the existence of Registration No. 2,884,990 in that Petitioner's use and/or registration of the mark COOL CUT may be limited by the continued registration of said mark of Registrant.

19. Continued registration of Registration No. 2,884,990 will result in damage to Petitioner under the provisions of Section 2 of the U.S. Trademark Act, 15 U.S.C. § 1052, pursuant to the allegations stated above.

20. The \$300.00 filing fee for this Petition for Cancellation is being paid by credit card in conjunction with this filing.

WHEREFORE, Petitioner asks that its petition to its application be sustained and that Registration No. 2,844,990 be cancelled.

Please direct all correspondence to:

Jeffrey H. Kamenetsky, Esq.
Christopher & Weisberg, P.A.
200 East Las Olas Boulevard Suite 2040
Fort Lauderdale, Florida 33301

Petitioner hereby appoints John Christopher, Registration No. 37,596, Alan M. Weisberg, Registration No. 43,982, Jeffrey H. Kamenetsky, Registration No. 44,179, Adam C. Underwood, Registration No. 45,169, Joseph R. Englander, Registration No. 38,871, and Nicholas R. Lewis, Registration No. 55,380 of the firm Christopher & Weisberg, P.A., its attorneys to transact all business in the U.S. Patent and Trademark Office relating to this matter with full power of substitution.

Dated: July 30, 2007

Respectfully submitted,

WORLD DIAMOND SOURCE, INC.

By its Attorneys,

Joseph R. Englander

Joseph R. Englander
Christopher & Weisberg, P.A.
200 East Las Olas Boulevard
Suite 2040
Fort Lauderdale, Florida 33301
Telephone: (954) 828-1488
Facsimile: (954) 828-9122

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