

ESTTA Tracking number: **ESTTA173964**

Filing date: **11/09/2007**

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	Babytown, Inc.		
Entity	Corporation	Citizenship	New York
Address	112 West 34th Street New York, NY 10120 UNITED STATES		

Attorney information	Michael A. Grow Arent Fox LLP 1050 Connecticut Avenue, NW Washington, DC 20036 UNITED STATES henrye@arentfox.com, TMDocket@arentfox.com Phone:2028576389
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### Registrations Subject to Cancellation

Registration No	1119681	Registration date	06/05/1979
Registrant	GITANO FASHIONS LIMITED ONE FRUIT OF THE LOOM DRIVE BOWLING GREEN, KY 42103 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 025. First Use: 1976/10/14 First Use In Commerce: 1976/10/26  
All goods and services in the class are cancelled, namely: FASHION APPAREL-NAMELY, SWEATERS, JEANS, SKIRTS, SHIRTS, BLOUSES, SLACKS, OVERALLS, AND TOPS

### Grounds for Cancellation

Abandonment	Trademark Act section 14		
Registration No	1511720	Registration date	11/08/1988
Registrant	GITANO FASHIONS LIMITED 1411 BROADWAY NEW YORK, NY 10018 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 018. First Use: 1988/02/08 First Use In Commerce: 1988/02/08  
All goods and services in the class are cancelled, namely: UMBRELLAS, WALLETS, TRAVEL BAGS, TOTE BAGS, KNAPSACKS, CAMPING BAGS, SCHOOL BAGS, HANDBAGS, GYM BAGS, AND BRIEFCASES, ALL MADE OF NYLON, COTTON, LEATHER, DENIM OR CANVAS

Class 025. First Use: 1985/07/00 First Use In Commerce: 1985/07/00  
All goods and services in the class are cancelled, namely: [ MEN'S, ] WOMEN'S [ AND CHILDREN'S PANTS, JEANS, JUMPSUITS, SHORTS, SHIRTS, SWEATERS, VESTS, JACKETS, T-SHIRTS,

OVERALLS, SWIMSUITS, ] SOCKS [ AND UNDERWEAR; AND WOMEN'S AND GIRLS' BLOUSES, SKIRTS, DRESSES, HOSIERY, PANTY HOSE, TIGHTS, STOCKINGS, ] UNDERWEAR (NAMELY, BRIEFS AND TOPS), [ HATS, SCARVES, GLOVES, ] AND FOOTWEAR
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## Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	wrangler.pdf ( 5 pages )(1196289 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Michael A. Grow/
Name	Michael A. Grow
Date	11/09/2007

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

In re Registration No. 1119681 for the mark GITANO issued on June 5, 1979; and Registration No. 1511720 for the mark GITANO SPORT & Design issued on November 8, 1988

BABYTOWN, INC.	:	
	:	
Petitioner	:	
	:	
v.	:	Cancellation No. _____
	:	
WRANGLER APPAREL CORP.	:	
	:	
Registrant	:	

**PETITION FOR CANCELLATION**

Petitioner Babytown, Inc., a New York corporation, having an address of 112 West 34th Street, New York, New York 10120 believes that it will be damaged by the continued existence of Registration Nos. 1119681 and 1511720 and hereby petitions to cancel these registrations pursuant to Section 14 of the Trademark Act of 1946, 15 U.S.C. §1064. As grounds for cancellation, Petitioner alleges that:

1. Petitioner is the owner of all right, title and interest in and to the mark GITANO for clothing.
2. Petitioner has expended significant resources in publicizing its GITANO mark and the mark has become a well know indicator of the source or origin of Petitioner's goods.
3. Petitioner began using the mark GITANO after the mark had been abandoned by Registrant Wrangler Apparel Corp. or its predecessors, and after Registrant had allowed dozens of registrations for marks containing the word GITANO to expire.
4. Petitioner has continuously used the mark GITANO in connection with the sale of clothing for a significant period of time.

5. Petitioner filed Application Nos. 78/785882 and 78/977233 seeking to register its mark GITANO in the Patent and Trademark Office, and the applications were suspended pending the expiration of the last few registrations owned by Registrant.

6. Registrant has failed to file applications for renewal of any of the GITANO registrations listed as being owned by Registrant and all have passed the renewal deadlines except for Registration No. 1119681, GITANO for "fashion apparel, namely, sweaters, jeans, skirts, shirts, blouses, slacks, overalls and tops"; and Registration No. 1511720, GITANO SPORT & Design for "umbrellas, wallets, travel bags, tote bags, knapsacks, camping bags, school bags, handbags, gym bags and briefcases, all made of nylon, cotton, leather, denim or canvas; and women's socks, underwear and footwear."

7. Registrant recorded an assignment purporting to show that it or a related company acquired the GITANO marks by means of a document executed in July 2000.

8. Upon information and belief, however, the former owner of the GITANO marks had encountered financial difficulties in the 1990s and had already abandoned the marks and had begun allowing all the registrations for the marks to lapse long before the purported assignment.

9. All of the GITANO marks allegedly acquired by Registrant, including those shown in Reg. Nos. 1119681 and 1511720, had already been abandoned prior to July 2000 when Registrant allegedly acquired them.

10. Thus, the assignment was invalid and insufficient to transfer any rights to Registrant.

11. Moreover, Registrant has continued to allow each of the registrations to lapse since the date of the alleged assignment and never submitted proof to the Patent and Trademark

Office that any of the marks containing the word GITANO had been used in the years since the acquisition.

12. If Registrant ever used the marks GITANO and GITANO SPORT for the goods listed in the aforementioned registrations, it discontinued all use and abandoned these marks through non-use more than three years ago before Petitioner began using and applied to register its GITANO marks.

13. Among the dozens of registrations for marks containing GITANO that were allowed to expire or to be cancelled under Section 8 of the Trademark Act are the following:

<b>Reg. No.</b>	<b>Mark</b>	<b>Canceled/Expired</b>
1203662	GITANO	2003
1385286	P.S.GITANO	2006
1431960	GITANO	2007
1429356	SUN KISS GITANO	2007
1454389	GITANO MA MATERNITY APPAREL	2007
1512609	GITANO FOR MEN	1995
1533251	GITANO	1995
1564368	GITANO KIDS	1996
1591027	GITANO FAMILY	1996
1615528	GITANO	2001
1618805	THE BASICS BY GITANO	1997
1646024	GITANO CLASSICS	1997
1675929	GITANO QUALITY GUARANTEED	2002
1684445	GITANO LIGHTWEIGHTS	2002

1697751	PS GITANO	2002
1701672	GITANO 2000	1999
1728452	GITANO & CO	1999
1766799	GITANO	1999
1775911	SUNKISS GITANO	2000
1834690	GITANO HIKERS	2001
1853636	GITANO	2001
1881529	GITANO AMERICAN MADE	2002
1907851	GITANO	2002
1953147	GITANO	2002
1969857	AMERICAN FREEDOM GITANO etc.	2003

14. The fact that Registrant allowed all of these registrations to lapse is evidence that Registrant never used the mark, made an internal decision to cease any use it ever made with an intent not to resume use, and abandoned any rights it might ever have claimed in the marks.

#### ABANDONMENT

15. Registration Nos. 1119681 and 1511720 should be canceled because the marks shown therein were abandoned before July 2000 when Registrant allegedly obtained them by assignment.

16. Registration Nos. 1119681 and 1511720 should be canceled because Registrant never used the marks shown in the registrations on the goods listed therein, or ceased using said marks with an intent not to resume use, long before Petitioner adopted and began using the mark GITANO.

17. Any rights in the marks GITANO and GITANO SPORT that Registrant might ever have claimed were abandoned through non-use.

18. By reason of the foregoing, Petitioner will be damaged by the continued registration of Registrant's alleged marks and the registrations should be canceled.

WHEREFORE, Petitioner requests that the Board grant this petition for cancellation.

BABYTOWN, INC.

By 

Michael A. Grow  
Joshua Dicker  
Alec Rosenberg  
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Washington, D.C. 20036  
(202) 857-6000

Counsel for Petitioner

### CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing is being served upon Registrant's counsel Kathleen M. Robie of Wrangler Apparel Corp. at 201 Baynard Building, 3411 Silverside Road, Wilmington, Delaware 19810 by first class mail, postage prepaid, on November 9, 2007.

