

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Mailed: July 23, 2009

Cancellation No. 92049168

Cancellation No. 92049203

SKEETER PRODUCTS, INC.

v.

DAVID WAYS

Cheryl Butler, Attorney, Trademark Trial and Appeal Board:

On March 3, 2009, respondent filed proposed amendments to the dates of use in his registrations. Respondent seeks to amend the dates of use for Registration Nos. 2997646 (filed on June 25, 2004, issued on September 9, 2005, and the subject of Cancellation No. 92049168) and 3015253 (filed on June 25, 2004, issued on November 15, 2005, and the subject matter of Cancellation No. 92049203) as follows:

Tents, Class 22, first use anywhere and first use in commerce from 12/5/1993 to 10/26/1999;

Jackets, Class 25, first use anywhere remains 12/5/1993 and first use in commerce to be amended from 12/5/1993 to 6/8/1996;

Pants, Class 25, first use anywhere remains 12/5/1993 and first use in commerce to be amended from 12/5/1993 to 5/23/1997.

The amendment complies with all of the procedural requirements of Trademark Rules 2.71(c)(1) and 2.173. See also TMEP §1609.07 (5th ed. rev. Sept. 2007). However, petitioner's consent to the

Cancellation Nos. 92049168 and 92049203

proposed amendment is not of record. See Trademark Rule 2.133(a). Indeed, it does not appear that the proposed amendment was served on petitioner. See Trademark Rule 2.119.

In view thereof, a copy of respondent's proposed amendment is attached herewith for petitioner's consideration.

If this resolves the dispute herein, petitioner is allowed until **THIRTY DAYS** from the mailing date of this order to file a withdrawal of the petition to cancel, failing which, a determination on the proposed amendment is deferred to final decision.

Except as noted, proceedings remain suspended, in accordance with the Board's order of June 27, 2008, pending disposition of the civil action between the parties.

92049168

PTO Form 1597 (Rev 11/2007)

OMB No. 0651-0055 (Exp. 12/31/2011)

Section 7 Request Form

The table below presents the data as entered.

Input Field	Entered
REGISTRATION NUMBER	2997646
LAW OFFICE ASSIGNED	LAW OFFICE 106
SERIAL NUMBER	78441248
MARK SECTION (current)	
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	SKEETA
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size or color.
GOODS AND/OR SERVICES SECTION (022)(current)	
INTERNATIONAL CLASS	022
IDENTIFICATION	TENTS
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 12/05/1993
FIRST USE IN COMMERCE DATE	At least as early as 12/05/1993
GOODS AND/OR SERVICES SECTION (022)(proposed)	
INTERNATIONAL CLASS	022
IDENTIFICATION	TENTS
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 10/26/1999
FIRST USE IN COMMERCE DATE	At least as early as 10/26/1999
GOODS AND/OR SERVICES SECTION (025)(current)	
INTERNATIONAL CLASS	025

IDENTIFICATION	Jackets, and Pants
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 12/05/1993
FIRST USE IN COMMERCE DATE	At least as early as 12/05/1993
GOODS AND/OR SERVICES SECTION (025)(proposed)	
INTERNATIONAL CLASS	025
IDENTIFICATION	Jackets, and Pants
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 12/05/1993
FIRST USE IN COMMERCE DATE	At least as early as 06/08/1996
ADDITIONAL STATEMENTS SECTION	
	<p>Correction of Registrant's Error On November 11th, 2008 Registrant was served with Interrogatories by Skeeter Products, Inc. pertaining to a Civil Case No. 8:08-cv-01065-RAL-TGW to <input type="checkbox"/> Identify and specifically and completely describe in detail all goods offered to customers by Plaintiff under the TRADEMARK, and identify by name (including trademark) and by years of sale, i.e., beginning dates and, where applicable, end dates, of each product sold. <input type="checkbox"/> In the process of investigating the available documentation to answer this request to the best of his ability it became known to the Registrant that an error had occurred in good faith in the applications filed to re-register the Skeeta TRADEMARKS. Registrant discovered that he had inadvertently referenced the Date of First Use in Commerce of the original Skeeta Registrations (No. 2,043,892, & No. 2,047,945) for <input type="checkbox"/> insect repelling garments, namely, shirts, jackets, pants, shawls, headwear and ponchos <input type="checkbox"/> in Class 25, and applied it to the added Class 22 for <input type="checkbox"/> tents <input type="checkbox"/> in the new applications. The available documentation reveals a purchase request from The State of Alaska Department of Natural Resources for 200 tents on 7/9/1999, with payment being received on 10/26/1999, identifying a bona fide use of the mark in the ordinary course of trade to establish the Date of First Use and Date of First Use in Commerce for <input type="checkbox"/> tents <input type="checkbox"/> in Class 22. Furthermore, the available documentation to support the Date of First Use Anywhere for <input type="checkbox"/> jackets <input type="checkbox"/> and <input type="checkbox"/> pants <input type="checkbox"/> remains at least as early as 12/5/1993; however, a purchase of jackets on 6/8/1996 by The Riverview RV Park, and a purchase of pants on 5/23/1997 by The Prospector Outfitters, identify a bona fide use of the mark in the ordinary course of trade to establish the Date of First Use in Commerce for <input type="checkbox"/> jackets <input type="checkbox"/> and <input type="checkbox"/> pants <input type="checkbox"/> in Class 25, relative to</p>

<p>MISCELLANEOUS STATEMENT</p>	<p>the size of the company and seasonal type of goods sold. Therefore, Registrant files this request for correction of registrant's error in the Dates of First Use Anywhere, and Dates of First Use in Commerce to be consistent with the currently available documentation as follows; First Use Anywhere for jackets in Class 25 remains to be as early as: 12/5/1993, First Use in Commerce for jackets in Class 25 to be at least as early as: 6/8/1996, First Use Anywhere for pants in Class 25 remains to be as early as: 12/5/1993, First Use in Commerce for pants in Class 25 to be at least as early as: 5/23/1997, First Use Anywhere for tents in Class 22 to be at least as early as: 10/26/1999, First Use in Commerce for tents in Class 22 to be at least as early as: 10/26/1999. The corrected dates specified above remain prior to the application filing date of June 25, 2004, for both current U.S. Trademark Registrations No. 3,015,253 for the SKEETA and Design mark for <input type="checkbox"/>tents<input type="checkbox"/> in Class 22 and <input type="checkbox"/>jackets and pants<input type="checkbox"/> in Class 25, and No. 2,997,646 for the SKEETA word mark for <input type="checkbox"/>tents<input type="checkbox"/> in Class 22 and <input type="checkbox"/>jackets and pants<input type="checkbox"/> in Class 25. Pursuant to TBMP § 1609.10(b) <input type="checkbox"/>Correction of Registrant's Error<input type="checkbox"/>, under §7(h) of the Trademark Act, if a mistake in a registration occurs in good faith through the fault of the owner of the registration, the Director may correct the error upon written request and payment of the fee required by 37 C.F.R. §2.6, provided the correction does not result in a change that would require republication of the mark. The Skeeta Trademark Registrations (No. 2,997,646 and No. 3,015,253) are currently subject to cancellation proceedings (No. 92049168 and No. 92049203) with the Trademark Trial and Appeal Board (TTAB). The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true. David E. Ways, President SKEETA, INC. 19706 77th Avenue East Bradenton, Florida 34202 Phone: (941) 322-9739 Facsimile: (941) 322-9739 dew@skeeta.com By: _____ David E. Ways</p>
<p>MISCELLANEOUS FILE NAME(S)</p>	
<p>ORIGINAL PDF FILE</p>	<p>http://tgate/PDF/SECT07/2008/12/17/20081217140241210702-2997646-001_001/M-682002156-132041941_._Correction_of_Errors.pdf</p>
<p>CONVERTED PDF FILE(S) (3 pages)</p>	<p>\\TICRS\EXPORT5\IMAGEOUT5\784\412\78441248\xml1\S7R0002.JPG</p>
	<p>\\TICRS\EXPORT5\IMAGEOUT5\784\412\78441248\xml1</p>

file://\ticrs-ais-01\ticrsexport\HtmlToTiffInput\S7R00012009_02_25_14_22_47_TTAB00... 2/25/2009

	\S7R0003.JPG
	\\TICRS\EXPORT5\IMAGE\OUT5\784\412\78441248\xml1 \S7R0004.JPG
PAYMENT SECTION	
TOTAL AMOUNT	100
TOTAL FEES DUE	100
SIGNATURE SECTION	
DECLARATION SIGNATURE	/David E. Ways/
SIGNATORY'S NAME	David E. Ways
SIGNATORY'S POSITION	President
DATE SIGNED	12/17/2008
REQUEST SIGNATURE	/David E. Ways/
SIGNATORY'S NAME	David E. Ways
SIGNATORY'S POSITION	President
DATE SIGNED	12/17/2008
AUTHORIZED SIGNATORY	YES
CONCURRENT § 8, 8 & 15, OR 8 & 9 FILED	NO
FILING INFORMATION SECTION	
SUBMIT DATE	Wed Dec 17 14:02:41 EST 2008
TEAS STAMP	USPTO/S7R-68.200.215.6-20 081217140241210702-299764 6-430448b596ac3a09274bd46 51be272b041-CC-8656-20081 217132041941479

PTO Form 1567 (Rev 11/2007)
OMB No. 0851-0055 (Exp. 12/31/2011)

Section 7 Request Form

To the Commissioner for Trademarks:

The registrant requests the following amendment(s) to registration no. **2997646**

file://\t\icrs-ais-01\icrs\export\HtmlToTiffInput\S7R00012009_02_25_14_22_47_TTAB00... 2/25/2009

CLASSIFICATION AND LISTING OF GOODS/SERVICES**Registrant proposes to amend the following class of goods/services in the application:****Current:** Class 022 for TENTS

Original Filing Basis:

Filing Basis: Section 1(a), Use in Commerce: The registrant is using the mark in commerce, or the registrant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 12/05/1993 and first used in commerce at least as early as 12/05/1993, and is now in use in such commerce.

Proposed: Class 022 for TENTS

Filing Basis: Section 1(a), Use in Commerce: The registrant is using the mark in commerce, or the registrant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 10/26/1999 and first used in commerce at least as early as 10/26/1999, and is now in use in such commerce.

Registrant proposes to amend the following class of goods/services in the application:**Current:** Class 025 for Jackets, and Pants

Original Filing Basis:

Filing Basis: Section 1(a), Use in Commerce: The registrant is using the mark in commerce, or the registrant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 12/05/1993 and first used in commerce at least as early as 12/05/1993, and is now in use in such commerce.

Proposed: Class 025 for Jackets, and Pants

Filing Basis: Section 1(a), Use in Commerce: The registrant is using the mark in commerce, or the registrant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 12/05/1993 and first used in commerce at least as early as 06/08/1996, and is now in use in such commerce.

ADDITIONAL STATEMENTS**Miscellaneous Statement(s)**

Correction of Registrant's Error On November 11th, 2008 Registrant was served with Interrogatories by Skeeter Products, Inc. pertaining to a Civil Case No. 8:08-cv-01065-RAL-TGW to identify and specifically and completely describe in detail all goods offered to customers by Plaintiff under the TRADEMARK, and identify by name (including trademark) and by years of sale, i.e., beginning dates and, where applicable, end dates, of each product sold. In the process of investigating the available documentation to answer this request to the best of his ability it became known to the Registrant that an error had occurred in good faith in the applications filed to re-register the Skeeta TRADEMARKS. Registrant discovered that he had inadvertently referenced the Date of First Use in Commerce of the original Skeeta Registrations (No. 2,043,892, & No. 2,047,945) for insect repelling garments, namely, shirts, jackets, pants, shawls, headwear and ponchos in Class 25, and applied it to the added Class 22 for tents in the new applications. The available documentation reveals a purchase request from The State of Alaska Department of Natural Resources for 200 tents on 7/9/1999, with payment being received on 10/26/1999, identifying a bona fide use of the mark in the ordinary course of trade to establish the Date of First Use and Date of First Use in Commerce for tents in Class 22. Furthermore, the available documentation to support the Date of First Use Anywhere for jackets and pants remains at least as early as 12/5/1993; however, a purchase of jackets on 6/8/1996 by The Riverview RV Park, and a purchase of pants on 5/23/1997 by The Prospector Outfitters, identify a bona

vide use of the mark in the ordinary course of trade to establish the Date of First Use in Commerce for □jackets□ and □pants□ in Class 25, relative to the size of the company and seasonal type of goods sold. Therefore, Registrant files this request for correction of registrant□s error in the Dates of First Use Anywhere, and Dates of First Use in Commerce to be consistent with the currently available documentation as follows; First Use Anywhere for jackets in Class 25 remains to be as early as: 12/5/1993, First Use in Commerce for jackets in Class 25 to be at least as early as: 6/8/1996, First Use Anywhere for pants in Class 25 remains to be as early as: 12/5/1993, First Use in Commerce for pants in Class 25 to be at least as early as: 5/23/1997, First Use Anywhere for tents in Class 22 to be at least as early as: 10/26/1999, First Use in Commerce for tents in Class 22 to be at least as early as: 10/26/1999. The corrected dates specified above remain prior to the application filing date of June 25, 2004, for both current U.S. Trademark Registrations No. 3,015,253 for the SKEETA and Design mark for □tents□ in Class 22 and □jackets and pants□ in Class 25, and No. 2,997,646 for the SKEETA word mark for □tents□ in Class 22 and □jackets and pants□ in Class 25. Pursuant to TBMP § 1609.10(b) □Correction of Registrant□s Error□, under §7(h) of the Trademark Act, if a mistake in a registration occurs in good faith through the fault of the owner of the registration, the Director may correct the error upon written request and payment of the fee required by 37 C.F.R. §2.6, provided the correction does not result in a change that would require republication of the mark. The Skeeta Trademark Registrations (No. 2,997,646 and No. 3,015,253) are currently subject to cancellation proceedings (No. 92049168 and No. 92049203) with the Trademark Trial and Appeal Board (TTAB). The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true. David E. Ways, President SKEETA, INC. 19706 77th Avenue East Bradenton, Florida 34202 Phone: (941) 322-9739 Facsimile: (941) 322-9739 dew@skeeta.com By: _____ David E. Ways

Original PDF file:

http://tgate/PDF/SECT07/2008/12/17/20081217140241210702-2997646-001_001/M-682002156-132041941_ _Correction_of_Errors.pdf

Converted PDF file(s) (3 pages)

Miscellaneous File1

Miscellaneous File2

Miscellaneous File3

FEE(S)

Fee(s) in the amount of \$100 is being submitted.

SIGNATURE(S)

Declaration Signature

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements may jeopardize the validity of the application or document or any resulting registration, declares that all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.

Signature: /David E. Ways/ Date: 12/17/2008

Signatory's Name: David E. Ways

Signatory's Position: President

Request Signature

Signature: /David E. Ways/ Date: 12/17/2008

Signatory's Name: David E. Ways
Signatory's Position: President

The signatory has confirmed that he/she is not represented by either an authorized attorney or Canadian attorney/agent, and that he/she is either (1) the registrant or (2) a person(s) with legal authority to bind the registrant; and if an authorized U.S. attorney or Canadian attorney/agent previously represented him/her in this matter, either he/she has filed a signed revocation of power of attorney with the USPTO or the USPTO has granted the request of his/her prior representative to withdraw.

The registrant is NOT filing a Declaration of Use of Mark under Section 8; a Combined Declaration of Use of Mark under Sections 8 & 15; or a Combined Declaration of Use of Mark/Application for Renewal of Registration of Mark under Sections 8 & 9 in conjunction with this Section 7 Request.

RAM Sale Number: 8656
RAM Accounting Date: 12/17/2008

Serial Number: 78441248
Internet Transmission Date: Wed Dec 17 14:02:41 EST 2008
TEAS Stamp: USPTO/S7R-68.200.215.6-20081217140241210
702-2997646-430448b596ac3a09274bd4651be2
72b041-CC-8656-20081217132041941479

Correction of Registrant's Error

On November 11th, 2008 Registrant was served with Interrogatories by Skeeter Products, Inc. pertaining to a Civil Case No. 8:08-cv-01065-RAL-TGW to "Identify and specifically and completely describe in detail all goods offered to customers by Plaintiff under the TRADEMARK, and identify by name (including trademark) and by years of sale, *i.e.*, beginning dates and, where applicable, end dates, of each product sold."

In the process of investigating the available documentation to answer this request to the best of his ability it became known to the Registrant that an error had occurred in good faith in the applications filed to re-register the Skeeta TRADEMARKS. Registrant discovered that he had inadvertently referenced the Date of First Use in Commerce of the original Skeeta Registrations (No. 2,043,892, & No. 2,047,945) for "insect repelling garments, namely, shirts, jackets, pants, shawls, headwear and ponchos" in Class 25, and applied it to the added Class 22 for "tents" in the new applications.

The available documentation reveals a purchase request from The State of Alaska Department of Natural Resources for 200 tents on 7/9/1999, with payment being received on 10/26/1999, identifying a bona fide use of the mark in the ordinary course of trade to establish the Date of First Use and Date of First Use in Commerce for "tents" in Class 22.

Furthermore, the available documentation to support the Date of First Use Anywhere for "jackets" and "pants" remains at least as early as 12/5/1993; however, a purchase of jackets on 6/8/1996 by The Riverview RV Park, and a purchase of pants on 5/23/1997 by The Prospector Outfitters, identify a bona fide use of the mark in the ordinary course of trade to establish the Date of First Use in Commerce for "jackets" and "pants" in Class 25, relative to the size of the company and seasonal type of goods sold.

Therefore, Registrant files this request for correction of registrant's error in the Dates of First Use Anywhere, and Dates of First Use in Commerce to be consistent with the currently available documentation as follows;

First Use Anywhere for jackets in Class 25 remains to be as early as: 12/5/1993,

First Use in Commerce for jackets in Class 25 to be at least as early as: 6/8/1996,

First Use Anywhere for pants in Class 25 remains to be as early as: 12/5/1993,

First Use in Commerce for pants in Class 25 to be at least as early as: 5/23/1997,

First Use Anywhere for tents in Class 22 to be at least as early as: 10/26/1999,

First Use in Commerce for tents in Class 22 to be at least as early as: 10/26/1999.

The corrected dates specified above remain prior to the application filing date of June 25, 2004, for both current U.S. Trademark Registrations No. 3,015,253 for the SKEETA and Design mark for "tents" in Class 22 and "jackets and pants" in Class 25, and No. 2,997,646 for the SKEETA word mark for "tents" in Class 22 and "jackets and pants" in Class 25.

Pursuant to TBMP § 1609.10(b) "Correction of Registrant's Error", under §7(h) of the Trademark Act, if a mistake in a registration occurs in good faith through the fault of the owner of the registration, the Director may correct the error upon written request and payment of the fee required by 37 C.F.R. §2.6, *provided* the correction does not result in a change that would require republication of the mark.

The Skeeta Trademark Registrations (No. 2,997,646 and No. 3,015,253) are currently subject to cancellation proceedings (No. 92049168 and No. 92049203) with the Trademark Trial and Appeal Board (TTAB).

The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.

David E. Ways, President

SKEETA, INC.
19706 77th Avenue East
Bradenton, Florida 34202
Phone: (941) 322-9739
Facsimile: (941) 322-9739
dew@skeeta.com



By: _____
David E. Ways

ROUTING SHEET TO POST REGISTRATION (PRU)

Registration Number: 2997646



Serial Number: 78441248



RAM Sale Number: 8656

RAM Accounting Date: 20081217

Total Fees: \$100

Note: Process in accordance with Post Registration Standard Operating Procedure (SOP)

<u>Transaction</u>	<u>Fee Code</u>	<u>Transaction Date</u>	<u>Fee per Class</u>	<u>Number of Classes</u>	<u>Total Fee</u>
§7 request	7212	20081217	\$0	0	\$100

Physical Location: 900 - FILE REPOSITORY (FRANCONIA)

Lost Case Flag: False

In TICRS (AM-FLG-IN-TICRS): True

Transaction Date: 20081217

