

ESTTA Tracking number: **ESTTA222488**

Filing date: **07/07/2008**

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	Coen Company, Inc.		
Entity	Corporation	Citizenship	California
Address	100 Foster City Boulevard Foster City, CA 94044 UNITED STATES		

Attorney information	Marc M. Gorelnik Townsend and Townsend and Crew LLP Two Embarcadero Center, 8th Floor San Francisco, CA 94111-3834 UNITED STATES mmgorelnik@townsend.com Phone:415-576-0200		
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#### Registration Subject to Cancellation

Registration No	2734891	Registration date	07/08/2003
Registrant	Coenco, Inc. 3476 North Hughmont Rd Fayetteville, AR 72704 UNITED STATES		

#### Goods/Services Subject to Cancellation

Class 011. First Use: 1983/07/11 First Use In Commerce: 1983/07/11 All goods and services in the class are cancelled, namely: ventilating fans and air circulation systems, comprising a combination of fans, vents, burners, heating units, air conditioning units, temperature sensors and makeup air units, for agricultural, commercial and industrial use
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#### Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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Related Proceedings	Cancellation No. 92049577
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#### Mark Cited by Petitioner as Basis for Cancellation

U.S. Application No.	76657739	Application Date	04/03/2006
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	COEN		
Design Mark			

Description of Mark	NONE
Goods/Services	<p>Class 009. First use: First Use: 1959/03/31 First Use In Commerce: 1959/03/31 Controls for monitoring combustion; and scanners and fiberoptic scanners for monitoring and/or controlling combustion processes</p> <p>Class 011. First use: First Use: 1928/07/00 First Use In Commerce: 1928/07/00 Burners, low NOx burners, gas-fired duct burners, oil-fired duct burners and side-fired duct burners, refinery gas duct burners, register-style duct burners, kiln burners, warm-up burners, fuel and air piping and ducts for use with burners and furnaces, scroll burners, process warm-up burners, air heater vessels, gas and fuel igniters for use with burners, side wall igniters, hurricane gas igniters, heavy oil burner retrofits and upgrades, gas burner retrofits and upgrades, tangentially fired burner upgrades, and commercial and industrial furnaces, heaters and boilers</p> <p>Class 037. First use: First Use: 1978/01/00 First Use In Commerce: 1978/01/00 Engineering studies and services for others relating to the construction, installation and operation of burners, heaters, ducts and piping for heaters; and turnkey designing, fabrication and supervising installation of burners, heaters, furnaces, heat exchangers and associated piping, ducting and controls for burner, furnace, heater and boiler installations</p>

Attachments	76657739#TMSN.gif ( 1 page )( bytes ) Petition to Cancel.pdf ( 5 pages )(164894 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	/Marc M. Gorelnik/
Name	Marc M. Gorelnik
Date	07/07/2008

CERTIFICATE OF FILING

I hereby certify that this document is being electronically filed with the Patent and Trademark Office on July 7, 2008.

TOWNSEND AND TOWNSEND AND CREW LLP

By:   
Billie Raney

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

Registration No. 2,734,891  
Issued: July 8, 2003  
For: **COENCO**

Coen Company, Inc.,  
  
Petitioner,  
  
vs.  
  
Coenco, Inc.,  
  
Registrant

Cancellation No. \_\_\_\_\_

**PETITION TO CANCEL**

Commissioner for Trademarks  
P. O. Box 1451  
Alexandria, VA 22313-1451

Dear Sir:

Coen Company, Inc., a California corporation, having offices at 100 Foster City Boulevard, Foster City, California (hereinafter "Petitioner") claims that it will be damaged by Registration No. 2,734,891 for the mark **COENCO** for "ventilating fans and air circulation systems, comprising a combination of fans, vents, burners, heating units, air conditioning units, temperature sensors and makeup air units, for agricultural, commercial and industrial use, in Class 11," issued July 8, 2003 (hereinafter "Registrant's Mark").

Petitioner hereby petitions for cancellation of Registration No. 2,734,891. As grounds therefor, Petitioner alleges the following:

1. Since as least as early as March 31, 1959, Petitioner has been continuously and extensively engaged in the business of promoting, offering and distributing goods in interstate commerce, namely, controls for monitoring combustion; and scanners and fiberoptic scanners for monitoring and/or controlling combustion processes in International Class 9, under the mark **COEN**;

2. Since as least as early as March 31, 1959, Petitioner has been continuously and extensively engaged in the business of promoting, offering and distributing goods in interstate commerce, namely, burners, low NOx burners, gas-fired duct burners, oil-fired duct burners and side-fired duct burners, refinery gas duct burners, register-style duct burners, kiln burners, warm-up burners, fuel and air piping and ducts for use with burners and furnaces, scroll burners, process warm-up burners, air heater vessels, gas and fuel igniters for use with burners, side wall igniters, hurricane gas igniters, heavy oil burner retrofits and upgrades, gas burner retrofits and upgrades, tangentially fired burner upgrades, and commercial and industrial furnaces, heaters and boilers in International Class 11, under the mark **COEN**; and

3. Since as least as early as March 31, 1959, Petitioner has been continuously and extensively engaged in the business of promoting, offering and distributing services in interstate commerce, namely, engineering studies and services for others relating to the construction, installation and operation of burners, heaters, ducts and piping for heaters; and turnkey designing, fabrication and supervising installation of burners, heaters, furnaces, heat exchangers and associated piping, ducting and controls for burner, furnace, heater and boiler installations in International Class 37, under the mark **COEN**.

4. The **COEN** mark was the subject of U.S. Trademark Registration No. 0674197, which issued February 17, 1959, reciting the following goods: oil and gas fired

industrial boilerburner apparatus and electric-mechanical controls therefore, in International Class 11.

5. On April 3, 2006, Petitioner filed an application to register its **COEN** mark (hereinafter "Petitioner's mark"), with the goods and services being identified herein in paragraphs 1 through 3. That application was assigned Serial No. 76/657,739 (hereinafter "the '739 Application").

6. On July 8, 2003, Registration No. 2,734,891 was issued to Registrant for the mark **COENCO**. The date of first use of Registrant's Mark claimed in such registration is July 11, 1983.

7. Long prior to the first use of Registrant's Mark by Registrant, Petitioner's Mark had come to be and is now well known and of great value to Petitioner, and is recognized and relied upon by the trade and the public as identifying Petitioner as the source of Petitioner's goods and services, and to distinguish Petitioner's goods and services from those of others. Petitioner's use of Petitioner's Mark has been exclusive and continuous since prior to the date of first use of Registrant's Mark by Registrant.

8. Petitioner will be damaged by the continuing existence on the Principal Register of Registrant's Mark because such registration is likely to cause confusion with respect to source and origin of the goods and services offered by Petitioner and Registrant under their respective marks; the sponsorship, affiliation or relation between Petitioner and Registrant; and the rights granted Registrant under such registration and the superior rights held by Petitioner in Petitioner's Mark. In addition, the registration of Registrant's Mark gives color of statutory rights to Registrant's Mark, in violation and derogation of the superior rights of Petitioner.

9. Registration No. 2,734,891 has been cited by the Examining Attorney under Section 2(d) as a bar to the '739 Application.

WHEREFORE, Petitioner hereby respectfully requests that this Board cancel Registration No. 2,734,891.

Please charge any necessary fee regarding this Petition to the Deposit Account of Townsend and Townsend and Crew, DAO 20-1430, and credit any overpayment to such deposit account.

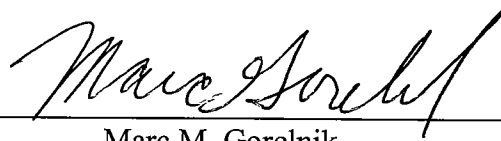
WHEREFORE, Petitioner hereby respectfully requests that Registration No. 2,734,891 be canceled in its entirety.

Respectfully submitted,

TOWNSEND AND TOWNSEND AND CREW LLP

Dated: July 7, 2008

By: \_\_\_\_\_



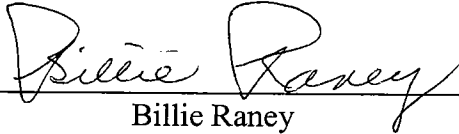
Marc M. Gorelnik  
Attorneys for Petitioner

CERTIFICATE OF MAILING

I hereby certify that this PETITION TO CANCEL is being deposited with the United States Postal Service as first class mail in an envelope on July 7, 2008 addressed to:

Coenco, Inc.  
3476 North Hughmont Road  
Fayetteville, AR 72704

Kyla D. Aycock  
SPEED LAW FIRM  
111 Center St., Suite 1200  
Little Rock, AR 72201

  
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Billie Raney

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