

ESTTA Tracking number: **ESTTA289916**

Filing date: **06/15/2009**

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    | NSM Resources Corporation                               |             |        |
| Entity  | Corporation   | Citizenship | Nevada |
| Address | PO Box 931162<br>Los Angeles, CA 90093<br>UNITED STATES |             |        |

|                            |  |  |  |
|----------------------------|--|--|--|
| Correspondence information | Zane Murdock<br>NSM Resources Corporation<br>PO Box 931162<br>Los Angeles, CA 90093<br>UNITED STATES<br>zane@huckdoll.com Phone:530-386-2283 |  |  |
|----------------------------|--|--|--|

### Registration Subject to Cancellation

|                 |   |                   |            |
|-----------------|---|-------------------|------------|
| Registration No | 3120463   | Registration date | 07/25/2006 |
| Registrant      | Mountain Hardwear, Inc.<br>14375 NW Science Park Drive<br>Portland, OR 97229<br>UNITED STATES |                   |            |

### Goods/Services Subject to Cancellation

|  |
|--|
| Class 018. First Use: 2005/06/08 First Use In Commerce: 2005/06/08<br>All goods and services in the class are cancelled, namely: All purpose sports bags, athletic bags, carrying bags, backpacks, fannypacks, sports packs, waist packs, and drawstring pouches |
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### Grounds for Cancellation

|                                      |                             |
|--------------------------------------|-----------------------------|
| Immoral or scandalous matter         | Trademark Act section 2(a)  |
| Deceptiveness                        | Trademark Act section 2(a)  |
| False suggestion of a connection     | Trademark Act section 2(a)  |
| Priority and likelihood of confusion | Trademark Act section 2(d)  |
| Dilution                             | Trademark Act section 43(c) |

### Marks Cited by Petitioner as Basis for Cancellation

|                       |            |                       |            |
|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 3310854    | Application Date      | 12/19/2006 |
| Registration Date     | 10/16/2007 | Foreign Priority Date | NONE       |
| Word Mark             | HUCK DOLL  |                       |            |

|                     |  |
|---------------------|--|
| Design Mark         | <h1>Huck Doll</h1>   |
| Description of Mark | NONE   |
| Goods/Services      | Class 028. First use: First Use: 2000/02/14 First Use In Commerce: 2001/03/01<br>Playsets for dolls; Toy action figures and accessories therefor<br>Class 035. First use: First Use: 2001/03/01 First Use In Commerce: 2001/03/01<br>On-line retail store services featuring toy action figures, apparel and board games |

|                       |  |                       |            |
|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 3435920  | Application Date      | 09/04/2003 |
| Registration Date     | 05/27/2008   | Foreign Priority Date | NONE       |
| Word Mark             | HUCK   |                       |            |
| Design Mark           |  |                       |            |
| Description of Mark   | NONE   |                       |            |
| Goods/Services        | Class 025. First use: First Use: 2000/03/08 First Use In Commerce: 2000/03/08<br>clothing and footwear, namely, t-shirts, hoods, jerseys, tops, caps, shorts, athletic footwear and thong footwear |                       |            |

|             |  |
|-------------|--|
| Attachments | 77067486#TMSN.jpeg ( 1 page )( bytes )<br>PdfCompressor.4759.CancelMountainHardwear.pdf.pdf ( 4 pages )(124296 bytes ) |
|-------------|--|

### 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 | /zanemurdock/ |
| Name      | Zane Murdock  |
| Date      | 06/15/2009    |

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

In the matter of Trademark Registration  
Serial No.: 3120463  
Filed: August 9, 2005  
Trademark: MOUNTAIN HARD WEAR  
Registered: July 25, 2006

|                           |   |                    |
|---------------------------|---|--------------------|
| _____                     | ) |                    |
| NSM Resources Corporation | ) |                    |
|                           | ) |                    |
| Petitioner,               | ) |                    |
|                           | ) | Petition No. _____ |
| v.                        | ) |                    |
|                           | ) |                    |
| Mountain Hardwear Inc.    | ) |                    |
|                           | ) |                    |
| Registrant                | ) |                    |
| _____                     | ) |                    |

NSM Resources Corporation (“NSM”) (“Petitioner”) is a current Nevada Corporation qualified to operate in California. Petitioner NSM has a home office mailing address of PO Box 931162, Los Angeles, CA, 90093, USA. Petitioner NSM owns at least following: the Registered Trademark No. 3310854 for the mark HUCK DOLL namely for toys and accessories therefor and the Registered Trademark No. 3435920 for the mark HUCK namely for clothing and footwear. On this day, June 15, 2009, the Petitioner files this petition.

The Petitioner believes it is being damaged by the use of Registered Trademark No. 3120463 for Mountain Hard Wear and believes this registration should be cancelled.

1. Upon information and belief, the Registrant (“Registrant”) is a Corporation of the State of Utah and is a subsidiary of Columbia Sportswear, an Oregon Corporation, both believed to have a principal place of business of 14375 NW Science Park Drive, Portland, OR, 97229.

2. The Registrant has refused to acknowledge the validity of the Petitioner NSM's Trademarks, namely the Petitioner NSM's brand names HUCK and HUCK DOLL and coincidentally the Registrant named one of its Mountain Hard Wear backpacks "huckster".
3. Upon information and belief the Registrant began selling backpacks using the name "huckster" as early as 2009. The Registrant use of "huckster" has damaged the Petitioner NSM's Trademarks by creating confusion as to the source and identity of the goods.
4. The Registrant defends its selection of the brand name "huckster" to sell Mountain Hard Wear backpacks. By doing so, the Registrant refuses to acknowledge that the Registrant sells brand name products, and thereby the Registrant contradicts the value of its Mountain Hard Wear backpack Trademark registration.
5. The Registrant has not expressly agreed to cease use of the sale of Mountain Hard Wear "huckster" backpacks and the Registrant has not provided any information regarding the sales volume or the distribution of these "huckster" backpacks to the Petitioner NSM.
6. The Registrant has refused to settle claims within a mistaken allocation at the very least in using "huckster" to sell Mountain Hard Wear backpacks. In this way, the Registrant proves it does not regard its Mountain Hard Wear brand name as a plausible Trademark on its own.

WHEREFORE, The Petitioner requests that the USPTO cancels the Registrant's Trademark Mountain Hard Wear for backpacks. The Petitioner files this petition with the prescribed fee of \$300.

Sincerely yours,  
/zanemurdock/  
Zane Murdock  
PO Box 931162

Los Angeles, CA 90093  
USA  
530-581-4622 phone  
zane@huckdoll.com

**CERTIFICATE OF SERVICE BY FIRST-CLASS MAIL**

On June 15, 2009, I deposited in the United States Mail a properly addressed, postage prepaid envelope containing a true copy of this document served on:

Mountain Hardwear Inc.  
14375 NW Science Park Drive  
Portland, OR 97229

I declare under the penalty of perjury of the State of California that the foregoing is true and correct.

Dated: June 15, 2009

/zanemurdock/  
Zane Murdock  
President / NSM  
NSM Resources Corporation  
PO Box 931162  
Los Angeles, CA 90093  
USA  
Phone: 530-581-4622