

ESTTA Tracking number: **ESTTA303451**

Filing date: **08/28/2009**

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	Time Plaza, Inc.		
Entity	Corporation	Citizenship	California
Address	350 S. Los Angeles Street Los Angeles, CA 90013 UNITED STATES		

Attorney information	Jen-Feng Lee WorldEsquire Law Firm 80 S. Lake Avenue Suite 708 Pasadena, CA 91101 UNITED STATES jflee@worldesquire.com Phone:(626) 795-5555		
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Registration Subject to Cancellation

Registration No	3418299	Registration date	04/29/2008
Registrant	Jay-Y Enterprise Co., Inc. 632 New York Drive Pomona, CA 91768 UNITED STATES		

Goods/Services Subject to Cancellation

Class 009. First Use: 2005/09/01 First Use In Commerce: 2005/09/01 All goods and services in the class are cancelled, namely: Sunglasses

Grounds for Cancellation

Deceptiveness	Trademark Act section 2(a)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
The mark is merely descriptive	Trademark Act section 2(e)(1)

Related Proceedings	US District Court, Central Dist. of CA (Case No. 2:08-cv-07600-FMC-RZx)
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Attachments	NotcCancellation1.pdf (4 pages)(36973 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	/jflee/
Name	Jen-Feng Lee
Date	08/28/2009

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

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4 In the matter of Registration No.: 3,418,299
5 Registered date: Apr. 29, 2008
6 Mark: LOCS

7 Time Plaza, Inc.,
8 Petitioner,
9 vs.
10 Jay-Y Enterprise Co. Inc.
11 Registrant.

Cancellation No.:

Action filed: August 28, 2009

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14 **Notice of Petition for Cancellation**

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16 Come now Petitioner Tima Plaza, Inc. (“Time Plaza”), a corporation located at 350
17 S. Los Angeles Street, Los Angeles, California, 90013, and for cancellation of the mark
18 of “LOCS” (“Mark” or “LOCS”) registered by Jay-Y Enterprise Co. Inc. (“Jay-Y” or
19 “Registrant”), a California corporation located at 632 New York Drive, Pomona,
20 CALIFORNIA 91768, states as follows:

- 21
22 1. Petitioner is in the business of selling sunglasses. Petitioner sells gangster-
23 themed sunglasses that are commonly known as “LOCS” style, which is a term
24 used in the trade to mean the gangsta fashion and not to identify any particular
25 source.
26 2. As early as July of 2005, Petitioner sold T-shirts, and clothing accessories
27 containing “LOCS” wording and was in the “LOCS” style stated herein.
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Notice of Petition for Cancellation

- 1 3. Petitioner believes “LOCS” sunglasses were also on the market on or before July,
2 2005 and were made popular by the appeal of street gangster culture.
- 3 4. To Petitioner’s best knowledge, Registrant’s current address remains unchanged
4 at 632 New York Dr., CA 91768. Petitioner made this disclosure pursuant to 37
5 CFR 2.112(a).
- 6 5. By its own admission, Registrant filed the application (“Application”) for said
7 Mark on or about January 26, 2006, claiming the exclusive right for said Mark in
8 connection with sunglasses; said Application purported to state that Registrant
9 first adopted and began using said Mark no later than September 1, 2005.
- 10 6. On or about April 29, 2008, said Mark was registered by United States Patent
11 and Trademark Office (“USPTO”), having registration number 3,418,299.
- 12 7. USPTO’s records showed that, on the date of filing the Application, Applicant
13 made factual declaration (“Declaration”) under penalty of perjury re the follow
14 statement:

15 Applicant “believes to be entitled to use such mark in commerce; to the
16 best of his/her knowledge and belief no other person, firm, corporation, or
17 association has the right to use the mark in commerce, either in the identical
18 form thereof or in such near resemblance thereto as to be likely, when used
19 on or in connection with the goods/services of such other person, to cause
20 confusion, or to cause mistake, or to deceive; and that all statements made of
21 his/her own knowledge are true; and that all statements made on information
22 and belief are believed to be true.”

- 23 8. Petitioner believes Jay-Y gave material false statement in its Application because
24 “LOCS” was already a term used by some rappers, wiggers, or chongas to
25 represent a certain clothing and accessory fashion and/or gangsta uniform,
26 including sunglasses.
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- 1 9. Petitioner believes Jay-Y knew “LOCS” was meant to signify or describe such
2 gangsta fashion or uniform and was used by public without any restriction, at the
3 time of submitting its Application to US PTO.
- 4 10. Petitioner is injured when Jay-Y fraudulently registered the “LOCS” mark to
5 claim exclusive right to a style or fashion that was used by many merchants
6 before Registrant first adopted to be its trademark.
- 7 11. Petitioner believes Jay-Y gave material false statement in its Application because
8 “LOCS” was already a term used by popular gangster-related culture to mean
9 “dark sunglasses”, in or around October of 2002, and is thus subject to
10 cancellation as a result of the fraud committed.
- 11 12. On information and belief, definition of “LOCS” can be easily Googled and was
12 given by www.urbandictionary.com, in an entry dated Oct 7, 2002, that “locs”
13 described “Dark sunglasses, as worn by Compton gangsters”.
- 14 13. Petitioner believes that, as a result, “LOCS” is merely descriptive of the goods
15 used in commerce, in violation of Trademark Act section 2(e)(1), and is thus
16 subject to cancellation.
- 17 14. Petitioner believes that, as a result, “LOCS” is a deceptive mark , in violation of
18 Trademark Act section 2(a), instead of serving as an indicator for a specific
19 source of products.

20
21 **Dated:** August 28, 2009

Respectfully submitted,

/jflee/

22 _____
23 Jen-Feng (Jeff) Lee
24 Kenneth K. Tanji, Jr.
25 Attorneys for Petitioner,
26 Time Plaza, Inc.

27 WorldEsquire Law Firm
28 80 S. Lake Ave., #708
Pasadena, CA 91101
Tel: 626-795-5555
Fax: 626-795-5533
Email: jflee@worldesquire.com

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CERTIFICATE OF SERVICE

The undersigned Attorney hereby certifies that a copy of the foregoing Petitioner's Notice of Petition for Cancellation was served on the Registrant by mailing a true copy thereof by first class mail, postage prepaid to the following recipient/address on August 28, 2009.

Jay-Y Enterprise, Inc. 632 New York Drive Pomona, CA 91678	Clement Cheng, Esq. Law Office of Clement Cheng 17220 Newhope Street, #127 Fountain Valley, CA 92708 (attorney for Jay-Y, at application submission)
Constance R. Lindman Overhauser Law Offices 737 W. Green Meadows Dr., #300 Greenfield, IN 46140 (Current attorney of record)	

/jflee/

Jen-Feng Lee

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