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Filing date: **06/24/2010**

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	N.V. Sumatra Tobacco Trading Company		
Entity	Corporation	Citizenship	Indonesia
Address	Jalan Pattimura No. 3, Pematang, Siantar Sumatera Utara, INDONESIA		

Attorney information	J. Paul Williamson Fulbright & Jaworski L.L.P. 801 Pennsylvania Avenue, N.W. Washington, DC 20004 UNITED STATES wotrademark@fulbright.com Phone:202-662-0200
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### Registration Subject to Cancellation

Registration No	2972594	Registration date	07/19/2005
Registrant	AMERICAN CIGARETTE COMPANY, INC. 1291-B N.W. 65TH PLACE FT. LAUDERDALE, FL 33309 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 034. First Use: 2005/02/04 First Use In Commerce: 2005/02/04 All goods and services in the class are cancelled, namely: cigarettes
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### Grounds for Cancellation

Abandonment	Trademark Act section 14
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Related Proceedings	91186841
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Attachments	NVSU.T0060US.CA Petition for Cancellation.pdf ( 5 pages )(48435 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	/jpw/
Name	J. Paul Williamson

Date	06/24/2010
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

N.V. Sumatra Tobacco Trading Company,	§	
	§	
Petitioner,	§	Cancellation No. _____
	§	(Registration No. 2,972,594)
	§	
v.	§	
	§	
American Cigarette Company,	§	
	§	
Registrant/Respondent.	§	
	§	

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

Dear Madam:

**PETITION FOR CANCELLATION**

N.V. Sumatra Tobacco Trading Company (“Petitioner”), an Indonesian corporation having a place of business at Jalan Pattimura No. 3, Pematang, Siantar, Sumatera Utara, Indonesia, believes that it is damaged by the continued registration of Registration No. 2,972,594 for the mark UNION, currently in the name of American Cigarette Company (“Registrant”), a Florida corporation, with an address at 1291-B Northwest 65<sup>th</sup> Place, Fort Lauderdale, FL 33309. Therefore, Petitioner seeks to cancel this registration.

As grounds for cancellation, Petitioner alleges that:

1. Registrant, through its predecessor-in-interest, MaryJane Cigarette Co., Inc. (“MaryJane”), filed an intent-to-use application under Section 1(b) for the mark UNION

(Application No. 78/066,805) on June 1, 2001 covering “cigarettes” (the “Goods”) in International Class 34. The UNION mark is hereafter referred to as “Registrant’s Mark.”

2. A Notice of Allowance for Application No. 78/066,805 issued on February 19, 2002.

3. On February 7, 2005, MaryJane filed a Statement of Use in connection with the Application claiming a date of first use of February 4, 2005.

4. Based on the Statement of Use filing, MaryJane obtained Registration No. 2,972,594 on July 19, 2005 for the mark UNION.

5. As reflected by documents subsequently filed by Registrant with the United States Patent and Trademark Office, Registration No. 2,972,594 was assigned to the Registrant effective May 15, 2007.

6. Upon information and belief, neither Registrant nor its predecessor-in-interest, made bona fide use of the UNION mark in the ordinary course of trade prior to the expiration of the February 19, 2005 Statement of Use deadline for Application No. 78/066,805.

7. Upon information and belief, the use identified by Registrant in its Statement of Use filed February 7, 2005 was not reflective of a bona fide use in the ordinary course of trade.

8. Pursuant to 15 U.S.C. § 1051(d)(4), a verified Statement of Use must be timely filed no more than three years after the date of the allowance of a mark which is the subject of a Section 1(b) intent-to-use application. Failure to do so results in the abandonment of the application.

9. By failing to make a bona fide use of the mark in the ordinary course of trade prior to the February 19, 2005 deadline for filing a Statement of Use, and by failing to timely file a Statement of Use for such bona fide use in the ordinary course of trade, the application for UNION should have gone abandoned . The registration which issued should now be cancelled.

15 U.S.C. § 1064(3).

10. Petitioner is the owner of the mark UNION GOLD, subject of pending Application Serial No. 76,415,303, filed June 7, 2002, and covering “cigarettes, kretek cigarettes, cigars, Virginia tobacco, shag tobacco, cut of cloves for smoking, cigarette papers, cigarette lighters not of precious metal and matches” in International Class 34, and of the mark U UNION and Design, subject of pending Application Serial No. 76/415,305, also filed June 7, 2002, covering “cigarettes, kretek cigarettes, white cigarettes, cigarette filters, cigars, tobacco, raw tobacco, Virginia tobacco, cigarette tobacco, snuff tobacco, chewing tobacco, cut of cloves for smoking, cornhusk tobacco and smokers' articles, namely, cigarette pipes, cigarette papers, tobacco pouches, pipes, ashtrays not of precious metal, matches, cigarette lighters not of precious metal, cigarette cases and holders not of precious metal and match boxes and holders not of precious metal,” in International Class 34. The UNION GOLD and U UNION & Design marks are hereafter referred to as “Petitioner’s Marks”. Registrant has opposed registration of Petitioner’s Marks through consolidated Opposition No. 91186841 based on an alleged likelihood of confusion with Registrant’s Mark, subject of Registration No. 2,972,594.

11. If Registrant is permitted to continue to maintain its registration, such registration and the rights afforded by it would be a source of damage and injury to Petitioner and Petitioner’s Marks, and the registration should be cancelled. 15 U.S.C. § 1064(3).

WHEREFORE, Petitioner requests that Registration No. 2,972,594 be cancelled and that this cancellation proceeding be sustained in favor of Petitioner.

The filing fee in the amount of \$300 will be paid by Petitioner when this Petition for Cancellation is filed electronically through ETTAS. However, if there are any additional fees

involved, the Commissioner for Trademarks is authorized to deduct or credit from or to Fulbright & Jaworski L.L.P. Account No.: 06-2375/NVSU.T0060.US.CA/11006643.

Please direct all communications concerning this proceeding to:

Tara M. Vold  
Fulbright & Jaworski L.L.P.  
801 Pennsylvania Avenue, NW  
Washington, DC 20004-2623  
(202) 662-0200

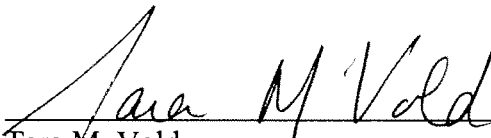
The undersigned Petitioner hereby consents and appoints J. Paul Williamson, Tara M. Vold, Tracy Stewart and all other attorneys of Fulbright & Jaworski, L.L.P. as its duly authorized agents and attorneys in the matter of this petition above-identified to prosecute said petition and to transact all business in the Patent and Trademark Office and in the United States Courts in connection with this petition.

Respectfully submitted,

N.V. SUMATRA TOBACCO TRADING  
COMPANY

Date: June 24, 2010

By:

  
\_\_\_\_\_  
Tara M. Vold  
J. Paul Williamson  
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Attorneys for Petitioner

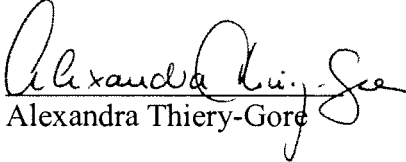
**CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing "Petition for Cancellation" was served upon Attorney of Record and Registrant by first class courier on this 24<sup>th</sup> day of June 2010 as follows:

Darren Spielman  
Robert Kain  
Kain & Associates, Attorneys at Law, P.A.  
750 Southeast Third Avenue, Ste. 100  
Fort Lauderdale, Florida 33316

And

American Cigarette Company, Inc.  
1291-B N.W. 65<sup>th</sup> Place  
Fort Lauderdale, Florida 33309

  
Alexandra Thiery-Gore