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Filing date: **01/11/2011**

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	Rita Aprile		
Entity	Individual	Citizenship	UNITED STATES
Address	228 Stagecoach Road Millstone, NJ 08501 UNITED STATES		

Attorney information	Jonathan A. Fallon, Esq. Fallon & Fallon LLC 63 West Main Street Suite E Freehold, NJ 07728 UNITED STATES jfallon@fallonip.com Phone:732-637-9733		
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Registration Subject to Cancellation

Registration No	3640721	Registration date	06/16/2009
Registrant	Ching Feng Home Fashions Co., Ltd 373 SEC 4, Yen-Hai Rd, Fu-Hsing Hsiang Chang-Hwa Hsien, TAIWAN		

Goods/Services Subject to Cancellation

Class 020. First Use: 2009/03/18 First Use In Commerce: 2009/03/18
All goods and services in the class are cancelled, namely: Window coverings, namely, fabric shades, fabric blinds, wooden blinds, and venetian blinds

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Petitioner as Basis for Cancellation

U.S. Application No.	77661436	Application Date	02/02/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	EFFORTLESS		

Design Mark	EFFORTLESS
Description of Mark	NONE
Goods/Services	Class 024. First use: Bed blankets; Bed sheets; Comforters

Attachments	77661436#TMSN.jpeg (1 page)(bytes) APR004 - Petition to Cancel.pdf (4 pages)(50848 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	/Jonathan A. Fallon/
Name	Jonathan A. Fallon, Esq.
Date	01/11/2011

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

Rita Aprile, an individual

Cancellation No.: _____

Petitioner,

Mark: EFFORTLESS

v.

Registration No.: 3640721

Ching Feng Home Fashions Co., Ltd.

Registration Date: June 26, 2009

Respondent.

PETITION TO CANCEL

Petitioner Rita Aprile ("Petitioner"), an individual having an address of 228 Stagecoach Road, Millstone, New Jersey 08501, believes that it is damaged by the continued registration of EFFORTLESS, the subject of United States Trademark Registration No. 3,640,721 ("Respondent's Mark") by Ching Feng Home Fashions Co., Ltd. ("Respondent"), and hereby petitions for cancellation of this registration on the ground that Respondent's Mark so resembles Petitioner's Mark EFFORTLESS, the subject of United States Trademark Application No. 77661436 ("Petitioner's Mark"), as to be likely, when used on or in connection with Respondent's goods and services, to cause confusion or mistake, in violation of Section 2(d) of the Act.

1. On information and belief, Respondent is a Taiwanese corporation, having a principle place of business located at 373 SEC 4, Yen-Hai Rd, Fu-Hsing Hsiang Chang-Hwa Hsien, and is recited as the owner of Respondent's Mark. Respondent's Domestic Representative is listed as Heidi Lam, of All Strong Industry (USA), Inc., having an office at 2760 East Philadelphia Street, Ontario, California 91761-8546.

2. On February 2, 2009, Petitioner filed the application for Petitioner's Mark in connection with "Bed blankets; Bed sheets; Comforters" in International Class 24, with the United States Patent and Trademark Office.

3. Petitioner had begun using Petitioner's Mark in commerce, in the ordinary course of business in early 2007 as the Petitioner's business, Effortless Bedding LLC, was being developed, and Petitioner had shipped the first set of products under the Petitioner's Mark on November 18, 2008.

4. Respondent filed for the Respondent's Mark on February 29, 2008, as an Intent-to-Use Application, in connection with "window coverings, namely, fabric shades, fabric blinds, wooden blinds, and venetian blinds," in International Class 20, with the United States Patent and Trademark Office.

5. Respondent subsequently submitted a statement of use, alleging a first date of use in commerce as March 18, 2009, and Respondent's Mark registered on June 16, 2009

6. Petitioner's Mark was denied registration on the Principal Register on December 19, 2009, under 2(d) of the Lanham Act, for Likelihood of Confusion in view of Respondent's Mark.

7. On June 17, 2010, Petitioner submitted a response to the denial of registration, arguing no likelihood of confusion exists between Petitioner's Mark and Respondent's Mark because of the significant difference between the goods, the consumers of the goods, as well as other differences. On July 11, 2010, the Office maintained its refusal of registration, maintaining that a likelihood of confusion exists between Petitioner's Mark and Respondent's Mark.

8. As Petitioner's Mark was in use in commerce before Respondent filed its application with the United States Patent and Trademark Office, Petitioner has superior rights in its mark.

9. Whereas Petitioner's Mark has been refused registration based upon a finding by the United States Patent and Trademark Office of a likelihood of confusion existing between Petitioner's Mark and Respondent's Mark, Petitioner is harmed by the continued registration of Respondent's Mark.

WHEREFORE, PETITIONER PRAYS THAT United States Trademark Registration No. 3,640,721 be cancelled and that this Petition to Cancel be sustained in favor of Petitioner.

Respectfully submitted,

Dated: January 11, 2011

By: /Jonathan A. Fallon /
Jonathan A. Fallon, Esq.

FALLON & FALLON LLC
63 West Main Street, Suite E
Freehold, NJ 07728
732-637-9733

Attorney for Petitioner
Rita Aprile

CERTIFICATE OF SERVICE

I hereby certify that this correspondence is being electronically transmitted in PDF format to the United States Trademark Trial and Appeal Board through the Electronic System for Trademark Trial and Appeals (ESTTA) on the date indicated below. In addition, I hereby certify that this correspondence is being sent to the Domestic Representative of Respondent via USPS first-class mail on the date indicated below, to the following address:

Heidi Lam
All Strong Industry (USA), Inc.
2760 East Philadelphia Street
Ontario, California 91761-8546

Dated: January 11, 2011

By: /Jonathan A. Fallon /
Jonathan A. Fallon, Esq.