

ESTTA Tracking number: **ESTTA441849**

Filing date: **11/21/2011**

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	NSM Resources Corporation		
Entity	Corporation	Citizenship	Nevada
Address	516 Fowler Ave Pelham, NY 10803 UNITED STATES		

Correspondence information	Zane Murdock President NSM Resources Corporation 516 Fowler Ave Pelham, NY 10803 UNITED STATES zane@huckdoll.com Phone:323-337-5659
----------------------------	---

Registrations Subject to Cancellation

Registration No	3836095	Registration date	08/17/2010
Registrant	Backcountry.com, Inc. 1678 West Redstone Center Drive Park City, UT 84098 UNITED STATES		

Goods/Services Subject to Cancellation

<p>Class 035. First Use: 2009/11/11 First Use In Commerce: 2009/11/11 All goods and services in the class are cancelled, namely: Retail store services and computerized on-line retail store services featuring men's and women's clothing, headwear, footwear, outerwear, eyewear, heart rate monitors, altimeters and accessories, namely, watches and compasses, tote bags, ski equipment, namely, skis and ski boots, helmets, goggles, and poles, snowboard equipment, namely, snowboards and snowboard bindings, boots, helmets, and gloves, snowshoes, avalanche safety equipment, namely, avalanche probes, beacons, and shovels, tents, sleeping bags, sleeping pads, kayaks, canoes, paddles, and related accessories, namely, spray skirts for kayaks, life jackets, dry bags, wall racks for hanging canoes and kayaks, and back rests, camping, hiking, and mountain climbing equipment, namely, climbing harnesses, climbing helmets, bags for storing and hauling climbing ropes, belay, and rappel devices, rock-climbing shoes, climbing ropes, carabineers, and chalk and chalk bags for rock-climbing, food and related accessories, namely, water purifiers, coolers, bags for food storage, pots, pans, bowls, and eating utensils, luggage and equipment car racks and related accessories, namely, adaptors and attachments for mounting the racks, watches, audio accessories, road and mountain bike equipment, namely, bikes and bike frames, forks, wheels, tires, helmets, repair and maintenance kits, suspensions, lights, bags and cases, books, videos, tools, lubricants, pumps, tubes, brakes, drive trains, headsets, shifters, saddles, seat posts, training equipment, locks, wheels, wheel sets, and watches, hydration packs, nutrition and body care products, bike clothing, namely, tights, jackets, pants, jerseys, shorts, bibs, shirts, gloves, hats, socks, warmers, and shoes, skateboards and accessories, namely, long boards, skateboards, and skateboarding pads, hats, shoes, DVDs, ramps, rails, backpacks, bearings, risers, decks, mini decks, trucks, bushings, and wheels, surf equipment, namely, surfboards, skim boards, hybrid surfboards,</p>

and surfboard racks, straps, pads, wetsuits, DVDs, wax, fins, leashes, traction pads, bags, and wetsuit bags, booties, rash guards, spring suits, and gloves; the dissemination of advertising for others via an on-line electronic communication network; and promoting the goods and services of others by preparing and placing advertisements on a web site accessed through a global computer network

Grounds for Cancellation

False suggestion of a connection		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)	
Registration No	3891836	Registration date	12/21/2010
Registrant	Backcountry.com, Inc. 1678 West Redstone Center Drive Park City, UT 84098 UNITED STATES		

Goods/Services Subject to Cancellation

Class 035. First Use: 2009/05/21 First Use In Commerce: 2009/05/21
All goods and services in the class are cancelled, namely: Retail store services, mail order services, and computerized on-line retail store services featuring bicycles, bicycle parts, namely, bicycle frames, wheels, rims, spokes, tires, inner tubes, mud guards, lights, reflectors, speedometers, mirrors, brakes, brake shoes, brake disks, handlebars, handlebar grips, handlebar grip tape, drive trains, gear wheels, gear shifts, chains, forks, fork covers, pedals, toe clips, kickstands, saddles, saddle covers, seats, baskets, water bottle cages, tags, bells, and horns, cycling accessories, namely, bicycle stands, covers, locks, pant protectors, air pumps, repair kits, maintenance kits, emergency kits, storage racks, and vehicle racks, and cycling wear, namely, cycling shirts, T-shirts, sweatshirts, jerseys, pullovers, pants, shorts, tights, body suits, uniforms, underwear, jackets, gloves, leg warmers, arm warmers, socks, shoe covers, footwear, eyewear, and headwear; and promoting the goods and services of others by preparing and placing advertisements on a web site accessed through a global computer network

Grounds for Cancellation

False suggestion of a connection		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)	
Priority and likelihood of confusion		Trademark Act section 2(d)	

Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	3244135	Application Date	01/06/2006
Registration Date	05/22/2007	Foreign Priority Date	NONE
Word Mark	HUCK		

Design Mark	<h1>HUCK</h1>
Description of Mark	NONE
Goods/Services	Class 028. First use: First Use: 2004/03/01 First Use In Commerce: 2005/03/01 Bathtub toys; Bendable toys; Collectable toy figures; Crib toys; [Disc toss toys; Electric action toys;] Fantasy character toys; [Inflatable toys;] Mechanical action toys; Plastic character toys; [Plush toys;] Positionable toy figures; [Radio controlled toy vehicles;] Rubber character toys; Toy action figures and accessories therefor; Toy figures; [Toy gliders; Toy masks;] Toy mobiles; [Toy robots; Toy rockets; Toy scooters; Toy snow globes;] Toy vehicles; [Toy water globes; Toy wind socks; Toys, namely, a disk to toss in playing a game wherein other disks are flipped and collecte]

U.S. Registration No.	3430612	Application Date	09/11/2007
Registration Date	05/20/2008	Foreign Priority Date	NONE
Word Mark	HUCK		
Design Mark	<h1>Huck</h1>		
Description of Mark	NONE		
Goods/Services	Class 028. First use: First Use: 2005/07/01 First Use In Commerce: 2005/07/01 Dog toys		

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 clothing and footwear, namely, t-shirts, hoods, jerseys, tops, caps, [shorts,] athletic footwear and thong footwear		
----------------	---	--	--

U.S. Registration No.	3558669	Application Date	11/02/2007
-----------------------	---------	------------------	------------

Registration Date	01/06/2009	Foreign Priority Date	NONE
-------------------	------------	-----------------------	------

Word Mark	HUCK		
-----------	------	--	--

Design Mark	<h1>HUCK</h1>		
-------------	---------------	--	--

Description of Mark	NONE		
---------------------	------	--	--

Goods/Services	Class 009. First use: First Use: 2008/01/01 First Use In Commerce: 2008/01/01 Sunglasses		
----------------	--	--	--

U.S. Registration No.	3557381	Application Date	05/29/2008
-----------------------	---------	------------------	------------

Registration Date	01/06/2009	Foreign Priority Date	NONE
-------------------	------------	-----------------------	------

Word Mark	HUCK DOLL		
-----------	-----------	--	--

Design Mark	<h1>HUCK DOLL</h1>		
-------------	--------------------	--	--

Description of Mark	NONE		
---------------------	------	--	--

Goods/Services	Class 016. First use: First Use: 2000/03/01 First Use In Commerce: 2000/03/01 Stickers		
----------------	--	--	--

U.S. Registration No.	3781240	Application Date	02/24/2006
-----------------------	---------	------------------	------------

Registration Date	04/27/2010	Foreign Priority Date	NONE
-------------------	------------	-----------------------	------

Word Mark	HUCK DOLL		
-----------	-----------	--	--

Design Mark	<h1>HUCK DOLL</h1>		
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2000/03/08 First Use In Commerce: 2000/03/08 caps; hoods; [jerseys; perspiration absorbent underwear clothing;] tops; t-shirts; sweatshirts		

U.S. Registration No.	3667579	Application Date	05/21/2008
Registration Date	08/11/2009	Foreign Priority Date	NONE

Word Mark	HUCK
-----------	------

Design Mark	<h1>HUCK</h1>		
Description of Mark	NONE		
Goods/Services	Class 018. First use: First Use: 2009/06/03 First Use In Commerce: 2009/06/03 Backpacks		

U.S. Application No.	85446268	Application Date	10/13/2011
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	HUCK DOLL
-----------	-----------

Design Mark	<h1>Huck Doll</h1>		
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2006/02/27 First Use In Commerce: 2006/02/27 Advertising services, namely, promoting and marketing the goods and services of others through all public communication means; On-line retail store services featuring apparel		

U.S. Application No.	85457866	Application Date	10/27/2011
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	HUCK NEWS		
Design Mark	<h1>HUCK NEWS</h1>		
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2011/10/01 First Use In Commerce: 2011/10/01 Providing on-line publications in the nature of news and images in the field of action sports enthusiasts		

U.S. Application No.	85472856	Application Date	11/15/2011
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	HUCK FILES		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 2011/07/01 First Use In Commerce: 2011/07/01 Cartoon strips		

Attachments	78786734#TMSN.jpeg (1 page)(bytes) 77276817#TMSN.jpeg (1 page)(bytes) 77319742#TMSN.jpeg (1 page)(bytes) 77486817#TMSN.jpeg (1 page)(bytes) 78822640#TMSN.jpeg (1 page)(bytes) 77479793#TMSN.jpeg (1 page)(bytes) 85446268#TMSN.jpeg (1 page)(bytes) 85457866#TMSN.jpeg (1 page)(bytes) CancelProtest.pdf (4 pages)(90237 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	11/21/2011

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

In the matter of Trademark Registration
Serial Numbers: 3836095 and 3891836
Registered: August 17, 2010 and December 21, 2010
Trademarks: DEPARTMENT OF GOODS and HUCKN ROLL

_____)	
NSM Resources Corporation)	
)	
Petitioner)	
)	Cancellation No. _____
v.)	
)	
Backcountry.com, Inc.)	
)	
Registrant)	
_____)	

Petitioner NSM Resources Corporation (“NSM Resources”) is a current Nevada Corporation qualified to operate in California and New York.

Upon information and belief, Registrant Backcountry.com, Inc. (“Backcountry.com”) is an Utah Corporation.

WHEREAS, NSM Resources owns the Federal Trademark Registration # 3244135 for HUCK[®] namely for IC 28 *toys*, Registered May 22, 2007.

WHEREAS, NSM Resources owns the Federal Trademark Registration # 3430612 for HUCK[®] namely for IC 28 *dog toys*, Registered May 20, 2008.

WHEREAS, NSM Resources owns the Federal Trademark Registration # 3435920 for HUCK[®] namely for IC 25 *clothing*, Registered May 27, 2008.

WHEREAS, NSM Resources owns the Federal Trademark Registration # 3558669 for HUCK[®] namely for IC 9 *sunglasses*, Registered January 6, 2009.

WHEREAS, NSM Resources owns the Federal Trademark Registration # 3557381 for HUCK DOLL[®] namely for IC 16 *stickers*, Registered January 6, 2009.

WHEREAS, NSM Resources owns the Federal Trademark Registration # 3667579 for HUCK[®] namely for IC 18 *backpacks*, Registered August 11, 2009.

WHEREAS, NSM Resources owns the Federal Trademark Registration # 3781240 for HUCK DOLL[®] namely for IC 25 *clothing*, Registered April 27, 2010.

WHEREAS, NSM Resources owns the Federal Trademark Application # 85446268 for HUCK DOLL[™] namely for IC 35 *advertising services* and *on-line retail store service*, filed October 13, 2011.

WHEREAS, NSM Resources owns the Federal Trademark Application # 85457866 for HUCK NEWS[™] namely for IC 41 *on-line publications*, file October 27, 2011.

WHEREAS, NSM Resources owns the Federal Trademark Application # 85472856 for HUCK FILES[™] namely for IC 16 *cartoon strips*, file November 15, 2011.

WHEREAS, Backcountry.com owns the Federal Trademark Registration # 3836095 for DEPARTMENT OF GOODS[®] namely for IC 35 *on-line retail store services*, Registered August 17, 2010.

WHEREAS, Backcountry.com owns the Federal Trademark Registration # 3891836 for HUCKN ROLL[®] namely for IC 35 *on-line retail store services*, Registered December 21, 2010.

WHEREFORE, Petitioner NSM Resources requests that this Honorable Board cancel Registrations # 3836095 and # 3891836 under grounds of false suggestion of a connection, priority and likelihood of confusion, and fraud. NSM Resources files this document with the prescribed fee of \$600.

Sincerely yours,

/zanemurdock/
Zane Murdock
President
NSM Resources Corporation
516 Fowler Ave
Pelham, NY 10803
USA
Phone: 323-337-5659
zane@huckdoll.com

CERTIFICATE OF SERVICE BY FIRST-CLASS MAIL

On November 21th, 2011, I deposited in the United States Mail a properly addressed, postage prepaid envelope containing a true copy of this document served on:

Backcountry.com, Inc.
1678 West Redstone Center Drive
Suite 210
Park City, UT 84098

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

Dated: November 21, 2011

/zanemurdock/
Zane Murdock
President
NSM Resources Corporation
516 Fowler Ave
Pelham, NY 10803
USA
Phone: 323-337-5659
zane@huckdoll.com