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Filing date: **07/10/2012**

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

Proceeding	92055738
Party	Defendant Potomac Tobacco Company Limited
Correspondence Address	POTOMAC TOBACCO COMPANY LIMITED MILL MALL SUITE 6 WICKHAMS CAY, PO BOX 3085 ROAD TOWN TORTOLA, VIRGIN ISLANDS, BRITISH
Submission	Motion to Strike
Filer's Name	Kathryn Jennison Shultz
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Date	07/10/2012
Attachments	motion to strike.pdf ( 3 pages )(107282 bytes )

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

J J HOLLAND LIMITED,	:	
	:	
Petitioner,	:	Cancellation No. 92/055,738
	:	Reg. Nos. 3409520
v.	:	3418779
	:	
POTOMAC TOBACCO COMPANY, LTD.,	:	
	:	
Registrant.	:	

MOTION TO STRIKE CONSOLIDATED PETITION TO CANCEL  
AND MOTION TO DISMISS WITH PREJUDICE

Registrant Potomac Tobacco Company, Ltd., by its undersigned counsel, respectfully motions to strike the entire petition filed June 1, 2012.

According to TMEP Section 2.192, trademark agents, registrants and parties to proceedings before the Trademark Trial and Appeal Board and their attorneys or agents are **required** to conduct their business with decorum and courtesy. Petitioner's alleged authorized officer and representative, Keith Murray McCulloch, has not met the required standard of conduct. The pleading is full of redundant, immaterial, impertinent or scandalous matter. The pleading is full of irrelevant remarks about a TTAB proceeding terminated in 2006. The pleading is replete with malicious comments directed to individuals and entities who are not a party in this proceeding. Such conduct should not be tolerated.

According to Fed. R. Civ. P. 12(f), the court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter. According to TBMP Section 506.01, the Board has the authority to strike an impermissible or insufficient claim or portion of a claim from a pleading. In the instant

proceeding, the allegations in the consolidated petition to cancel are irrelevant, immaterial, inappropriate and malicious. Numerous references are made to individuals and entities who are not parties to this proceeding. It also contains insufficient or impermissible claims.

The consolidated petition is not written in conformance with the Board's rules or with the governing rules of practice.

A complaint may be stricken for failure to comply with requirement of Fed. R. Civ. P. 10(b) that each numbered paragraph be limited to a single set of circumstances. According to TBMP Section 309.03(a)(2), a petition to cancel must include (1) a short and plain statement of the reason(s) why petitioner believes it is or will be damaged by the registration sought to be cancelled and (2) a short and plain statement of the ground(s) for cancellation. The elements of each claim should be stated simply, concisely, and directly, and taken together "state a claim to relief that is plausible on its face." See *Fair Indigo LLC v. Style Conscience*, 85 USPQ2d 1536, 1538 (TTAB 2007). All averments should be made in numbered paragraphs, the contents of each of which should be limited as far as practicable to a statement of a single set of circumstances. *Isle of Aloe, Inc. v. Aloe Creme Laboratories, Inc.*, 180 USPQ 794 (TTAB 1974).

While the paragraphs are numbered, the paragraphs were not limited to a statement of a single set of circumstances. They do not contain short and plain statements that are plausible. The petition contains impermissible claims. The petition merely contains irrelevant, immaterial ramblings by an individual who wants to reopen a proceeding that was decided and terminated in 2006.

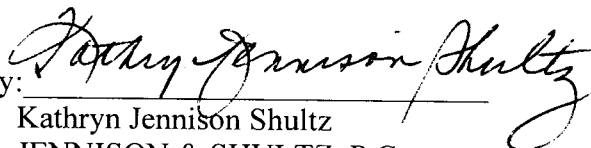
To allow such a disdainful complaint, would be to condone the statements within and the originator's actions, and ostensibly set the stage for increasingly bad acts and comments, all of which steals from the good name of the Board's proceedings and enriches none.

Therefore, in line with Board and case law requirements, Registrant respectfully requests the granting of this motion to strike the entire petition and requests the dismissal of the petition with prejudice.

Respectfully submitted,

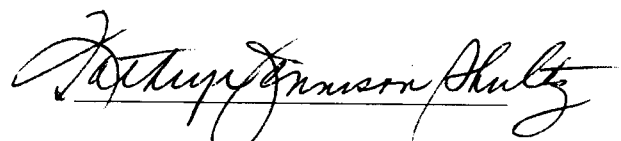
POTOMAC TOBACCO COMPANY

Date: July 10, 2012

By:   
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CERTIFICATE OF SERVICE

I hereby certify that true and complete copy of the foregoing MOTION TO STRIKE CONSOLIDATED PETITION TO CANCEL was served upon Petitioner J J HOLLAND LIMITED, by forwarding same via First Class Mail, postage prepaid, to its correspondence address of record, International Trust Building, Wickhams Cay 1, Road Town, Tortola, British Virgin Islands, this 10<sup>th</sup> day of July, 2012.

  
Kathryn Jennison Shultz