

ESTTA Tracking number: **ESTTA505613**

Filing date: **11/14/2012**

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	Third Estate LLC		
Entity	Limited Liability Company	Citizenship	Indiana
Address	224 N. College Ave. Bloomington, IN 47404 UNITED STATES		

Attorney information	EVAN ANDERSON Brand Ventures Intellectual Property Law 2434 Lincoln Blvd., Floor 2 Los Angeles, CA 90291 UNITED STATES evan@bviplaw.com Phone:3104253428
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Registration Subject to Cancellation

Registration No	3699337	Registration date	10/20/2009
Registrant	Lago, Ahmed 195 Willoughby Ave, Apt. 111 Brooklyn, NY 11205 UNITED STATES		


Goods/Services Subject to Cancellation


<p>Class 025. First Use: 2009/03/09 First Use In Commerce: 2009/04/30 All goods and services in the class are cancelled, namely: Athletic footwear; Baseball caps; Belts; Boots; Boxer briefs; Boxer shorts; Cargo pants; Coats; Coats for men and women; Down jackets; Fleece pullovers; Flip flops; Footwear; Footwear for men and women; Gloves; Hats; Head sweatbands; Head wear; Headbands; Heavy jackets; Hoods; Jackets; Jeans; Jerseys; Jogging pants; Jogging suits; Knit shirts; Men and women jackets, coats, trousers, vests; Men's socks; Pants; Pique shirts; Polo shirts; Pullovers; Running shoes; Shirts; Shoes; Short-sleeved or long-sleeved t-shirts; Short-sleeved shirts; Shorts; Skull caps; Skullies; Slacks; Sleeved or sleeveless jackets; Sleeveless jerseys; Sneakers; Socks; Sport coats; Sport shirts; Sports jackets; Sports jerseys; Sports shirts; Suits; Sweat pants; Sweat shirts; Sweat shorts; Sweat suits; Sweaters; Sweatsocks; T-shirts; Tank tops; Tennis shoes; Tennis wear; Ties; Tops; Track pants; Track suits; Vests; Waterproof jackets and pants; Wind coats; Wind-jackets; Wrist bands</p>

Grounds for Cancellation

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

Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	4075682	Application Date	03/05/2010
Registration Date	12/27/2011	Foreign Priority Date	NONE
Word Mark	DOPE COUTURE		
Design Mark			
Description of Mark	The mark consists of the word "DOPE" with the letter "D" that overlaps the letter "O", with the word "COUTURE" directly under the word "DOPE", all in uppercase.		
Goods/Services	Class 025. First use: First Use: 2008/01/01 First Use In Commerce: 2008/01/01 men's and women's shirts, jackets, coats, wind resistant jackets, shorts, and headwear		

U.S. Application No.	85375315	Application Date	07/19/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	DOPE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: Coats for men and women; Headwear; Jackets; Shirts; Shorts; Wind resistant jackets		

U.S. Application No.	85729957	Application Date	09/15/2012
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	DOPE		

Design Mark	<h1>DOPE</h1>
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2009/03/06 First Use In Commerce: 2009/03/06 On-line retail store services featuring t-shirts, fleece apparel, headwear, hats, watches, footwear, shoes, jewelry, books, magazines, home goods, electronic accessories, buttons, pins, novelty goods, vintage clothing, backpacks, bags; Retail store services featuring t-shirts, fleece apparel, headwear, hats, watches, footwear, shoes, jewelry, books, magazines, home goods, electronic accessories, buttons, pins, novelty goods, vintage clothing, backpacks, bags

Attachments	77951263#TMSN.jpeg (1 page)(bytes) 85375315#TMSN.jpeg (1 page)(bytes) 85729957#TMSN.jpeg (1 page)(bytes) TTAB - Petition for Cancellation - DOPE BOY FRESH.pdf (13 pages)(1019463 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	/evananderson/
Name	EVAN ANDERSON
Date	11/14/2012

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

THIRD ESTATE LLC,)	
)	
)	
Petitioner,)	
)	
)	
v.)	Cancellation No.
)	Reg. No. 3,699,337
)	Mark: DOPE BOY FRESH
)	
AHMED LAGO,)	
)	
)	
Registrant.)	
)	
)	

PETITION FOR CANCELLATION

Petitioner, Third Estate LLC, an Indiana Limited Liability Company, whose principal business address is located at 224 N. College Ave., Bloomington, IN 47404, hereby petitioner for the cancellation of the registration the trademark DOPE BOY FRESH by Ahmed Lago, a United States citizen, with his principal place of business located at 195 Willoughley Ave., Apt. 111, Brooklyn, NY 11205 that is the subject of U.S. Trademark Registration No. 3,699,337 and requests that the DOPE BOY FRESH registration be cancelled.

As grounds in support of its Petition for Cancellation, Petitioner asserts as follows:

COUNT 1

Likelihood of Confusion

1. Petitioner is the owner of U.S. Trademark Registration No. 4,075,682 for the trademark DOPE COUTURE used in connection with men's and women's shirts, jackets, coats, wind resistant jackets, shorts, and headwear in International Class 025.
2. Petitioner's effective filing date for U.S. Trademark Registration No. 4,075,682 was March 5, 2010.

3. Petitioner's effective registration date for U.S. Trademark Registration No. 4,075,682 was December 27, 2011.
4. Petitioner's date of first use in interstate commerce for U.S. Trademark Registration No. 4,075,682 was January 1, 2008.
5. Petitioner is the owner of common law trademark rights in the DOPE COUTURE trademark for use in connection with the manufacture and sale of men's and women's apparel, specifically, men's and women's shirts, jackets, coats, wind resistant jackets, shorts, and headwear since January 1, 2008 resulting from its continuous and uninterrupted use of the DOPE COUTURE trademark in U.S. interstate commerce.
6. Petitioner is the owner of U.S. Trademark Serial Number 85/375,315 for the DOPE trademark for use in connection with coats for men and women; headwear; jackets; shirts in International Class 025.
7. Petitioner's effective filing date for U.S. Trademark Serial Number 85/375,315 was July 19, 2011.
8. Petitioner is the owner of common law trademark rights in the DOPE trademark for use in connection with the manufacture and sale of men's and women's apparel, specifically, men's and women's shirts, jackets, coats, wind resistant jackets, and headwear since at least as early as December of 2008 resulting from its continuous and uninterrupted use of the DOPE trademark in connection with the aforementioned goods and services in U.S. interstate commerce.
9. Petitioner is the owner of U.S. Trademark Serial Number 85/729,957 for the DOPE trademark for use in connection with on-line retail store services featuring t-shirts, fleece apparel, headwear, hats, watches, footwear, shoes, jewelry, books, magazines, home goods, electronic accessories, buttons, pins, novelty goods, vintage clothing, backpacks, bags; Retail store services featuring t-shirts, fleece apparel, headwear, hats, watches, footwear, shoes, jewelry, books, magazines, home goods, electronic accessories, buttons, pins, novelty goods, vintage clothing, backpacks, bags in International Class 035.
10. Petitioner's effective filing date for U.S. Trademark Serial Number 85/729,957 was September 15, 2012.
11. Petitioner's effective date of first use in U.S. interstate commerce for U.S. Trademark Serial Number 85/729,957 was March 6, 2009.
12. Petitioner's DOPE trademarks and DOPE COUTURE trademark are famous trademarks among the general purchasing public and among consumers of Petitioner's goods and services. *See Attached Exhibit A.*

13. Registrant is the alleged owner of U.S. Trademark Registration Number 3,699,337 for the trademark DOPE BOY FRESH for use in connection with Athletic footwear; Baseball caps; Belts; Boots; Boxer briefs; Boxer shorts; Cargo pants; Coats; Coats for men and women; Down jackets; Fleece pullovers; Flip flops; Footwear; Footwear for men and women; Gloves; Hats; Head sweatbands; Head wear; Headbands; Heavy jackets; Hoods; Jackets; Jeans; Jerseys; Jogging pants; Jogging suits; Knit shirts; Men and women jackets, coats, trousers, vests; Men's socks; Pants; Pique shirts; Polo shirts; Pullovers; Running shoes; Shirts; Shoes; Short-sleeved or long-sleeved t-shirts; Short-sleeved shirts; Shorts; Skull caps; Skullies; Slacks; Sleeved or sleeveless jackets; Sleeveless jerseys; Sneakers; Socks; Sport coats; Sport shirts; Sports jackets; Sports jerseys; Sports shirts; Suits; Sweat pants; Sweat shirts; Sweat shorts; Sweat suits; Sweaters; Sweatsocks; T-shirts; Tank tops; Tennis shoes; Tennis wear; Ties; Tops; Track pants; Track suits; Vests; Waterproof jackets and pants; Wind coats; Wind-jackets; Wrist bands in International Class 025.
14. Registrant's effective filing date was December 12, 2006.
15. Registrant's registration date for his DOPE BOY FRESH trademark application was October 29, 2009. *See Attached Exhibit B.*
16. Registrant's DOPE BOY FRESH trademark registration contains the identical phonetic term DOPE found in Petitioner's DOPE and DOPE COUTURE trademarks, which is the primary and dominant feature of Petitioner's DOPE and DOPE COUTURE trademarks.
17. Registrant's goods are identical or nearly identical to the goods and services that Petitioner's DOPE and DOPE COUTURE trademarks are used on connection with, and flow in identical or nearly identical channels of trade as those used for the sale and promotion of Petitioner's goods and services.
18. There is no dispute as to priority. Petitioner's effective filing date for the DOPE COUTURE trademark was March 5, 2010 and its date of first use in U.S. interstate commerce was January 1, 2008. Petitioner's effective filing date for the DOPE trademark in International Class 025 was July 19, 2011 and its date of first use in U.S. interstate commerce was at least as early as December of 2008. Petitioner's effective filing date for the DOPE trademark in International Class 035 was September 15, 2012 and its date of first use in U.S. interstate commerce was March 6, 2009. Registrant's effective filing date was December 12, 2006 and its alleged date of first use in interstate commerce is April 30, 2009. As such, Petitioner's Marks, independently and collectively, have clear priority over the Registrant's Mark.
19. Through extensive use, advertising, marketing and promotion of Petitioner's Marks, Petitioner has built up, at great expense and effort, a valuable reputation and goodwill symbolized by its strong and distinctive trademarks.

COUNT 2

False Suggestion of Connection

20. Registrant's DOPE BOY FRESH trademark is phonetically identical to the dominant features of Petitioner's DOPE and DOPE COUTURE trademarks. Registrant's DOPE BOY FRESH trademark falsely suggests a connection with Petitioner's DOPE and DOPE COUTURE trademarks in violation of Section 2(a) of the Trademark Act, because Registrant's mark points uniquely to Petitioner and purchasers will assume that goods sold under Registrant's trademark are connected with and originate from Petitioner.
21. Petitioner will be damaged by the use and registration of Registrant's DOPE BOY FRESH trademark, as it will deprive Petitioner of the ability to protect its reputation, persona and goodwill.
22. Petitioner will be damaged by the continued registration of Registrant's DOPE BOY FRESH trademark as it will narrow the scope of trademark protection afforded to Petitioner's registered DOPE COUTURE trademark and Petitioner's DOPE trademarks, such that others may use the words DOPE and other phonetically similar designations in connection with apparel products and physical and online retail services without regard to whether phonetical spelling creates a similar commercial impression.

WHEREFORE, Petitioner prays that the Petition for Cancellation be sustained and that the Registrant's DOPE BOY FRESH trademark registration be cancelled.

Dated: November 14, 2012

Respectfully submitted,

By: /evananderson/
Evan Anderson
Brand Ventures Intellectual Property Law
2434 Lincoln Blvd., Floor 2
Los Angeles, CA 90291
Attorneys for Petitioner
Third Estate LLC

PROOF OF SERVICE

I hereby certify that a true and complete copy of the foregoing **PETITION FOR CANCELLATION** has been served on Registrant on November 14, 2012, via First Class U.S. Mail, postage prepaid to:

Ahmed Lago
195 Willoughby Ave., Apt. 111
Brooklyn, NY 11205



Evan Anderson

EXHIBIT A

United States of America
United States Patent and Trademark Office

DOPE
C O U T U R E

Reg. No. 4,075,682

Registered Dec. 27, 2011

Int. Cl.: 25

TRADEMARK

PRINCIPAL REGISTER

THIRD ESTATE LLC (INDIANA LIMITED LIABILITY COMPANY), DBA DOPE COUTURE
224 N COLLEGE AVE
BLOOMINGTON, IN 47404

FOR: MEN'S AND WOMEN'S SHIRTS, JACKETS, COATS, WIND RESISTANT JACKETS,
SHORTS, AND HEADWEAR, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 1-1-2006; IN COMMERCE 1-1-2006.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "COUTURE", APART FROM
THE MARK AS SHOWN.

THE MARK CONSISTS OF THE WORD "DOPE" WITH THE LETTER "D" THAT OVERLAPS
THE LETTER "O", WITH THE WORD "COUTURE" DIRECTLY UNDER THE WORD "DOPE",
ALL IN UPPERCASE.

SER. NO. 77-951,263, FILED 3-5-2010.

SANI KHOURI, EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office

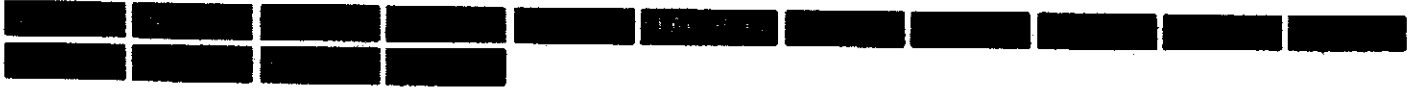


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DOPE

Word Mark DOPE
Goods and Services IC 035. US 100 101 102. G & S: On-line retail store services featuring t-shirts, fleece apparel, headwear, hats, watches, footwear, shoes, jewelry, books, magazines, home goods, electronic accessories, buttons, pins, novelty goods, vintage clothing, backpacks, bags; Retail store services featuring t-shirts, fleece apparel, headwear, hats, watches, footwear, shoes, jewelry, books, magazines, home goods, electronic accessories, buttons, pins, novelty goods, vintage clothing, backpacks, bags. FIRST USE: 20090306. FIRST USE IN COMMERCE: 20090306

Standard Characters Claimed
Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 85729957

Filing Date September 15, 2012

Current Basis 1A

Original Filing Basis 1A

Owner (APPLICANT) Third Estate LLC DBA Dope Couture LIMITED LIABILITY COMPANY INDIANA 224 N

College Ave Bloomington INDIANA 47404

Attorney of Record Evan Anderson

Prior Registrations 4075682

Type of Mark SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE



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DOPE

Word Mark DOPE

Goods and Services IC 025. US 022 039. G & S: Coats for men and women; Headwear; Jackets; Shirts; Shorts; Wind resistant jackets

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 85375315

Filing Date July 19, 2011

Current Basis 1B

Original Filing Basis 1B

Owner (APPLICANT) Third Estate LLC DBA Dope Couture LIMITED LIABILITY COMPANY INDIANA 224 N. College Bloomington INDIANA 47404

Attorney of Record Evan Anderson, Esq.

Prior Registrations 4075682

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE



EXHIBIT B

United States of America

United States Patent and Trademark Office

DOPE BOY FRESH

Reg. No. 3,699,337 LAGO, AHMED (UNITED STATES INDIVIDUAL)
Registered Oct. 20, 2009 195 WILLOUGHBY AVE, APT. 111
BROOKLYN, NY 11205

Int. Cl.: 25 FOR: ATHLETIC FOOTWEAR; BASEBALL CAPS; BELTS; BOOTS; BOXER BRIEFS; BOXER SHORTS; CARGO PANTS; COATS; COATS FOR MEN AND WOMEN; DOWN JACKETS; FLEECE PULLOVERS; FLIP FLOPS; FOOTWEAR; FOOTWEAR FOR MEN AND WOMEN; GLOVES; HATS; HEAD SWEATBANDS; HEAD WEAR; HEADBANDS; HEAVY JACKETS; HOODS; JACKETS; JEANS; JERSEYS; JOGGING PANTS; JOGGING SUITS; KNIT SHIRTS; MEN AND WOMEN JACKETS, COATS, TROUSERS, VESTS; MEN'S SOCKS; PANTS; PIQUE SHIRTS; POLO SHIRTS; PULLOVERS; RUNNING SHOES; SHIRTS; SHOES; SHORT-SLEEVED OR LONG-SLEEVED T-SHIRTS; SHORT-SLEEVED SHIRTS; SHORTS; SKULL CAPS; SKULLIES; SLACKS; SLEEVED OR SLEEVELESS JACKETS; SLEEVELESS JERSEYS; SNEAKERS; SOCKS; SPORT COATS; SPORT SHIRTS; SPORTS JACKETS; SPORTS JERSEYS; SPORTS SHIRTS; SUITS; SWEAT PANTS; SWEAT SHIRTS; SWEAT SHORTS; SWEAT SUITS; SWEATERS; SWEATSOCKS; T-SHIRTS; TANK TOPS; TENNIS SHOES; TENNIS WEAR; TIES; TOPS; TRACK PANTS; TRACK SUITS; VESTS; WATERPROOF JACKETS AND PANTS; WIND COATS; WIND-JACKETS; WRIST BANDS, IN CLASS 25 (U.S. CLS. 22 AND 39).

TRADEMARK
PRINCIPAL REGISTER

FIRST USE 3-9-2009; IN COMMERCE 4-30-2009.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 77-062,167, FILED 12-12-2006.

MARK SPARACINO, EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office

DOPE FRESH