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Filing date: **07/19/2013**

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	Ceska Zbrojovka A.S.		
Entity	akciová společnost	Citizenship	Czech Republic
Address	Svatopluka Cecha 1283 Uherský Brod, CZ-688 27 CZECH REPUBLIC		

Attorney information	Douglas R. Bush Arent Fox LLP 1717 K Street, NW Washington, DC 20036 UNITED STATES bush.doug@arentfox.com, henrye@arentfox.com, tmdocket@arentfox.com Phone:202 857 8977
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**Registrations Subject to Cancellation**

Registration No	2872798	Registration date	08/10/2004
Registrant	ABRAMS AIRBORNE MANUFACTURING, INC. 3735 NORTH ROMERO ROAD TUCSON, AZ 85705 UNITED STATES		

**Goods/Services Subject to Cancellation**

Class 013. First Use: 1981/05/03 First Use In Commerce: 1981/05/03 All goods and services in the class are cancelled, namely: PISTOLS, PISTOL STANDS, GUN CASES, GUN RUGS AND GUN AMMUNITION MAGAZINES
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**Grounds for Cancellation**

Genericness	Trademark Act section 23		
Abandonment	Trademark Act section 14		
Registration No	3998455	Registration date	07/19/2011
Registrant	Abrams Airborne Manufacturing, Inc. 3735 North Romero Road Tucson, AZ 85705 UNITED STATES		

**Goods/Services Subject to Cancellation**

Class 025. First Use: 2011/05/31 First Use In Commerce: 2011/05/31 All goods and services in the class are cancelled, namely: Clothing, namely, shirts and hats
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**Grounds for Cancellation**

Genericness		Trademark Act section 23	
Abandonment		Trademark Act section 14	
Registration No	4317471	Registration date	04/09/2013
Registrant	ABRAMS AIRBORNE MANUFACTURING, INC. 3735 NORTH ROMERO ROAD TUCSON, AZ 85705 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 013. First Use: 2013/02/07 First Use In Commerce: 2013/02/07 All goods and services in the class are cancelled, namely: Ammunition
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### Grounds for Cancellation

Genericness		Trademark Act section 23	
Abandonment		Trademark Act section 14	
Registration No	4321272	Registration date	04/16/2013
Registrant	Abrams Airborne Manufacturing, Inc. 3735 North Romero Road Tucson, AZ 85705 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 013. First Use: 2013/02/07 First Use In Commerce: 2013/02/07 All goods and services in the class are cancelled, namely: PISTOLS, GUN AMMUNITION MAGAZINES
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### Grounds for Cancellation

Genericness		Trademark Act section 23	
Abandonment		Trademark Act section 14	

Attachments	Cancellation petition.pdf(192577 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	/Douglas R. Bush/
Name	Douglas R. Bush
Date	07/19/2013

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

CESKA ZBROJOVKA A.S. :  
Petitioner :  
v. : Canc. No. \_\_\_\_\_  
ABRAMS AIRBORN MANUFACTURING, INC. :  
Registrant :

**PETITION FOR CANCELLATION**

Ceska Zbrojovka A.S., an "akciová společnost" (joint stock company) organized under the laws of the Czech Republic, and having an address of Svatopluka Cecha 1283 CZ-688 27 Uherský Brod, Czech Republic, believes it will be damaged by the continued existence of Registration Nos. 2872798, 3998455, 4317471 and 4321272, all for the alleged mark BREN TEN (collectively, the "Registered Mark") and hereby petitions to cancel each of these registrations pursuant to Section 14 of the Trademark Act of 1946, 15 U.S.C. §1064. As grounds for cancellation, Petitioner alleges the following.

1. Petitioner is the owner of all rights, title and interest in and to the name and mark BREN ("Petitioner's Mark"), for firearms, namely, assault rifles, machine guns and semiautomatic guns.

2. Since long prior to the acts complained of in this notice, Petitioner has continuously used the mark BREN for the aforementioned goods.

3. Petitioner's Mark became famous in the 1930s and during World War II Petitioner's BREN guns were adopted and used by British and British Commonwealth infantry.

4. Because of the fame and goodwill symbolized by Petitioner's Mark, consumers logically assume that goods bearing Petitioner's Mark are sold, approved or endorsed by Petitioner.

5. Petitioner's Mark has been the subject of extensive advertising and publicity.

6. By reason of the foregoing, Petitioner's Mark has become well known as a distinctive indicator of the origin of Petitioner's goods and as a symbol of Petitioner's valuable goodwill.

7. Registrant never requested and never received permission from Petitioner to use or seek registration of any mark containing the word BREN.

8. Despite the fact that Registrant never acquired permission from Petitioner, Registrant obtained the aforesaid registrations, all of which are for firearms or ammunition in Class 13, except for Registration No. 3998455, which is for clothing in Class 25.

9. Upon information and belief, Registrant willfully and deliberately made materially false allegations of use in the documents filed with the Patent and Trademark Office in connection with the registrations at issue.

10. Registrant made the false allegations of use in connection with its registrations to induce the Patent and Trademark Office to issue or maintain registrations to which Registrant is not entitled.

11. The Patent and Trademark Office relied on Registrant's materially false representations and but for those representations, the registrations would not have been issued or maintained.

12. Upon information and belief, Registrant applied for registration of its alleged mark in bad faith, with a deliberate intent to trade on the goodwill symbolized by Petitioner's BREN mark.

13. The Registered Mark consists of a combination of Opposer's Mark BREN and the generic word "ten."

14. Upon information and belief, Registrant's alleged mark was intended for use on 10mm firearms (i.e., firearms that use ten millimeter caliber ammunition).

15. The word "ten" as used in the mark is merely the generic name for the firearms and the ammunition in that it denotes the diameter or the caliber of the barrels and cartridges used in the firearms.

16. Despite the fact that the word "ten" is the generic name for the Registrant's 10mm firearms and ammunition, Registrant concealed this material fact from the Patent and Trademark Office and Registrant never disclaimed exclusive rights in the word "ten" in any of the applications that resulted in the registrations at issue in this proceeding.

#### **ABANDONMENT**

17. As a separate ground for relief, Registrant contends that the Registered Mark has been abandoned and, therefore, all of Registrant's registrations should be cancelled.

18. On information and belief Registrant has never used the alleged mark shown in Registration Nos. 2872798, 3998455, 4317471 and 4321272 in connection with the bona fide sale of any goods in commerce.

19. Alternatively, on information and belief, Registrant has discontinued all use of the alleged mark shown in the registrations with an intent not to resume use.

20. On information and belief, Registrant has not used the alleged mark shown in Registration Nos. 3998455, 4317471 and 4321272 in connection with the sale of any goods listed in the registrations at any time during the past three years.

21. Because Registrant has never used or has ceased using its alleged mark, Registrant has abandoned any rights it may ever have had in said mark.

22. By reason of the foregoing, Petitioner believes it will be damaged by the continued existence of Registration Nos. 2872798, 3998455, 4317471 and 4321272 and the registrations should be cancelled.

#### **GENERICNESS**

23. As a separate ground for relief, Registrant contends that the word “ten” in the Registered Mark is generic and that Registrant has no right to register such a mark without a disclaimer of exclusive rights in the word “ten.”

24. Because the word “ten” is the caliber of the firearms and ammunition listed in Registration Nos. 2872798, 4317471 and 4321272 and because the clothing products listed in Registration No. 3998455 are merely intended to promote Registrant’s 10 caliber firearms and ammunition, that word is the generic name for the goods.

25. Because Registrant never disclaimed exclusive rights in the generic word “ten,” Registrant is not entitled to maintain registrations containing that generic word.

26. By reason of the foregoing, Petitioner believes it will be damaged by the continued existence of Registration Nos. 2872798, 3998455, 4317471 and 4321272 and the registrations should be cancelled.

WHEREFORE, Petitioner requests that this petition to cancel be granted.

CESKA ZBROJOVKA A.S.

By 

Douglas R. Bush  
Michael A. Grow  
Arent Fox LLP  
1717 K Street, NW  
Washington, DC 20036  
202 857 8977

Attorney for Petitioner

#### **CERTIFICATE OF SERVICE**

It is hereby certified that a copy of the foregoing Petition to Cancel is being served upon Registrant Abrams Airborne Manufacturing, Inc. at its address of record 3735 North Romero Road, Tucson, Arizona 85705 by first class mail, postage prepaid, on July 19, 2013.

