

ESTTA Tracking number: **ESTTA557880**

Filing date: **09/05/2013**

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	Current Boutique, Inc		
Entity	Corporation	Citizenship	USA
Address	1009 King Street Alexandria, VA 22314 UNITED STATES		

Attorney information	Timothy J Maier Maier & Maier, PLLC 345 South Patrick Street Alexandria, VA 22314 UNITED STATES trademark@maierandmaier.com Phone:703-740-8322		
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Registration Subject to Cancellation

Registration No	1825081	Registration date	03/08/1994
Registrant	CURRENT USA, INC. P. O. BOX 3728 NORTH MANKATO, MN 560023728 UNITED STATES		

Goods/Services Subject to Cancellation

Class 014. First Use: 1985/05/29 First Use In Commerce: 1985/05/29 All goods and services in the class are cancelled, namely: watches; jewelry; namely, necklaces, earrings and decorative pins
Class 025. First Use: 1985/07/24 First Use In Commerce: 1985/07/24 All goods and services in the class are cancelled, namely: scarves, hats, T-shirts, socks, sweatshirts, [pantyhose, ties,] cloth baby bibs

Grounds for Cancellation

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Abandonment	Trademark Act section 14
The registration is being used by, or with the permission of, the registrant so as to misrepresent the source of the goods or services on or in connection with which the mark is used.	Trademark Act section 14

Attachments	CURRENT PETITION to Cancel.pdf(119398 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	s/Timothy J Maier/
Name	Timothy J Maier
Date	09/05/2013

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

Current Boutique, Inc.,	§	
	§	
Petitioner,	§	
	§	Cancellation No. _____
v.	§	
	§	
Current USA, Inc.,	§	
	§	
Respondent.	§	

PETITION TO CANCEL

Current Boutique, Inc., (“Petitioner”), having a principal place of business at 1009 King Street, Alexandria, VA 22314 believes that it is and will continue to be damaged by the registration of the mark CURRENT, U.S. Registration No. 1,825,081, and hereby petitions to partially cancel the same pursuant to the provisions of 15 U.S.C. § 1064.

1. Current USA, Inc. (“Respondent”) is the record owner of U.S. Registration No. 1,825,081 for the mark CURRENT, which covers “watches; jewelry, necklaces, earrings and decorative pins,” in Class 14 and “scarves, hats, t-shirts, socks, sweatshirts, and cloth baby bibs,” in Class 25.

2. Respondent's registration issued on March 8, 1994. The registration was renewed on August 6, 2013.

3. On information and belief, Respondent has never used CURRENT with the products in Classes 14 and 25. Respondent was issued a registration based on its use of

CURRENT for those products, but it has never used the mark in connection with its own jewelry and apparel.

4. On information and belief, Respondent is providing retail services selling the jewelry and apparel of others.

5. Respondent's own website states that it is a "multi-brand marketing company."

6. Retail services for selling the jewelry and apparel of others is properly classified as a Class 35 service.

7. Respondent would not have been able to amend its trademark application or registration to transfer jewelry and apparel from Classes 14 and 25 to retail services featuring jewelry and apparel in Class 35.

8. Respondent knew that it did not produce any or all of the products identified in its trademark application for CURRENT for jewelry and apparel.

9. Respondent knew that its representation that it provided its own jewelry and apparel was false and made it knowingly in order to receive a registration for CURRENT in Classes 14 and 25.

10. The Patent and Trademark Office relied on Respondent's representation of ownership in issuing Registration No. 1,825,081. The Patent and Trademark Office would not have issued Registration No. 1,825,081 if not for Respondent's false representation.

11. Respondent's misrepresentation was material to the issuance of its registration. This misrepresentation was made with the intent to induce the Patent and Trademark Office to issue a registration for products that Respondent does not provide.

12. Respondent's actions regarding Registration No. 1,825,081 constitute fraud as it knowingly declared ownership of a mark in connection with jewelry and apparel even though it only provides services pertaining to the retail sale of those products by others.

13. Not only has Respondent never owned the mark at issue, it has abandoned his rights in the trademark registration, and has no intent to resume use as evidence by its failure to use the mark in connection with jewelry and apparel for over three (3) years.

14. Petitioner is a Virginia corporation that uses CURRENT BOUTIQUE in connection with retail clothing boutiques and retail consignment stores featuring women's clothing, accessories and jewelry.

15. Petitioner is the record owner of U.S. trademark application Serial No. 85/782,039.

16. On March 21, 2013, the United States Patent and Trademark Office refused registration of Petitioner's application for CURRENT BOUTIQUE based on Respondent's registration for CURRENT, as identified with apparel and jewelry.

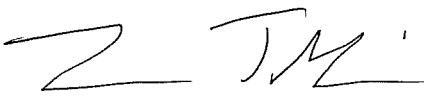
17. The continued existence of Registration No. 1,825,081 for apparel and jewelry damages Petitioner, as the registration confers upon Respondent various statutory presumptions to which it is not entitled in view of the non-use and fraudulent acquisition of Respondent's mark in connection with apparel and jewelry.

WHEREFORE, pursuant to Section 14 of the Lanham Act, 15 USC §1064, Petitioner respectfully requests that U.S. Registration No. 1,825,081 be canceled in Classes 14 and 25, and that this Petition to Cancel be sustained.

Respectfully submitted,

Current Boutique, Inc.

Date: 9/5/2013

By: 

Timothy J. Maier, Esq.
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345 South Patrick Street
Alexandria, VA 22314
(703) 740-8322
Attorneys for Petitioner

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Petition to Cancel was served on counsel for Respondent, Jennifer C. Debrow, Esq., Gray, Plant, Mooty, Mooty & Bennett, P.A., by First Class mail, postage prepaid, this 5th day of September, 2013.

