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Filing date: **09/20/2013**

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	K.Z., Inc.		
Entity	Corporation	Citizenship	Indiana
Address	0985 N 900 W Shipshewana, IN 46565 UNITED STATES		

Attorney information	Tim J. Cain, J.D., LL.M. P.O. Box 895 Angola, IN 46703 UNITED STATES caintim15@gmail.com Phone:2606686251		
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**Registration Subject to Cancellation**

Registration No	3505252	Registration date	09/23/2008
International Registration No.	NONE	International Registration Date	NONE
Registrant	K-Z Enterprises Ltd. 4468 Imperial Street Burnaby, V5J 1 B3 CANADA		

**Goods/Services Subject to Cancellation**

Class 012. First Use: 2003/10/24 First Use In Commerce: 2004/04/19 All goods and services in the class are cancelled, namely: AUTOMOTIVE ACCESSORIES, NAMELY, ROOF RACKS, PUSH GUARDS AND SIDE BARS
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**Grounds for Cancellation**

Abandonment	Trademark Act section 14
Other	Registrant not a manufacturer (15 USC 1051) Relative strength of marks (In Re E.I. du Pont de Nemours, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973).

Attachments	ComplaintTrademarkCancel.pdf(114445 bytes ) KZ Vancouver PhonePages.pdf(173465 bytes ) KZ Vancouver DB Report.pdf(438228 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/ Tim J. Cain
Name	Tim J. Cain, J.D., LL.M.
Date	09/20/2013

**UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD**

Cancellation No.:

K.Z., Incorporated,                    )  
    Petitioner,                        )  
  )  
vs.                                        )  
  )  
K-Z Enterprises, Ltd.                )  
    Respondent.                      )  
\_\_\_\_\_ )

Registration No.: 3505252

**PETITION FOR CANCELLATION**

Petitioner K.Z., Incorporated, by counsel Tim J. Cain, Attorney at Law, petitions the Trademark Trial and Appeal Board to cancel Registration No. 3505252 of the stylized trademark “KZ”, which was registered on September 23, 2008, by K-Z Enterprises, Ltd., a Canadian limited company, for international class 012 only, as set forth more completely below:

**PARTIES**

1. Petitioner K.Z., Incorporated, [hereinafter referred to as “Petitioner”] is a for-profit corporation organized and existing under the laws of the State of Indiana, with it’s principal offices located at 0985 N 900 W, Shipshewana, LaGrange County, Indiana 46565.

2. On information and belief, Respondent K-Z Enterprises, Ltd., [hereinafter referred to as “Respondent”] is a for-profit limited company organized and existing under the laws of the Country of Canada, with its current business

address at 3429 Kingsway, Vancouver, British Columbia V5R 5L3, Canada, although the address as registered with the U.S. Patent and Trademark Office is 4468 Imperial Street, Burnaby, British Columbia V5J 1B3, Canada.

### **THE TRADEMARK**

3. On May 5, 2003, Respondent filed its trademark application for a stylized mark containing the letters “K” and “Z”, but did not include a claim for standard characters. Respondent applied for trademark protection under international class 007 for engine mufflers, and under international class 012 for “automotive accessories, namely, roof racks, push guards and side bars.”

4. The application was prosecuted and registration was effective on September 23, 2008. [The trademark granted to Respondent is hereinafter referred to as the “Mark”].

### **STANDING**

5. As stated above, in pleading paragraph 1, Petitioner is a for-profit corporation organized under the laws of the State of Indiana on March 20, 1972. Since that date, Petitioner has conducted uninterrupted business, and is currently in good standing with the Indiana Secretary of State.

6. Since inception, Petitioner has manufactured high quality towable travel trailers, fifth wheel campers, truck campers, and toy haulers for the recreational vehicle consuming public.

7. Through hard work, a commitment to high quality, and stellar public service, Petitioner has established and maintained a superior reputation for

craftsmanship and value in the recreational vehicle industry, including but not limited to the consuming public, retail dealers, and advertising publishers.

8. Petitioner's reputation has been directly connected to its use of the shortened terms "K-Z" and "KZ" during its forty-one (41) years of existence in advertising, publicity, and general business dealings with consumers and dealers of its products. Petitioner has expended large amounts of financial resources regarding this sustained and concerted effort to build and maintain goodwill and reputation surrounding "K-Z" and "KZ". In the last ten years, Petitioner has expended \$15.5 million dollars in advertising to maintain its goodwill and reputation.

9. The nature of the recreational vehicle industry is that Petitioner's products are sold to the consuming public exclusively through regional retail dealers. Petitioner's network of retail dealers includes dealers in the United States and foreign countries. Again in the last ten years, Petitioner has amassed gross retail sales exceeding \$1.046 billion dollars. Petitioner's common law trademarks are strong and famous throughout the United States, Canada, China, Australia, and (to a lesser extent) Holland.

10. Petitioner's use of "KZ" and "K-Z" as common law trademarks predates Respondent's registration by more than thirty-two (32) years and its first use on commerce more than twenty-eight (28) years.

11. Petitioner, or its affiliates, hold some eight other trademarks related to its products, and more pending.

12. Respondent's continued ownership of the Mark threatens Petitioner's strong and famous common law trademarks, and prevents Petitioner from registering its common law trademarks with the USPTO. Accordingly, Petitioner is being, and will continue to be, injured if Respondent's registration for the Mark isn't cancelled.

### **GROUND ONE: ABANDONMENT**

#### **Trademark Act §14; 15 U.S.C. §§1064, 1127**

12. Based upon information and belief, Respondent does not actively exploit the Mark in connection with international class 012 goods. Respondent, apparently, now engages in the wholesale marketing of toys and hobby goods and supplies. In support hereof, attached as Exhibit #1, is a screen shot of the entry for Respondent on the PhonePages website:

<http://www.phonepages.ca/BC/Vancouver/K-Z-Enterprises-Ltd-b8915385>,

accessed on November 7, 2012. The listing indicates that Respondent no longer engages in the manufacturing or sale of any goods fairly described in international class 012.

13. Moreover, and again based upon information and belief, Respondent has had no sales in the recent past. In support hereof, attached as Exhibit #2, is a financial report for Respondent obtained by Petitioner on November 7, 2012, from which it can fairly be concluded that Respondent has not enjoyed any retail sales in the year preceding the report. If Respondent isn't selling any goods, it isn't using the Mark in commerce, and has abandoned it.

14. Because Respondent has abandoned the Mark, Respondent's registration should be cancelled.

**GROUND TWO: RESPONDENT NOT A MANUFACTURER**

**Trademark Act §1; 15 U.S.C. §1051**

15. Without waiving the arguments in Ground One, above, based upon information and belief, Respondent is merely a distributor or importer, and not a manufacturer, of international class 012 goods. Again referring to Exhibit #2, specifically page 2, Respondent has been determined to not be a manufacturer of goods.

16. Additionally, Respondent's application for registration of the Mark does not include any showing that Respondent is a wholly owned subsidiary of the manufacturer, nor was written consent or assignment from the manufacturer submitted with the application. In further support, Exhibit #2, page 2, also indicates that Respondent isn't a subsidiary of any other entity.

17. Upholding Respondent's registration for the Mark would, therefore violate the Trademark Act §1 because only manufacturers or producers can own the trademark for goods, and the registration was erroneously granted to Respondent.

**GROUND THREE: RELATIVE FAME OF MARKS**

**In Re E.I. du Pont de Nemours & Co.,**

**476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973)**

18. As stated above, Petitioner has expended great resources over an extended period of time to generate goodwill and product recognition through the use of “KZ” and “K-Z”, while Respondent has done nothing to exploit the registered Mark. Normally, the registrant argues strength of its mark to protect it from infringers, but in the present case Petitioner actually enjoys greater fame and strength in its use of “KZ” and “K-Z” than does Respondent.

19. Famous marks are generally afforded a broader, more robust, scope of protection because they are more likely to be remembered by the consuming public than is a less-famous mark. Here, the interest of the consuming public impels cancellation of Respondent’s registration for the Mark.

WHEREFORE, Petitioner K.Z., Inc., requests the Trademark Trial and Appeal Board grant this Petition for Cancellation, cancel Registration No. 3505252, and removal of same from the Principal Register.

Respectfully submitted,

/s/ Tim J. Cain

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Phone: 260/668-6251  
Email: caintim15@gmail.com  
Counsel for Petitioner



**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this Petition for Cancellation was sent to the below named persons by regular first class mail, postage prepaid, and by electronic mail at the addresses stated below on September 20, 2013:

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/s/ Tim J. Cain

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Tim J. Cain, Atty. I.D. #4238-44



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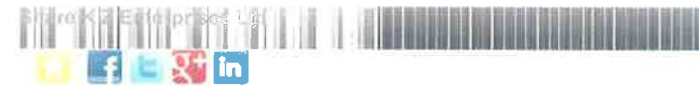
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## K Z Enterprises Ltd Profile

3429 Kingsway  
V5R 5L3 Vancouver V5R 5L3 BC Canada  
Phone : +1-604-430-1890

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## Company Overview

3429 Kingsway  
V5R 5L3 Vancouver V5R 5L3 BC Canada  
Phone : +1-604-430-1890

Business services, nec, nsk

## Key Information

DUNS Number	240092010
Location Type	Single Location
Subsidiary Status	No
Manufacturer	No
Plant/Facility Size (sq. ft.)	3,466.00
Total Employees	5
1-Year Employee Growth	0.00%
Primary Industry	1054:Business Services Sector
Primary SIC Code	73890000:Business services, nec
Primary NAICS Code	561499:All Other Business Support Services
Latitude/Longitude	49.232231 / -123.031839

## Key Financials

Fiscal Year-End	December
Prescreen Score	High Risk

## Key People

Name	Title
Kwong Chiyu	Proprietor

# People

## Employees

<b>Title</b>	<b>Name</b>	<b>Age</b>	<b>Salary</b>	<b>Bonus</b>
Proprietor	Kwong Chiyiu			



# Biographies

Kwong Chiyiu

## **Current Company Titles**

Unknown - Present : Proprietor