

ESTTA Tracking number: **ESTTA561910**

Filing date: **09/27/2013**

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	Precision Pet Products, Inc.		
Entity	Corporation	Citizenship	California
Address	2183 Fairview Road, Suite 200 Costa Mesa, CA 92627 UNITED STATES		

Correspondence information	Kit M. Stetina Stetina Brunda Garred & Brucker 75 Enterprise, Suite 250 Aliso Viejo, CA 92656 UNITED STATES opposition@stetinalaw.com
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Registration Subject to Cancellation

Registration No	3513048	Registration date	10/07/2008
Registrant	Kaytee Products Incorporated P.O. Box 230 Chilton, WI 53014 UNITED STATES		

Goods/Services Subject to Cancellation

Class 020. First Use: 2007/01/00 First Use In Commerce: 2007/01/00 All goods and services in the class are cancelled, namely: beds for household pets and nesting pads for use as beds by household pets

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	4398932	Application Date	10/16/2012
Registration Date	09/10/2013	Foreign Priority Date	NONE
Word Mark	COZY COMFORTER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 020. First use: First Use: 2003/02/28 First Use In Commerce: 2003/02/28		

	FABRIC PET BED
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Attachments	PetitionForCancellation.pdf(546857 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	/Kit M. Stetina/
Name	Kit M. Stetina
Date	09/27/2013

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Trademark Registration No. 3,513,048

Precision Pet Products, Inc.,)	Cancellation No.:
)	
Petitioner,)	
)	
vs.)	
)	
Kaytee Products Incorporated,)	
)	
Respondent.)	

PETITION FOR CANCELLATION

In the matter of U.S. Trademark Registration No. 3,513,048, for the mark COZY COMFORT, registered October 7, 2008 to Kaytee Products, Incorporated, of Wisconsin (hereinafter “Respondent”) for beds for household pets and nesting pads for use as beds by household pets in International Class 020, Precision Pet Products, Inc., a California corporation, with offices at 2183 Fairview Road, Suite 200, Costa Mesa, California 92627 (hereinafter “Petitioner”), believes that it will be damaged by the continued registration of this trademark and hereby petitions to cancel the same. As grounds for cancellation, it is alleged as follows:

1. Petitioner is and has been for many years engaged in the extensive development, advertising, and marketing of a variety of products regarding pets and pet beds and goods related thereto. In connection therewith, Petitioner has used in interstate commerce, the mark COZY COMFORTER for the aforementioned goods since long prior to Respondent’s filing date and first use date of its registration no. 3,513,048 for the mark COZY COMFORT.

2. Since at least as early as February 28, 2003, Petitioner has made use of its COZY COMFORTER trademark throughout the United States in interstate commerce. Since adoption of its COZY COMFORTER trademark, Petitioner has continuously used such mark in interstate commerce.

3. Petitioner has expended considerable sums in exerting every effort to maintain the highest standard of quality for its products, and has created valuable goodwill among the purchasing public under its COZY COMFORTER trademark.

4. As a result of the continuous and extensive use of the COZY COMFORTER trademark by Petitioner, this mark has become and continues to function as a valuable business and marketing asset of Petitioner, and serve to indicate to the trade and consuming public the products originating from Petitioner and its authorized representative.

5. Petitioner has obtained United States Trademark Registration No. 4,398,932, registered September 10, 2013, for the mark COZY COMFORTER for the goods set forth in that registration. A copy of that registration is attached hereto as **Exhibit A**.

6. Petitioner enjoys a valuable reputation with the trade and consuming public as a provider of various products including pet beds.

7. Respondent's use of the COZY COMFORT Mark interferes with Petitioner's use of its COZY COMFORTER trademark and continued registration of the COZY COMFORT Mark by Respondent will dilute the strength of Petitioner's COZY COMFORTER trademark and will seriously damage Petitioner.

8. Accordingly, if Respondent's registration is not cancelled, Petitioner will continue to suffer irreparable harm and damage.

9. On the foregoing basis, Petitioner believes it has been damaged by and will continue to be damaged by, the continued existence of the United States Registration No. 3,513,048.

Wherefore, Petitioner's prays for cancellation of United States Registration No. 3,513,048.

Petitioner authorizes the filing fee for this Petition for Cancellation in the amount of \$300 to be charged to Petitioner's deposit account.

Respectfully submitted,

STETINA BRUNDA GARRED & BRUCKER

Dated: September 25, 2013

By: _____



Kit M. Stetina, Reg. No. 29,445

Stephen Z. Vegh, Reg. No. 48,550

75 Enterprise, Suite 250

Aliso Viejo, CA 92656

(949) 855-1246

Counsel for Petitioner

EXHIBIT A

United States of America

United States Patent and Trademark Office

COZY COMFORTER

Reg. No. 4,398,932

Registered Sep. 10, 2013

Int. Cl.: 20

TRADEMARK

PRINCIPAL REGISTER

PRECISION PET PRODUCTS, INC. (CALIFORNIA CORPORATION)
2184 FAIRVIEW ROAD, SUITE 200
COSTA MESA, CA 926275647

FOR: FABRIC PET BED, IN CLASS 20 (U.S. CLS. 2, 13, 22, 25, 32 AND 50).

FIRST USE 2-28-2003; IN COMMERCE 2-28-2003.

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

SER. NO. 85-755,665, FILED 10-16-2012.

WILLIAM JACKSON, EXAMINING ATTORNEY



Sean Street
Acting Director of the United States Patent and Trademark Office

PROOF OF SERVICE

State of California)
) ss.
County of Orange)

I am over the age of 18 and not a party to the within action; my business address is 75 Enterprise, Suite 250, Aliso Viejo, California 92656. On **September 27, 2013**, the attached **PETITION FOR CANCELLATION** was served on all interested parties in this action by U.S. Mail, postage prepaid, at the address as follows:

Kaytee Products Incorporated
PO Box 230
Chilton, Wisconsin 53014

Legal Department
Central Garden & Pet Company
301 West Osborn Road
Phoenix, AZ 85013

Executed on **September 27, 2013** at Aliso Viejo, California. I declare under penalty of perjury that the above is true and correct. I declare that I am employed in the office of STETINA BRUNDA GARRED & BRUCKER at whose direction service was made.


Tara Hamilton