

ESTTA Tracking number: **ESTTA567817**

Filing date: **10/29/2013**

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	Paws 4 Fun, LLC		
Entity	Corporation	Citizenship	NC
Address	5648 Country Club Road Winston-Salem, NC 27104 UNITED STATES		

Attorney information	Zaneta M. Robinson Blanco, Tackabery & Matamoros, PA P.O. Drawer 25008 Winston-Salem, NC 27114 UNITED STATES zmr@blancolaw.com Phone:3362939000		
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Registration Subject to Cancellation

Registration No	2822270	Registration date	03/16/2004
Registrant	WILY RUSSELL LLC 1119 WOTKYNS DRIVE PASADENA, CA 91103 CANADA		

Goods/Services Subject to Cancellation

Class 044. First Use: 2002/06/24 First Use In Commerce: 2002/06/24 All goods and services in the class are cancelled, namely: Dog walking and dog sitting services

Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	Revised Paws_4_Fun_-_Petition_to_Cancel_THE_RUFF_HOUSE.pdf(229728 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	/Zaneta M. Robinson/
Name	Zaneta M. Robinson
Date	10/29/2013

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

IN THE MATTER OF

PAWS 4 FUN, LLC,
Petitioner,

v.

WILY RUSSELL LLC,
Registrant

Cancellation No. :
Trademark: THE RUFF HOUSE and design
U.S. Registration No.: 2822270
Registration Date: March 16, 2004

Paws 4 Fun, LLC (“Petitioner”) believes that it will be damaged by the continued registration of the mark THE RUFF HOUSE (the “Registered Mark”) which is the subject of U.S. Registration No. 2822270 for use in connection with “[d]og walking and dog sitting services” (“the Registration”) and hereby petitions to cancel the Registration, on the following grounds:

THE PARTIES

1. Petitioner is a limited liability company incorporated in the State of North Carolina, with a principal place of business and business address at 5648 Country Club Road, Winston Salem, NC 27104.

2. Upon information and belief, Wily Russell LLC, an administratively dissolved, California limited liability company with an address of record of Wily Russell LLC, 1119 Wotkyns Drive, Pasadena, California 91103, is the owner of the Registration (“Registrant”).

3. Petitioner is a full service day care, lodging and grooming facility, which serves clients residing in North Carolina and other states.

PETITIONER'S MARKS

4. Petitioner, with and/or through its predecessor in interest, has been using the mark RUFF HOUSING continuously in commerce since at least as early as 2004 in connection with dog boarding services and dog day care services . Petitioner has also been using the mark



(the “RUFF HOUSING Design Mark”) continuously in commerce since at least as early as July 1, 2004.

5. Petitioner’s continued use, promotion and marketing of its services and marks have caused the relevant public to associate the RUFF HOUSING mark, the RUFF HOUSING Design Mark, and the services provided under the marks, with Petitioner.

6. Petitioner filed U.S. Application Serial No. 85746010 (Petitioner’s Application”) to register the RUFF HOUSING Design Mark for use in connection with “[d]og boarding services and dog day care services” in International Class 43.

7. The Trademark Examining Attorney assigned to Petitioner’s Application issued an Office Action, refusing registration on the grounds that there is a likelihood of confusion between the RUFF HOUSING Design Mark and the Registered Mark under Trademark Act Section 2(d), 15 U.S.C. § 1052(d). The Trademark Examining Attorney cited the similarity of the marks and relatedness of the goods/services as support for the argument that consumers are likely to be confused by the marks into believing that the goods/services of the parties share a common source or sponsorship. Accordingly, the Registration has been cited against Petitioner’s application as a basis for refusal of registration.

THE REGISTRATION

8. The Registration was issued on March 16, 2004, from U.S. Application No. 76428257 filed by Mutt, Inc., a corporation organized and existing under the laws of Illinois with a business address of 4224 Grand Beach Road, New Buffalo, MI 49117.

9. On information and belief, on March 12, 2010, an alleged assignment and supporting documents (“the Assignment”) were submitted to the United States Patent and Trademark Office, purporting to assign the Registered Mark, the goodwill and the business to which the mark pertains, from Mutt, Inc. to Wily Russell LLC.

10. On information and belief, on March 16, 2010, a Section 8 Affidavit and additional documents (the “Section 8”) were submitted in furtherance of the Registration, alleging excusable nonuse on the grounds that Mutt, Inc. ceased to use the mark in connection with dog walking and dog sitting services in December 2008 and that Mutt, Inc. had assigned the Registered Mark to Wily Russell LLC.

11. Upon information and belief, even if Wily Russell LLC resumed using the mark after March 12, 2010, it has ceased using the Registered Mark for at least 3 years, with an intent not to resume use of the Registered Mark. Alternatively, Mutt, Inc. ceased using the Registered Mark for at least 3 years, with an intent not to resume use of the registered mark.

REQUEST FOR RELIEF

12. Because the Registered mark has been abandoned by Mutt, Inc., Wily Russell LLC or both parties, and because continued registration of the Registered Mark has, and would continue, to damage and injure Petitioner, the Registration should be canceled.

WHEREFORE, Petitioner requests that Registration No. 2822270 be canceled.

This the 29th day of October, 2013.

/Zaneta M. Robinson
ZANETA M. ROBINSON
N.C. State Bar No. 31882
Attorney for Opposer

OF COUNSEL:
BLANCO TACKABERY &
MATAMOROS, P.A.
P. O. Drawer 25008
Winston-Salem, NC 27114-5008
Telephone: (336) 293-9000
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CERTIFICATE OF SERVICE

This is to certify that I have this day filed the foregoing **PETITION TO CANCEL** by electronic transmission in PDF format with the Trademark Trial and Appeal Board via the Electronic System for Trademark Trials and Appeals (ESTTA) and served a true and correct copy upon Registrant and Registrant's Attorney of Record via first class mail as follows:

Wily Russell LLC
1119 Wotkyns Drive
Pasadena, CA 91103

Lile H. Deinard
Dorsey & Whitney LLP
51 W. 52nd St.
New York, NY 10019-6119

This the 29th day of October, 2013.

/Zaneta M. Robinson
ZANETA M. ROBINSON
N.C. State Bar No. 31882
Attorney for Opposer

OF COUNSEL:
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