

ESTTA Tracking number: **ESTTA635496**

Filing date: **10/28/2014**

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	New Jersey Turnpike Authority		
Entity	quasi-state government agency	Citizenship	New Jersey
Address	581 Main Street Woodbridge, NJ 07095 UNITED STATES		

Attorney information	Peter Nussbaum Wolff & Samson One Boland Drive West Orange, NJ 07052 UNITED STATES pnussbaum@wolffsamson.com, jlee@wolffsamson.com Phone:9735302025		
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Registration Subject to Cancellation

Registration No	4155740	Registration date	06/05/2012
Registrant	RLDJ Enterprises, LLC 50 Sherwood Avenue Wachung, NJ 07060 UNITED STATES		

Goods/Services Subject to Cancellation


Class 043. First Use: 2011/09/01 First Use In Commerce: 2012/03/01 All goods and services in the class are cancelled, namely: Restaurant

Grounds for Cancellation

Abandonment	Trademark Act section 14
Priority and likelihood of confusion	Trademark Act section 2(d)

Mark Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	2873593	Application Date	03/05/2003
Registration Date	08/17/2004	Foreign Priority Date	NONE
Word Mark	NJTP TURNPIKE		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 020. First use: First Use: 1980/12/00 First Use In Commerce: 1980/12/00 Non-metal non-leather key chains</p> <p>Class 025. First use: First Use: 1980/12/00 First Use In Commerce: 1980/12/00 T-SHIRTS AND HATS</p> <p>Class 036. First use: First Use: 1950/03/00 First Use In Commerce: 1950/03/00 HIGHWAY TOLL COLLECTION SERVICES</p> <p>Class 039. First use: First Use: 1950/03/00 First Use In Commerce: 1950/03/00 TRANSPORTATION SERVICES; NAMELY, PROVIDING A PRIVATE HIGHWAY FOR OTHERS</p>

Attachments	<p>76495492#TMSN.png(bytes)</p> <p>NJTAJJ.pdf(379072 bytes)</p>
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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	/peter nussbaum/
Name	Peter Nussbaum
Date	10/28/2014

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

In the matter of Registration No. 4,155,740 issued on June 5, 2012.

NEW JERSEY TURNPIKE
AUTHORITY,

Petitioner,

v.

RLDJ ENTERPRISES, LLC,

Registrant.

Cancellation No. _____

BOX TTAB FEE
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

PETITION FOR CANCELLATION

In the matter of the registration of the service mark depicted below:



Registration No. 4,155,740, issued on June 5, 2012 (hereinafter referred to as "Registrant's Mark"), owned by RLDJ Enterprises, LLC, a New Jersey limited liability company with a principal address of 50 Sherwood Avenue, Watchung, New Jersey

07060 (“Registrant”), which registration covers restaurant (services) in International Class 43, New Jersey Turnpike Authority (hereinafter “Petitioner”), who is organized and existing under the laws of the State of New Jersey with its principal place of business located at 581 Main Street, Woodbridge, New Jersey 07095, believes it is being damaged and will continue to be damaged by such registration and hereby petitions for the cancellation thereof.

1. Petitioner is the owner of the iconic New Jersey Turnpike Logo, which mark it has been using in connection with highway management and maintenance services and travel information services since at least as early as 1950. Petitioner’s New Jersey Turnpike Logo is depicted below:



2. Petitioner’s New Jersey Turnpike Logo is utilized in connection with Plaintiff’s operation of one of the most iconic and well known highways in the United States, the New Jersey Turnpike. The New Jersey Turnpike is travelled by many millions of people each year and Petitioner’s roadway has become one of the most symbolic fixtures within the State of New Jersey. The New Jersey Turnpike opened in 1951 and stretches for over 148 miles throughout New Jersey and connects motorists between the states of New York, New Jersey and Pennsylvania.

3. Petitioner is the owner of United States Trademark and Service Mark Registration No. 2,873,593 for its New Jersey Turnpike Logo in International Class 41 for transportation services, namely, providing a private highway for others; in International Class 36 for highway toll collection services; in International Class 25 for t-shirts and hats; and in International Class 20 for non-metal non-leather key chains. A printout from the United States Patent & Trademark Office's Online Database of Plaintiff's registration is attached hereto as **Tab A**. Opposer's logo was registered in black and white without any claim to color. However, Opposer's mark is uniformly depicted in the green and white color format set forth in Paragraph 1 above.

4. In addition to the provision of its highway related services, Petitioner is the owner of three pending United States Trademark applications covering various categories of goods. Moreover, there are many service areas along the New Jersey Turnpike that include restaurants.

5. Petitioner has invested a substantial amount of time, money and other resources advertising, promoting, marketing and publicizing its services provided under the New Jersey Turnpike Logo mark. As a result of Petitioner's substantial advertising, marketing and promotional efforts, the New Jersey Turnpike Logo mark has acquired substantial consumer recognition and goodwill and has achieved the status of being a famous mark. The New Jersey Turnpike Logo mark has become an important source indicator which identifies Petitioner's services to consumers and motorists both in the State of New Jersey, and elsewhere throughout the United States. For all of the foregoing reasons, the New Jersey Turnpike Logo mark is an exceedingly valuable asset of Petitioner.

6. Over the years, many third parties have attempted to trade off of the fame and notoriety associated with Petitioner's New Jersey Turnpike Logo and Petitioner has actively and successfully policed against infringing third party uses of its mark. Petitioner's successful policing efforts have served to even further enhance the strength of Petitioner's New Jersey Turnpike Logo mark.

COUNT I – Likelihood of Confusion

7. Petitioner repeats and re-alleges each and every allegation set forth in paragraphs 1-6.

8. Registrant has obtained the subject registration for the mark depicted below in International Class 43 for restaurant (services). There is no question that the design portion of Registrant's Mark was appropriated from Petitioner's New Jersey Turnpike Logo mark in an effort to trade upon the fame and tremendous goodwill associated with Petitioner's Mark. Side by side comparisons of Petitioner's New Jersey Turnpike Logo mark and the mark covered by the subject registration are depicted below:

Petitioner's Mark



Registrant's Mark



9. Indeed, Registrant acknowledged that its mark was appropriated from Petitioner's New Jersey Turnpike Logo mark in a Response to an Office Action filed on

September 30, 2011 in connection with its underlying application, wherein Registrant's attorney in describing Registrant's Mark expressly states "[t]he shape of the background, colors and lettering are meant to recall the New Jersey Turnpike sign."

10. Petitioner believes that it will be damaged by the continued registration of Registration No. 4,155,740 and hereby petitions for cancellation of same on the grounds set forth herein.

11. Registrant's Mark depicted above so resembles Petitioner's Mark as to be likely, when applied to Registrant's services, to cause confusion, mistake and/or to deceive as well as cause damage to Petitioner and the consuming public.

12. Registrant's Mark was undoubtedly appropriated from and is confusingly similar to Petitioner's Mark such that the continued registration of Registrant's Mark would be inconsistent with, and damaging to, Petitioner's prior rights in and to its New Jersey Turnpike Logo mark.

13. Petitioner has priority of use in connection with its New Jersey Turnpike Logo mark by virtue of its earlier date of first use of said mark over any date that can be established by Registrant in connection with the subject mark.

14. Petitioner's New Jersey Turnpike Logo mark is entitled to a wide scope of protection and therefore Petitioner can easily bridge any gap between the services of the respective parties. Moreover, there are many service areas along the New Jersey Turnpike that include restaurants. As such, consumers who encounter Registrant's Mark as used in connection with its restaurant services will mistakenly assume that Registrant's use of the mark is authorized by Petitioner and/or that the food items

served at Registrant's restaurant are associated with the food served at the restaurants located at the service areas on the New Jersey Turnpike.

14. Petitioner will be damaged by the continued registration of Registrant's Mark because such registration is supporting and assisting Registrant in the confusing and misleading use of Registrant's mark.

COUNT II – Abandonment

15. Petitioner repeats and re-alleges each and every allegation set forth in paragraphs 1-14.

16. Upon information and belief, Registrant has discontinued use of the mark that is the subject of Registration No. 4,155,740 in connection with any services prior to the filing of this petition for cancellation and Registrant has no intent to resume use.

17. As a result of Registrant's failure to use the subject mark in connection with restaurant (services) and with no intent to resume such use, the mark that is the subject of Registration No. 4,155,740 has been abandoned for purposes of Section 45 of the Trademark Act.

18. Since, upon information and belief, Registrant has abandoned the mark covered by Registration No. 4,155,740, the subject registration should be cancelled.

19. Petitioner will be damaged by the continued registration of the subject mark because the subject registration is confusingly similar to Petitioner's Mark and such registration is supporting and assisting Registrant in the confusing and misleading use of Registrant's mark.


WHEREFORE, Petitioner believes that it will be damaged by the continued registration of Registrant's Mark and prays that its petition to cancel said registration be sustained and that Registration No. 4,155,740 be cancelled.

This Petition for Cancellation is being filed electronically.

Respectfully submitted,

NEW JERSEY TURNPIKE AUTHORITY

By: _____



Peter E. Nussbaum
WOLFF & SAMSON
One Boland Drive
West Orange, New Jersey 07052
(973) 530-2025
(973) 530-2225
Attorneys for Petitioner

Dated: _____

10/28/14

CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the foregoing Petition For Cancellation was served via first class mail on Registrant, RLDJ Enterprises, LLC, 50 Sherwood Avenue, Watchung, New Jersey 07060, on this 28th day of October, 2014.



JOSHUA M. LEE
WOLFF & SAMSON, PC
Attorneys for Petitioner

TAB A



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Word Mark NJTP TURNPIKE

Goods and Services IC 020. US 002 013 022 025 032 050. G & S: Non-metal non-leather key chains. FIRST USE: 19801200. FIRST USE IN COMMERCE: 19801200

IC 025. US 022 039. G & S: T-SHIRTS AND HATS. FIRST USE: 19801200. FIRST USE IN COMMERCE: 19801200

IC 036. US 100 101 102. G & S: HIGHWAY TOLL COLLECTION SERVICES. FIRST USE: 19500300. FIRST USE IN COMMERCE: 19500300

IC 039. US 100 105. G & S: TRANSPORTATION SERVICES; NAMELY, PROVIDING A PRIVATE HIGHWAY FOR OTHERS. FIRST USE: 19500300. FIRST USE IN COMMERCE: 19500300

Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code 26.15.02 - Plain single or multiple line polygons; Polygons (plain, single line)
26.15.20 - Polygons inside one another
26.15.21 - Polygons that are completely or partially shaded

Serial Number 76495492

Filing Date March 5, 2003

Current Basis 1A

Original Filing Basis 1A

Published for May 25, 2004

Opposition**Registration
Number**

2873593

**Registration
Date**

August 17, 2004

Owner(REGISTRANT) **New Jersey Turnpike** Authority QUASI-STATE GOVERNMENT AGENCY NEW JERSEY P.O. Box 5042 Woodridge NEW JERSEY 070955042**Attorney of
Record**

Brett R. Harris, Esq.

Disclaimer

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "TURNPIKE" APART FROM THE MARK AS SHOWN

Type of Mark

TRADEMARK. SERVICE MARK

Register

PRINCIPAL

Affidavit Text

SECT 15. SECT 8 (6-YR).

**Live/Dead
Indicator**

LIVE

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