

ESTTA Tracking number: **ESTTA641964**

Filing date: **12/01/2014**

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	Old Row, LLC		
Entity	Limited Liability Company	Citizenship	Texas
Address	PO Box 191791 Dallas, TX 75219 UNITED STATES		

Attorney information	Wendy B Mills WB Mills, PLLC 1700 Pacific Ave, Suite 4560 Dallas, TX 75201 UNITED STATES wbm@wbmillslaw.com		
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Registration Subject to Cancellation

Registration No	4541959	Registration date	06/03/2014
Registrant	The Southern Shirt Company, LLC 3722 Palisades Drive, Suite A Tuscaloosa, AL 35405 UNITED STATES		

Goods/Services Subject to Cancellation

Class 025. First Use: 2013/06/26 First Use In Commerce: 2013/06/26 All goods and services in the class are cancelled, namely: Clothing, namely, t-shirts, tank tops, v-necks, sweatshirts, pullovers, polo shirts, button down shirts, pants, shorts, hats, caps, visors, jackets, short sleeve shirts, long sleeve shirts

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. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	OLD ROW		
Goods/Services	Website forum, Apps for mobile devices for easy access to website forum, art prints, mugs, and clothing, namely, t-shirts, hats, visors, ties, tank tops, and shirts.		

Attachments	Petition to Cancel (V 2).pdf(92785 bytes) Ex 1.pdf(283272 bytes) Ex 2.pdf(219662 bytes) Ex 4.pdf(2301817 bytes) Ex 3.pdf(122694 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	/Wendy B Mills/
Name	Wendy B Mills
Date	12/01/2014

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

OLD ROW, LLC	§	
	§	
Petitioner,	§	Cancellation No. _____
	§	
v.	§	Registration No: 4,541,959
	§	
The Southern Shirt Company, LLC	§	Mark: OLD ROW
	§	
Registrant.	§	

PETITION TO CANCEL TRADEMARK REGISTRATION NO. 4,541,959

Petitioner, Old Row, LLC (“Old Row” or “Petitioner”), a Limited Liability Company organized under the laws of the State of Texas doing business at Dallas, Texas, believing that it is and will be damaged by registration of the mark OLD ROW, Registration No. 4,541,959 files this Petition to Cancel the Registration of The Southern Shirt Company, LLC’s (“Registrant”), a Limited Liability Company organized under the laws of the State of Alabama, doing business at 3722 Palisades Drive, Suite A, Tuscaloosa, Alabama 35405, and in support would respectfully show the Board as follows:

1. Petitioner and Registrant both distribute and sell clothing bearing the mark, OLD ROW.
2. Petitioner started its business as a sole proprietorship by Michael Swartz in 2007 under the name, OLD ROW. Petitioner purchased the website domain www.oldrow.net (“Old Row Website”) on November 30, 2007

and the Old Row Website was live and active as early as January 2008. *See* Exhibit 1. A third party owns, www.oldrow.com, which is a parked domain. *See* Exhibit 2. The Old Row Website's original purpose was to serve as a forum or chat room for College Students interested in Southern Culture or Lifestyle, Sports, Fraternities, and Sororities and continues to do so, but has evolved to include the sales of related products. By March 2008, Petitioner had amassed 39,103 articles and 1464 registered users of the forum on the Old Row Website. *See* Exhibit 3. In or around January 2009, Petitioner began providing contextual links from the Old Row Website to Amazon® for affiliate sales and Petitioner continues to make such sales via the Old Row Website today. In at least as early as 2010, Petitioner had established a following on Twitter. Petitioner began selling koozies, stickers, mobile device cases, t-shirts, and other clothing items on the Old Row Website in at least as early as February 12, 2012. Petitioner began making these same items available on-line via the Tilt website at www.tilt.com on or around July 24, 2012. Subsequently, on or about, February 28, 2014, Petitioner began selling Apps for mobile devices via Apple iTunes® to access the Old Row forum. Additionally, as early as July 2012, Petitioner began using Google® Ad Sense on the Old Row Website to make affiliate sales and continues to do so today. Old Row, LLC was formed and registered with the State of Texas on January 30, 2014 and has continued to carry on business continuously since 2007. As

of the date of filing this Petition to Cancel, Petitioner has 83,940 Twitter followers and 20,649 registered forum users via the Old Row Website.

3. On April 16, 2013, Registrant filed its Section 1(a) (use based) Application with the United States Patent and Trademark Office (“USPTO”), but failed to properly state the date of first use. On June 26, 2013, the USPTO issued an Office Action requiring that Registrant provide a date of first use anywhere and a date of first use in commerce. Registrant claimed in its response to the USPTO’s Office Action by way of amended application that resulted in Registration No. 4,541,959 to have first used the mark, OLD ROW, as early as June 26, 2013 (the same date as the USPTO issued its Office Action requiring a date of first use). Prior to the date of Registrant’s application date, and subsequent first use date, Petitioner had used its name, OLD ROW, to provide its services and products on the internet (available worldwide) to customers throughout the Southern region of the United States and had advertised and promoted its services under the name, OLD ROW.
4. By the time Registrant started using the mark, OLD ROW, for its goods and/or services, Petitioner had established trademark and trade name rights in OLD ROW.
5. Registrant began following Petitioner on Twitter at some time, but it is not clear when Registrant began following Petitioner. (See Exhibit 4)
6. Registration No. 4,541,959 was wrongly filed, wrongly registered and wrongly remains on the register with regards to the provisions set forth in

15 USC § 1052(d) (“Section 2(d)”). Section 2(d) prohibits the registration of any mark that, *inter alia*, so resembles a mark or trade name previously used in the United States by another and not abandoned, as to be likely to cause confusion, or to cause mistakes, or to deceive.

7. The mark, OLD ROW used for Registrant’s goods and services so resemble Petitioner’s name and mark, OLD ROW (in that it is identical) used for Petitioner’s website forum and sales of related products as referenced herein, as to be likely to cause confusion, or to cause mistake or to deceive.

WHEREFORE, Petitioner prays that its Petition be granted and that Registration No. 4,541,959 be cancelled.

Respectfully submitted,

/s/ Wendy B Mills
WB Mills, PLLC
1700 Pacific Ave.
Suite 4560
Dallas, TX 75201
Email: wbm@wbmillslaw.com
Tel: 214-969-5995
ATTORNEY FOR PETITIONER

CERTIFICATE OF TRANSMISSION

I hereby certify that this paper is being electronically transmitted to the United States Patent and Trademark Office Trademark Trial and Appeal Board on the date below:

12/01/14
Date

/s/ Wendy B Mills

EXHIBIT 1



- DOMAINS
- HOSTING
- WEBSITES
- EMAIL
- SECURITY
- WHOIS
- SUPPORT
- LOGIN
- 0

oldrow.net registry whois

Updated 1 second ago - [Refresh](#)

Domain Name: OLDROW.NET
 Registrar: GODADDY.COM, LLC
 Whois Server: whois.godaddy.com
 Referral URL: http://registrar.godaddy.com
 Name Server: NS1.SORORITYPIN.COM
 Name Server: NS2.SORORITYPIN.COM
 Status: clientDeleteProhibited
 Status: clientRenewProhibited
 Status: clientTransferProhibited
 Status: clientUpdateProhibited
 Updated Date: 28-oct-2014
 Creation Date: 30-nov-2007
 Expiration Date: 30-nov-2016

Hot Deals!



.BLUE @ \$11.88 ~~\$15.88~~

oldrow.net registrar whois

Updated 1 second ago

Domain Name: OLDROW.NET
 Registry Domain ID: 1344682870_DOMAIN_NET-VRSN
 Registrar WHOIS Server: whois.godaddy.com
 Registrar URL: http://www.godaddy.com
 Update Date: 2014-10-28 13:17:52
 Creation Date: 2007-11-30 05:11:16
 Registrar Registration Expiration Date: 2016-11-30 05:11:16
 Registrar: GoDaddy.com, LLC
 Registrar IANA ID: 146
 Registrar Abuse Contact Email: abuse@godaddy.com
 Registrar Abuse Contact Phone: +1.480-624-2505
 Domain Status: clientTransferProhibited
 Domain Status: clientUpdateProhibited
 Domain Status: clientRenewProhibited
 Domain Status: clientDeleteProhibited
 Registry Registrant ID:
 Registrant Name: Registration Private
 Registrant Organization: Domains By Proxy, LLC
 Registrant Street: DomainsByProxy.com
 Registrant Street: 14747 N Northsight Blvd Suite 111, PMB 309
 Registrant City: Scottsdale
 Registrant State/Province: Arizona
 Registrant Postal Code: 85260
 Registrant Country: United States
 Registrant Phone: +1.4806242599
 Registrant Phone Ext:
 Registrant Fax: +1.4806242598
 Registrant Fax Ext:
 Registrant Email: OLDROW.NET@domainsbyproxy.com
 Registry Admin ID:
 Admin Name: Registration Private
 Admin Organization: Domains By Proxy, LLC
 Admin Street: DomainsByProxy.com
 Admin Street: 14747 N Northsight Blvd Suite 111, PMB 309
 Admin City: Scottsdale
 Admin State/Province: Arizona
 Admin Postal Code: 85260
 Admin Country: United States
 Admin Phone: +1.4806242599
 Admin Phone Ext:
 Admin Fax: +1.4806242598
 Admin Fax Ext:
 Admin Email: OLDROW.NET@domainsbyproxy.com
 Registry Tech ID:
 Tech Name: Registration Private
 Tech Organization: Domains By Proxy, LLC
 Tech Street: DomainsByProxy.com
 Tech Street: 14747 N Northsight Blvd Suite 111, PMB 309
 Tech City: Scottsdale

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- Unlimited Data Transfer
- Unlimited Databases
- Unlimited Email Accounts
- 30 Day Money Back Guarantee

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Starts @ \$3.88/mo

Tech State/Province: Arizona
 Tech Postal Code: 85260
 Tech Country: United States
 Tech Phone: +1.4806242599
 Tech Phone Ext:
 Tech Fax: +1.4806242598
 Tech Fax Ext:
 Tech Email: OLDROW.NET@domainsbyproxy.com
 Name Server: NS1.SORORITYPIN.COM
 Name Server: NS2.SORORITYPIN.COM
 DNSSEC: unsigned
 URL of the ICANN WHOIS Data Problem Reporting System: <http://wdprs.internic.net/>
 Last update of WHOIS database: 2014-11-12T20:00:00Z

The data contained in GoDaddy.com, LLC's Whois database, while believed by the company to be reliable, is provided "as is" with no guarantee or warranties regarding its accuracy. This information is provided for the sole purpose of assisting you in obtaining information about domain name registration records. Any use of this data for any other purpose is expressly forbidden without the prior written permission of GoDaddy.com, LLC. By submitting an inquiry, you agree to these terms of usage and limitations of warranty. In particular, you agree not to use this data to allow, enable, or otherwise make possible, dissemination or collection of this data, in part or in its entirety, for any purpose, such as the transmission of unsolicited advertising and solicitations of any kind, including spam. You further agree not to use this data to enable high volume, automated or robotic electronic processes designed to collect or compile this data for any purpose, including mining this data for your own personal or commercial purposes.

Please note: the registrant of the domain name is specified in the "registrant" section. In most cases, GoDaddy.com, LLC is not the registrant of domain names listed in this database.

related domain names

[godaddy.com](#) [sororitypin.com](#) [domainsbyproxy.com](#) [internic.net](#)

Domains

- Register Domain Name
- View Domain Pricing
- Bulk Domain Register
- Bulk Domain Transfer
- Whois Lookup
- Name Suggestion Tool
- Free with Every Domain
- View Promos

Infrastructure

- Datacenter Details
- Hosting Security
- 24 x 7 Servers Monitoring
- Backup and Recovery


Hosting & Products

- Linux Hosting
- Windows Hosting
- Linux Reseller Hosting
- Windows Reseller Hosting
- Virtual Private Servers
- Dedicated Servers
- Managed Servers
- Website Builder
- Enterprise Email
- SSL
- Sitelock

Support

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EXHIBIT 2



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This Web page is parked for FREE, courtesy of GoDaddy.com.



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Search for domains similar to
oldrow.com

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Sponsored Listings

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lasvegas.showtickets.com Get Up to 50% Off Top Vegas Shows. Save Time & Money. Buy Online Now!

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my.check.me/Pay-Now Fast & Secure Bill Payment. Avoid Late Fee & Interest. Pay Now!

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advisorworld.com/CompareAnnuities True Investor Returns with no Risk. Find out how with our Free Report.

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[Learn More](#)

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Huge savings you don't want to miss

New .coms for just

\$2.99* /1st year

Find Your .COM

[Search Now](#)

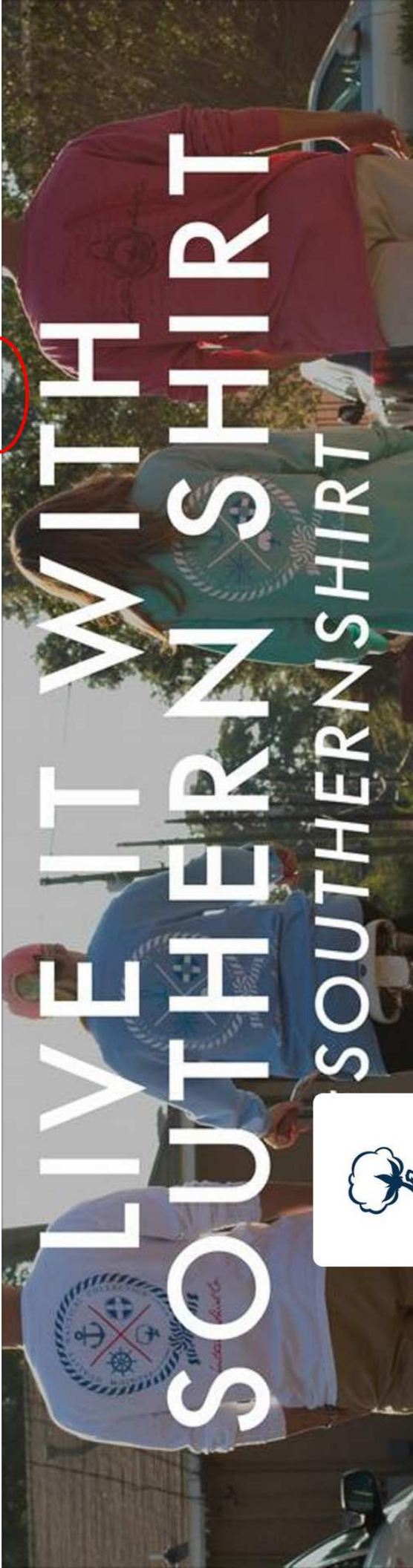
2 year min. registration required. Subsequent years charged at \$14.99/yr.

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southernshirt.com
Joined November 2009

Tweet to Message

103 Followers you know

Southern Shirt™ @southernshirt · 3h

For all those who have fought and are currently fighting for our freedom, Thank You. #salute #freedom #southernshirt

Who to follow · Refresh · View all

Caitlin McDevitt @cem10 Follow

Collin Batson @CollinBat Follow

Mariye Armstrong @Mariye... Follow

Popular accounts · Find friends

Trends · Photos

EXHIBIT 4

EXHIBIT 3



[OldRow.net Forum Index](#)

The time now is Tue Mar 04, 2008 6:41 am | All times are GMT - 5 Hours
[View unanswered posts](#)

Username: Password: Log me on automatically each visit: [Log in](#)

Forum	Topics	Posts	Last Post
Music Local band rundown, music trading, etc. Moderators utexas , Stonevall	106	3181	Tue Mar 04, 2008 6:11 am Wooderson
News/Updates			
Announcements / New User Information General Announcements and information on how to sign up. Moderators Admin , KappaSwig	6	10	Wed Dec 31, 1969 7:00 pm
Site Development *NEW* Discussion of new site features Moderators Admin , KappaSwig	3	142	Tue Feb 12, 2008 4:06 pm TopShelf

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Our users have posted a total of **39103** articles
 We have **1464** registered users
 The newest registered user is [fratimotorsDeal](#)

In total **349** user have visited this site today :: 173 Registered, 44 Hidden and 132 Guests , 7 of them within the last hour.
 Registered Users: [9%](#), [90sbeatfest](#), [Adam Banks](#), [agtownpike85](#), [airplane](#), [alshampton](#), [andersonville](#), [AP Hill](#), [bcountylax](#), [billyxaned](#), [blackoutblues](#), [bojays](#), [bonnieblue](#), [Brigance_btr](#), [bud_dry](#), [bulldogs32](#), [byrmin](#), [carolinafrat](#), [CCA](#), [cdcutler](#).