

ESTTA Tracking number: **ESTTA653523**

Filing date: **02/02/2015**

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	McCreary Bancshares, Inc		
Entity	Corporation	Citizenship	Kentucky
Address	47 South Main Street Whitley City, KY 42653 UNITED STATES		

Attorney information	Jack A. Wheat STITES & HARBISON, PLLC 400 West Market Street, Suite 1800 Louisville, KY 40202 UNITED STATES jwheat@stites.com Phone:(502) 587-3400		
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Registrations Subject to Cancellation

Registration No	3539611	Registration date	12/02/2008
Registrant	United Commercial Bank 555 Montgomery Street San Francisco, CA 94111 UNITED STATES		

Goods/Services Subject to Cancellation

Class 036. First Use: 2007/10/31 First Use In Commerce: 2007/10/31 All goods and services in the class are cancelled, namely: Banking services

Grounds for Cancellation

Abandonment	Trademark Act section 14		
Registration No	3677193	Registration date	09/01/2009
Registrant	United Commercial Bank 555 Montgomery Street San Francisco, CA 94111 UNITED STATES		

Goods/Services Subject to Cancellation

Class 036. First Use: 2008/03/00 First Use In Commerce: 2008/03/00 All goods and services in the class are cancelled, namely: Banking services

Grounds for Cancellation

Abandonment	Trademark Act section 14		
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Attachments	McCrearyCancPetit.pdf(72304 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	/jackawheat/
Name	Jack A. Wheat
Date	02/02/2015

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

In the matter of Registration No. 3,539,611
Date Registered: December 2, 2008
Mark: **UCB**

–and–

In the matter of Registration No. 3,677,193
Date Registered: September 1, 2009
Mark: **UCB BEYOND A LOCAL BANK**

McCREARY BANCSHARES, INC.,)	
)	
Petitioner,)	
)	CANCELLATION NO.
v.)	
)	
UNITED COMMERCIAL BANK,)	_____
)	
Registrant.)	

CONSOLIDATED PETITION FOR CANCELLATION

Comes the Petitioner, McCreary Bancshares, Inc., (hereafter “Petitioner”), and for its Consolidated Petition for Cancellation of the Registrations of the mark UCB and the mark UCB BEYOND A LOCAL BANK owned by United Commercial Bank (hereafter “Registrant”), Petitioner submits the following:

1. Petitioner, McCreary Bancshares, Inc. is a Kentucky Corporation with a principal place of business located at 47 South Main Street, Whitley City, Kentucky 42653.
2. Petitioner is a bank holding company and owner of a wholly owned subsidiary, United Cumberland Bank.

3. Registrant, United Commercial Bank is a California Corporation. Its last known address was 555 Montgomery Street, San Francisco California 94111.

4. Based upon information and belief, Registrant is a now defunct bank; it was permanently closed on November 6, 2009 by the California Department of Financial Institutions and its assets were assumed by the Federal Deposit Insurance Corporation as Receiver.

5. Registrant is the record owner of a registration of the mark UCB with the United States Patent & Trademark Office (the "PTO"), namely, Registration No. 3,539,611 issued on December 2, 2008.

6. Registrant is also the record owner of a registration of the mark UCB BEYOND A LOCAL BANK with the PTO, namely, Registration No. 3,677,193 issued on September 1, 2009.

7. Based upon information and belief, on or about November 6, 2009 commercial use of the Registrant's marks, UCB and UCB BEYOND A LOCAL BANK was permanently discontinued when the California Department of Financial Institutions closed the Registrant and transferred its assets to the Federal Deposit Insurance Corporation as Receiver.

8. Because commercial use of the mark UCB and the mark UCB BEYOND A LOCAL BANK was permanently discontinued on or about November 6, 2009 when the California Department of Financial Institutions closed the Registrant and transferred its assets to the Federal Deposit Insurance Corporation as Receiver, it is appropriate to infer that Registrant and any successor to the business of Registrant intend not to resume use of either of the marks.

9. Based upon information and belief, commercial use of the mark UCB and the mark UCB BEYOND A LOCAL BANK was permanently discontinued on or about November 6, 2009 and neither of the marks have been in commercial use at any time for at least the past

three years and there is no basis to assume anything other than that the Registrant and any successor to the business of Registrant intend not to resume use of either of the marks.

10. Accordingly, based on information and belief, the UCB and UCB BEYOND A LOCAL BANK marks which are the subject of this consolidated petition for cancellation have been abandoned.

11. On or about September 29, 2014, Petitioner filed with the PTO an application to register the mark UCB and design, Application Serial No. 86/40896 and an application to register the mark UCB UNITED CUMBERLAND BANK and design, Application Serial No. 86/40893, both for “banking services.”

12. In the course of the prosecution of Petitioner’s applications for registration of its UCB marks, the Trademark Examining Attorney has cited both of the registrations which are the subject of this consolidated cancellation proceeding as references which under Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d), preclude the registrations sought by Petitioner on the ground that UCB marks sought to be registered so resemble the UCB marks of the Registrant as to be likely, when used on or in connection with Petitioner’s services, to cause confusion, or to cause mistake, or to deceive.

13. Because the UCB marks of the Registrant have been abandoned, the registrations thereof should be cancelled and no longer a 2(d) bar to registration of the UCB marks sought to be registered by Petitioner.

WHEREFORE, Petitioner prays for CANCELLATION of Registration No. 3,539,611 and Registration No. 3,677,193.

/jackawheat/
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Attorneys for Petitioner

CERTIFICATE OF SERVICE AND ELECTRONIC SUBMISSION

I hereby certify that a true and complete copy of the foregoing CONSOLIDATED PETITION FOR CANCELLATION has been served upon the Registrant by mailing a copy hereof this 2nd day of February 2015, via First Class Mail, postage prepaid to the Correspondent of Record, namely:

Patchen M. Haggerty
DORSEY & WHITNEY LLP
1420 Fifth Avenue, Suite 3400
Seattle, Washington 98101

/jackawheat/
One of the Attorneys for Petitioner

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