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Filing date: **04/27/2018**

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

Proceeding	92061330
Party	Plaintiff Spiral Direct, Inc. and Spiral Direct, Ltd.
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Signature	/jill sarnoff riola/
Date	04/27/2018
Attachments	Cancellation Notice of Termination of Litigation.pdf(17845 bytes ) TM Cancellation.pdf(162588 bytes ) Appeal Clerk Order Dismissal.pdf(20085 bytes ) Appeal Dismissal.pdf(62253 bytes )

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

**SPIRAL DIRECT, INC. and  
SPIRAL DIRECT, LTD.  
Petitioners,**

v.

Cancellation No. 92061330

**BASIC SPORTS APPAREL, INC.  
Respondent.**

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**NOTICE OF TERMINATION OF LITIGATION AND COURT ORDERED  
CANCELLATION OF US REG. NO. 2218515**

Petitioners, Spiral Direct, Inc. and Spiral Direct, Ltd. (together, “Spiral”), by their undersigned counsel, hereby advise the Board on the status of the underlying litigation *Spiral Direct, Ltd. and Spiral Direct, Inc. v. Basic Sports Apparel, Inc.*, Civil Action No.: 6:15-cv-641-JA-TBS (MD Fla) (the “Litigation”), which is the basis of the present suspension of this cancellation action (“Cancellation”).

The District Court issued its final judgment on December 12, 2017 (“Judgment”). Respondent, Basic Sports Apparel, filed its Notice of Appeal to the 11th Circuit Court of Appeals (“11th Circuit”) on January 13, 2018. Spiral subsequently filed a Notice of Cross-Appeal (together, the “Appeals”). On March 13, 2018, the 11th Circuit dismissed the Appeals for lack of jurisdiction (“Dismissal”). Accordingly, Judgment of the District Court is, in fact, final and the litigation between Petitioner and Respondent is over. Copies of the Order and Dismissal are attached.

The Judgment specifically ordered the cancellation of US Registration 2218515, which is the subject of this Cancellation. Spiral has four (4) pending applications suspended on the basis

of US Registration 2218515, cancellation of which will allow those applications to be approved for publication and registration or allowance.

Accordingly, Spiral respectfully requests that the Board forthwith implement the Order, cancel US Registration 2218515, and terminate the Cancellation in favor of Spiral.

Respectfully submitted this 27th day of April, 2018.

By: Jill Sarnoff Riola  
Jill Sarnoff Riola  
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Counsel for Petitioners

#### **CERTIFICATE OF SERVICE**

The undersigned certifies that on April 27, 2018, she served the foregoing document on counsel for Respondent by email at [edmund.gegan@geganoffice.com](mailto:edmund.gegan@geganoffice.com).

Jill Sarnoff Riola

AO 120 (Rev. 08/10)

<b>TO:</b> <p style="text-align: center;"><b>Mail Stop 8</b>  <b>Director of the U.S. Patent and Trademark Office</b>  <b>P.O. Box 1450</b>  <b>Alexandria, VA 22313-1450</b></p>	<b>REPORT ON THE                  FILING OR DETERMINATION OF AN                  ACTION REGARDING A PATENT OR                  TRADEMARK</b>
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Middle District of Florida on the following

Trademarks or  Patents. (  the patent action involves 35 U.S.C. § 292.):

DOCKET NO. 6:15-cv-641-Orl-28TBS	DATE FILED April 22, 2015	U.S. DISTRICT COURT Middle District of Florida
PLAINTIFF  SPIRAL DIRECT, INC., et al.		DEFENDANT  BASIC SPORTS APPAREL, INC.
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1            2,218,515		

In the above—entitled case, the following decision has been rendered or judgment issued:

<b>DECISION/JUDGMENT</b>  TRADEMARK NO. 2,218,515 IS CANCELLED.  Plaintiffs Spiral Direct, Inc., and Spiral Direct, Ltd., prevail on Count 4 of the Amended Complaint, which sought a declaration of invalidity of Trademark No. 2,218,515; that Defendant Basic Sports Apparel, Inc., prevails on all other counts of the Amended Complaint; and that Spiral
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CLERK  ELIZABETH M. WARREN	(BY) DEPUTY CLERK  Jane Thigpen	DATE  December 12, 2017
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**Copy 1—Upon initiation of action, mail this copy to Director    Copy 3—Upon termination of action, mail this copy to Director**  
**Copy 2—Upon filing document adding patent(s), mail this copy to Director    Copy 4—Case file copy**

**UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING  
56 Forsyth Street, N.W.  
Atlanta, Georgia 30303

David J. Smith  
Clerk of Court

For rules and forms visit  
[www.ca11.uscourts.gov](http://www.ca11.uscourts.gov)

March 13, 2018

Elizabeth Warren  
U.S. District Court  
401 W CENTRAL BLVD  
ORLANDO, FL 32801

Appeal Number: 18-10189-AA  
Case Style: Spiral Direct, Inc., et al v. Basic Sports Apparel, Inc.  
District Court Docket No: 6:15-cv-00641-JA-TBS

The enclosed copy of this Court's Order of Dismissal is issued as the mandate of this court. See 11th Cir. R. 41-4. Counsel and pro se parties are advised that pursuant to 11th Cir. R. 27-2, "a motion to reconsider, vacate, or modify an order must be filed within 21 days of the entry of such order. No additional time shall be allowed for mailing."

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Tonya L. Searcy, AA/lt  
Phone #: (404) 335-6180

Enclosure(s)

DIS-4 Multi-purpose dismissal letter

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

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No. 18-10189-AA

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SPIRAL DIRECT, INC.,  
SPIRAL DIRECT, LTD.,

Plaintiffs-Appellees-Cross Appellants,

versus

BASIC SPORTS APPAREL, INC.,

Defendant-Appellant-Cross Appellee.

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Appeal from the United States District Court  
for the Middle District of Florida

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Before: WILLIAM PRYOR, MARTIN and JORDAN, Circuit Judges.

BY THE COURT:

This appeal is DISMISSED, *sua sponte*, for lack of jurisdiction. Basic Sports Apparel, Inc.'s January 12, 2018 notice of appeal is untimely by one day to seek appellate review from the district court's December 12, 2017 final judgment, and we therefore lack jurisdiction over this appeal. *See* 28 U.S.C. § 2107(a); Fed. R. App. P. 4(a)(1)(A); *Green v. Drug Enforcement Admin.*, 606 F.3d 1296, 1300-01 (11th Cir. 2010). Because Basic Sports Apparel's notice of appeal was untimely filed, Spiral Direct, Inc. and Spiral Direct, Ltd.'s January 18, 2018 notice of cross-appeal was also untimely filed, and so we also dismiss the cross-appeal for lack of jurisdiction. *See* Fed. R. App. P. 4(a)(1)(A), 4(a)(3); *Green*, 606 F.3d at 1300-01.

Any outstanding motions are DENIED as moot. No motion for reconsideration may be

filed unless it complies with the timing and other requirements of 11th Cir. R. 27-2 and all other applicable rules.