ESTTA Tracking number: **ESTTA682299**

Filing date: **07/07/2015**

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	DESIGNER HABITAT LTD.		
Entity	Corporation	Citizenship	United Kingdom
Address	Floors 4 & 5, The Tower, Deva City Office Park Trinity Way, Salford, M3 7BB UNITED KINGDOM		

Correspondence information	Bradley D. Crose Attorney of record Crose Law LLC 112 Northbrooke Trace Woodstock, GA 30188 UNITED STATES brad@croselaw.com Phone:6785214060

Registration Subject to Cancellation

Registration No	4581633	Registration date	08/05/2014
Registrant	Power Charger Supply 1684 Decoto RD, Ste 296 Union City, CA 94587 UNITED STATES		

Goods/Services Subject to Cancellation

Class 006. First Use: 2012/05/01 First Use In Commerce: 2012/05/01
All goods and services in the class are cancelled, namely: Common metals and their alloys including stainless steel; Transportable buildings of metal; Materials of metal for railway construction; Non-electric cables and wires of common metals; Pipes and tubes of metal; Metal ores; Metal safes; Metal audio, video and computer wall and ceiling mounts; Metal audio speaker mountsand mounting brackets with swiveling bases therefor

Grounds for Cancellation

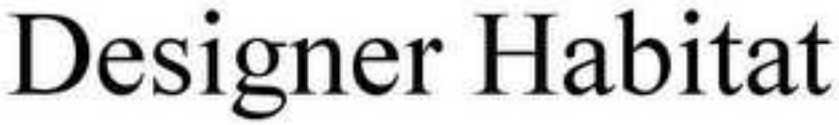
Priority and likelihood of confusion	Trademark Act section 2(d)

Related Proceedings	Opposition No. 91222457 for Application No. 86433823

Marks Cited by Petitioner as Basis for Cancellation

U.S. Application No.	86556944	Application Date	03/08/2015
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	DESIGNER HABITAT PASSIONATE ABOUT PRODUCTS
Design Mark	
Description of Mark	The mark consists of the literal elements Designer Habitat passionate about products in stylized form.
Goods/Services	Class 009. First use: First Use: 0 First Use In Commerce: 0 TV bracket for the purpose of attachinga Television/Monitor to a wall or TV stand including Glass TV stand with integrated brackets

U.S. Application No.	86556734	Application Date	03/07/2015
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	DESIGNER HABITAT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 0 First Use In Commerce: 0 TV bracket for the purpose of attachinga Television/Monitor to a wall or TV stand including Glass TV stand with integrated brackets		

Attachments	86556944#TMSN.png(bytes) 86556734#TMSN.png(bytes) Cancellation.pdf(304516 bytes)

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	/Bradley D. Crose/
Name	Bradley D. Crose
Date	07/07/2015

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

DESIGNER HABITAT LTD.	)	
	)	
Petitioner,	)	
	)	Registration No.
v.	)	4,581,633
	)	
POWER CHARGER SUPPLY, LLC	)	Cancellation No.
	)	_____
Registrant.	)	
_____	)	

PETITION TO CANCEL

Designer Habitat, Ltd., ("Opposer") is a corporation organized under the laws of the England, located at Floors 4 & 5, The Tower, Deva City Office Park, Trinity Way, Salford, United Kingdom, M3 7BB.

According to USPTO records, the name and address of the Applicant for U.S. Serial No. 86/433,823 is Power Charger Supply, LLC of 1684 Decoto Road, Suite 296, Union City, California, 94587.

Pursuant to 37 C.F.R. § 2.111(b), and under the provisions of 15 U.S.C. §1064, the above-identified Petitioner believes it is damaged by the above-identified Registration, and hereby petitions to cancel the same.

Petitioner believes that it is damaged by the Trademark Registration U.S. 4,581,633 because Petitioner does business in interstate commerce under the marks DESIGNER HABITAT both as a wordmark and a stylized logo associated with the same services as those listed in Registration U.S. 4,581,633.

The grounds for cancellation are as follows:

1. Upon information and belief, Power Charger Supply, LLC is a California limited liability company with its principal place of business, according to USPTO records, 1684 Decoto Road, Suite 296, Union City, California, 94587, and that according to the California Secretary of State, a Corporation (not an LLC as listed in the trademark application and registration) which was formed July 18, 2012, hereinafter the (the "Registrant").

2. Registrant is the owner of Trademark Registration U.S. 4,581,633 for the mark DESIGNER HABITAT for: Common metals and their alloys including stainless steel; Transportable buildings of metal; Materials of metal for railway construction; Non-electric cables and wires of common metals; Pipes and tubes of metal; Metal ores; Metal safes; Metal audio, video and computer wall and ceiling mounts; Metal audio speaker mounts and mounting brackets with swiveling bases therefor in International Class IC 006.

3. Registrant's registration issued on the Principal Register on August 5, 2014. As such, Registrant's mark is not incontestable.

4. The underlying filing date of Registrant's registration is July 23, 2013.

5. Registrant's registration states that Registrant's first use of the mark DESIGNER HABITAT occurred at least as early as May 1, 2012, and the Registrant's first use of the mark DESIGNER HABITAT in interstate commerce occurred at least as early as May 1, 2012.

6. In at least as early as 2009 Petitioner adopted and commenced use of the trademark DESIGNER HABITAT in the United States in connection with a TV bracket for the purpose of attaching a Television/Monitor to a wall or TV stand including Glass TV stand with integrated brackets. Petitioner has continuously used DESIGNER HABITAT in interstate commerce ever since.

7. As such, Petitioner's first use of DESIGNER HABITAT is association with its services precedes both the underlying application filing date of Registrant's registration, as well as Registrant's first use dates as listed in the registration.

8. On March 8, 2015 Petitioner filed an application with the United States patent and Trademark Office seeking to register DESIGNER HABITAT PASSIONATE ABOUT PRODUCTS based on use predating Registrant's. Petitioner's application was assigned serial number 86/556,944.

9. On March 7, 2015 Petitioner filed an application with the United States patent and Trademark Office seeking to register DESIGNER HABITAT based on use predating Registrant's. Petitioner's application was assigned serial number 86/556,734.

10. Registrant's DESIGNER HABITAT is substantially similar in appearance, sound, and commercial impression to Petitioner's DESIGNER HABITAT marks, and is an exact copy of the mark used by Petitioner since 2009.

11. The services cited in Registrant's registration for DESIGNER HABITAT are strongly, if not exactly, related to those currently offered under Petitioner's mark DESIGNER HABITAT.

12. Petitioner has continually utilized, marketed, distributed, and sold, and is now utilizing, marketing, distributing, and offering its goods for sale in connection with its DESIGNER HABITAT PASSIONATE ABOUT PRODUCTS and DESIGNER HABITAT trademarks in interstate commerce.

13. Petitioner has provided the identical goods as Applicant, namely TV brackets for the purpose of attaching a Television/Monitor to a wall or TV stand including Glass TV stand with integrated brackets, bearing its trademark DESIGNER HABITAT, in interstate and international commerce. Petitioner has developed an exceedingly valuable goodwill

during the past several years with respect to its DESIGNER HABITAT trademark, including spending considerable sums of money for promotional activities, packaging, electronic and printed material promoting these goods and services. Additionally, including by virtue of its products, Petitioner has gained for its DESIGNER HABITAT trademark, a valuable reputation for quality goods.

14. Registrant's mark is in fact a direct, identical copy to at least one version of Petitioner's DESIGNER HABITAT logo.

15. Registrant's mark is deceptively similar to Petitioner's DESIGNER HABITAT and DESIGNER HABITAT PASSIONATE ABOUT PRODUCTS trademarks so as to cause confusion and lead to deception as to the origin of Applicant's goods sold under Applicant's mark.

16. Petitioner is damaged by Registrant's Trademark Registration U.S. 4,581,633 for the mark DESIGNER HABITAT since Registrant's mark, when used on or in connection with its services, so resembles, and is identical to, Petitioner's mark DESIGNER HABITAT, as to be likely to cause confusion, cause actual confusion, to cause mistake, or to deceive as to the affiliation, connection, or association of Registrant with Petitioner, or as to the ownership, sponsorship, or approval of Registrant's services by Petitioner.

17. Petitioner is further damaged by Registrant's Trademark Registration U.S. 4,581,633 for the mark DESIGNER HABITAT because such registration gives color of exclusive statutory rights to Registrant in violation and derogation of the prior superior rights of Petitioner.

WHEREFORE, Petitioner is damaged by said Registrant's Trademark Registration U.S. 4,581,633 for the mark DESIGNER HABITAT and prays that the same be cancelled in whole pursuant to 15 U.S.C. §1064.

Respectfully submitted this 7th day of July, 2015.

By: /Bradley D. Crose/

Bradley D. Crose
CROSE LAW LLC
112 Northbrooke Trace
Woodstock, GA 30188
(678) 521-4060
Brad@CroseLaw.com

ATTORNEY FOR PETITIONER

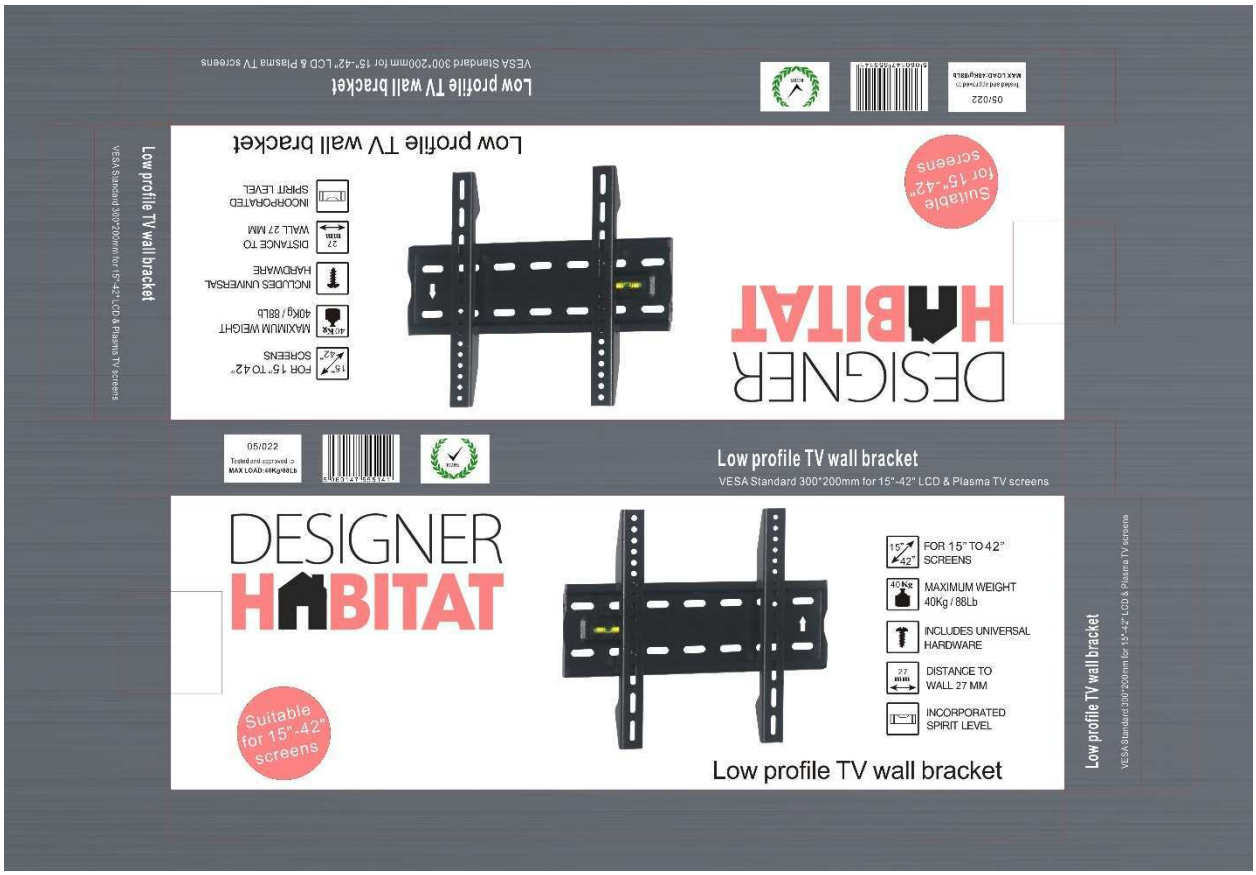
EXHIBIT

One of Petitioner's marks as used and in use in commerce:

LCD Wall Mount
DESIGNER
HABITAT
LCD Wall Mount
05/024
LCD Wall Mount
· Full-motion wall mount
· Fits most 13"-23" LCD flat panels
· VESA 75x75,100x100mm compliant
· Display to be folded parallel to wall
· -70° ~+70° continuous adjustable tilt
· Swivel 90° left or right
· Extend from 2"-14.6"(5-37cm)
· Max load capacity: 15kg/33lbs
max
Colour
13"-23"
15kg/33lbs

DESIGNER
HABITAT

HOT STEAM
DESIGNER
HABITAT


Low profile TV wall bracket
VESA Standard 300*200mm for 15"-42" LCD & Plasma TV screens
DESIGNER
HABITAT
Suitable for 15"-42" screens
FOR 15" TO 42" SCREENS
MAXIMUM WEIGHT 40Kg / 88Lb
INCLUDES UNIVERSAL HARDWARE
DISTANCE TO WALL 27 MM
INCORPORATED SPIRIT LEVEL
Low profile TV wall bracket
05/022

Fixed Wall Mount
05/022

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

DESIGNER HABITAT LTD.	)	
	)	
Petitioner,	)	
	)	Registration No.
v.	)	4,581,633
	)	
POWER CHARGER SUPPLY, LLC	)	Cancellation No.
	)	_____
Registrant.	)	
_____	)	

CERTIFICATE OF SERVICE

This is to certify that I have this date served a true and complete copy of the foregoing **PETITION TO CANCEL** by mailing said copy via first-class mail, postage pre-paid, to:

Power Charger Supply, LLC
1684 Decoto Road, Suite 296
Union City, California, 94587

Respectfully submitted this 7th day of July, 2015.

By: /Bradley D. Crose/

Bradley D. Crose
CROSE LAW LLC
112 Northbrooke Trace
Woodstock, GA 30188
(678) 521-4060
Brad@CroseLaw.com

ATTORNEY FOR OPPOSER