

ESTTA Tracking number: **ESTTA721381**

Filing date: **01/19/2016**

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	Joseph A Somers-Morales		
Entity	Individual	Citizenship	UNITED STATES
Address	7056 Capella Park Ave. Dallas, TX 75236 UNITED STATES		

Attorney information	Mark I. Peroff Manatt, Phelps & Phillips, LLP 7 Times Square New York, NY 10036 UNITED STATES trademarksny@manatt.com Phone:212-790-4500		
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Registration Subject to Cancellation

Registration No	3509861	Registration date	09/30/2008
Registrants	Hurt, Daniel 1045 S. DesPlaines Forest Park, IL 60130 UNITED STATES Castillo, Ruben D. 14304 S. Karlov Ave. Midlothian, IL 60445 UNITED STATES		

Goods/Services Subject to Cancellation

Class 025. First Use: 2008/03/00 First Use In Commerce: 2008/03/00 All goods and services in the class are cancelled, namely: clothing, namely, shirts, hats and sweat-shirts
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Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	20160119170743.PDF(172112 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	/mark i peroff/
Name	Mark I. Peroff
Date	01/19/2016

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

In the matter of Trademark Registration No. 3,509,861

For the Trademark: SOMOS
Registration Date: September 30, 2008

JOSEPH ANTHONY SOMERS-MORALES	x	
Petitioner	x	
	x	
v	x	Cancellation No.
	x	
Ruben D. Castillo, and Daniel Hurt	x	
Respondents	x	

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

PETITION TO CANCEL

Joseph Anthony Somers-Morales, a citizen of the United States, with offices located at 7056 Capella Park Ave., Dallas, Texas 75236 (hereinafter referred to as "Petitioner") believes he will be damaged by the continued registration of the trademark, as shown in U.S. trademark registration no. 3,509,861, for SOMOS registered September 30, 2008, (hereinafter referred to as the "Registration" or the "Registered Trademark"), and hereby petitions to cancel the same.

As grounds for this petition, Petitioner alleges that:

1. Petitioner, also known by his stage name, SoMo, is a professional singer and composer of rhythm and blues music.
2. Petitioner has been composing music and performing in live concerts under the name SoMo throughout the United State since 2009.
3. Petitioner's music is also recorded and distributed on audio and video recordings,

and is also available to the public in downloadable music and video recordings.

4. Petitioner has adopted and continuously used SoMo as a trademark in commerce in connection with the sale of clothing and personal accessories since at least as early as May, 2013.

5. Petitioner has filed an application no. 86/620,322, to register the trademark SoMo in the U.S. Patent & Trademark Office covering, *inter alia* the following goods and services:

“T-shirts, tank tops, beanies, hoodies, dresses, wrist bands” in class 25; and;

“On-line retail store services featuring music and videos and a wide variety of consumer items, namely, face and body stickers, phonograph records featuring music, pre-recorded CDs, video tapes, laser disks and DVDs featuring music, downloadable audio and video recordings featuring music, posters, photographs, clothing, namely, beanies, shirts, t-shirts, hoodies, dresses and wrist bands, cigarette lighters” in class 35.

6. The Examiner of Petitioner's application Serial No. 86/620,322 has refused registration for the goods and services covered classes 25 and 35 pursuant to Section 2(d) of the Lanham Act on the ground that Petitioner's trademark SoMo so resembles the mark SOMOS in registration no. 3,509,861 that it is likely to cause confusion, mistake, or deception as to the source of the aforesaid goods and services of Petitioner and Respondents.

7. On information and belief, Respondents are citizens of the United States.

8. Respondents are the owners of Registration No. 3,509,861 covering "*clothing, namely, shirts, hats and sweatshirts*" in International Class 25.

9. On information and belief, Respondents have discontinued use of the Registered Trademark for "*clothing, namely, shirts, hats and sweatshirts*" in commerce and have no *bona fide* intention to resume use the Registered Trademark in connection with such

goods in commerce.

10. As a result of Respondents' non-use and lack of having a *bona fide* intention to resume use of the Registered Trademark in commerce, Respondent's rights in the Registration have become abandoned.

11. Upon information and belief, the continued registration of the Registered Mark on the Principal Register of the U. S. Patent & Trademark Office is inimical to Petitioner's right to use and register its SoMo trademark for the goods and services covered in its pending application and will preclude Petitioner from obtaining the benefits resulting from ownership of a federal trademark registration, causing damage to Petitioner.

12. On informational and belief, the continued existence of Respondent's Registration will cast a cloud upon title to and ownership of Petitioner's trademark in the United States, causing damage to Petitioner.

Wherefore, Petitioner, by its undersigned attorneys, prays that the Trademark Trial & Appeal Board grant its Petition to cancel Registration No. 3,509,861 and grant such other relief to Petitioner that it finds to be just and necessary in the circumstances.

The cancellation fee of three hundred dollars (\$300.00) is being paid herewith.

Respectfully Submitted,

MANATT, PHELPS & PHILLIPS, LLP

Dated: January 19, 2016

by:  _____

Mark I. Peroff, Esq.

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New York, New York 10036

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Attorneys for Petitioner

Joseph Anthony Somers-Morale

CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of the foregoing Petition to Cancel to be served by first class mail, postage prepaid, upon Respondents on this 19th day of January, 2016 at the following addresses:

Ruben D. Castillo
14304 S. Karlov Ave.
Midlothian, Illinois 60445

Daniel Hurt
1045 S. DesPlaines
Forest Park, Illinois 60130

Jesus Hernandez