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

Proceeding	92063435
Party	Plaintiff JMM Lee Properties, LLC
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Submission	Motion to Amend Pleading/Amended Pleading
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Date	08/31/2016
Attachments	SAABAmendCancel.pdf(295831 bytes)

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

In the Matter of Registration No: 3689488
Trademark: SAAB

JMM LEE PROPERTIES, LLC)	
Petitioner)	
)	Cancellation No. 92063435
v.)	
)	
Saab AB)	
Respondent)	
)	

UNIED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

PETITIONER’S AMENDED PETITION FOR CANCELLATION

BACKGROUND

On March 23, 2016, Petitioner, JMM Lee Properties, LLC, (“JMM Lee” or “Petitioner”) filed a petition to cancel the registration of the mark “SAAB” (U.S. Reg. No: 3689488), in part as to “electric generators” in Class 7 on the ground of abandonment.

In lieu of an answer, on May 9, 2016 Respondent, SAAB AB, (“SAAB” or “Respondent”) filed a motion to dismiss for failure to state a claim upon which relief may be granted.

The Board denied Respondent’s motion to dismiss related to Petitioner’s standing but granted the motion in part as to Petitioner’s abandonment claim. Moreover, the Board granted Petitioner

leave to file an amended petition for cancellation by September 20, 2016 in order to address Petitioner's dismissed abandonment claim.

Petitioner thanks the Board for the opportunity to file an amended petition for cancellation and respectfully submits the revised petition herewith.

Since the amended portion of the petition pertains solely to the "Abandonment" heading, Petitioner has included only this updated section in the filing. The other sections of the petition remain unchanged from the original filing.

Amended Section:

ABANDONMENT

4. Petitioner has conducted an extensive investigation by searching online stores and other sources, and through various news and media outlets going back over a decade, but has been unable to find electric generators used or sold in connection with the mark SAAB.

5. Petitioner has conducted a search in connection with each of SAAB's divisions operating in the United States, including SAAB's Air, Land, Naval, Security, Commercial Aeronautics and Barracuda Divisions. None of the SAAB divisions lists or indicates that the company sells, or has ever sold, SAAB brand electric generators. Further, web archive searches related to SAAB's U.S. divisions going back five (5) years do not demonstrate that the SAAB mark has ever appeared on electric generators.

6. Upon information and belief, based on the foregoing research, and pursuant to 15 U.S.C. §1064 and 15 U.S.C. §1127, Respondent's SAAB mark has been abandoned in connection with electric generators under class 07 because Respondent has not used the mark in the United States in respect to electric generators for over three (3) consecutive years.

7. Upon information and belief, based on the foregoing research, Respondent is not currently using the mark SAAB in the United States in connection with electric generators in class 07.

8. Abandonment of a mark occurs when its use has been discontinued with intent not to resume such use. Intent not to resume may be inferred from circumstances. Nonuse for three (3) consecutive years shall be prima facie evidence of abandonment. "Use" of a mark means the bona fide use of such mark made in the ordinary course of trade, and not made merely to reserve a right in a mark. Trademark Act Section 45, 15 U.S.C. § 1127.

9. Petitioner will be damaged by the continued registration of Registration No. 3689488 in connection with electric generators as, for among other reasons, it is currently blocking Petitioner's own Application to register the SAAB mark.

10. Respondent's nonuse of the SAAB mark for over 3 consecutive years on electric generators is prima facie evidence of abandonment, and therefore, cancellation is appropriate under Section 14 of the Lanham Act, 15 U.S.C. §1064.

WHEREFORE, Petitioner respectfully requests that this Petition for Cancellation be sustained.

Respectfully submitted,

Dated: September 1, 2016

By: /Michael J. Lee/
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CERTIFICATE OF SERVICE

I hereby certify that on September 1, 2016 a copy of the foregoing Amended Petition for Cancellation is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the attorneys for Respondent as follows:

Milena S. Mishev
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/Michael J. Lee/
JMM Lee Properties, LLC