

ESTTA Tracking number: **ESTTA798246**

Filing date: **01/30/2017**

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	American Motorcycle Association		
Entity	Corporation	Citizenship	Ohio
Address	13515 Yarmouth Dr. Pickerington, OH 43147 UNITED STATES		

Attorney information	Melissa Rogers McCurdy Standley Law Group LLP 6300 Riverside Dr, Dublin, OH 43017 UNITED STATES trademarks@standleyllp.com, mmccurdy@standleyllp.com Phone:614-792-5555		
----------------------	--	--	--

Registration Subject to Cancellation

Registration No	4113820	Registration date	03/20/2012
Registrant	Chelmsford Card & Gift 15 Central Square Chelmsford, MA 01824 UNITED STATES		

Goods/Services Subject to Cancellation

Class 025. First Use: 2001/12/04 First Use In Commerce: 2001/12/04 All goods and services in the class are cancelled, namely: clothing, namely; t shirts, shirts, caps, tops, bottoms
--

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act Sections 14(1) and 2(d)
--------------------------------------	---------------------------------------

Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	3456917	Application Date	07/23/2007
Registration Date	07/01/2008	Foreign Priority Date	NONE
Word Mark	GYPSY TOUR		

Design Mark	GYPSY TOUR
Description of Mark	NONE
Goods/Services	Class 039. First use: First Use: 1925/06/01 First Use In Commerce: 1925/06/01 Arranging and conducting motorcycle riding events

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	GYPSY TOUR		
Goods/Services	pins, t-shirts, decals, watch fobs, belt buckles		

Attachments	77235861#TMSN.png(bytes) Petition for Cancellation.pdf(345093 bytes)
-------------	--

Signature	/Melissa Rogers McCurdy/
Name	Melissa Rogers McCurdy
Date	01/30/2017

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

IN THE MATTER OF REGISTRATION NO.: 4,113,820

MARK: GYPSY TOUR

REGISTERED ON March 20, 2012

American Motorcycle Association
d/b/a American Motorcyclist Association
Petitioner,
v.

Chelmsford Card & Gift
Registrant.

CANCELLATION NO. _____

PETITION FOR CANCELLATION

American Motorcycle Association (hereinafter referred to as the “AMA”) (d/b/a American Motorcyclist Association), an Ohio corporation, having its principal place of business at 13515 Yarmouth Drive, Pickerington, OH 43147 believes that it is being damaged by the continued registration of the GYPSY TOUR mark shown in U.S. Registration No. 4,113,820 (“the ’820 Registration”) to Registrant, and hereby petitions to cancel the same. The AMA alleges, on personal knowledge (unless specifically stated to the contrary), as follows:

PETITIONER

1. The AMA is an Ohio corporation with a business address located at 13515 Yarmouth Drive, Pickerington, OH 43147.
2. The AMA is engaged in, and has been long engaged in, conducting, organizing, sanctioning, officiating, and making rules for motorcycle racing competitions and recreational motorcycle riding events in interstate commerce.
3. In addition to providing various motorcycle-related services in commerce, the AMA has for a long time also sold various goods in interstate commerce under its trademarks, including t-shirts, pins, mugs, decals, etc.

4. The AMA's involvement in the motorcycle and motor sport industry is well-known to the public.
5. The AMA's involvement in the motorcycle and motor sport industry is evidenced, among other ways, by its numerous trademark registrations in the United States Trademark Office.

THE AMA'S RIGHTS IN THE GYPSY TOUR MARK AND

U.S. REGISTRATION NO. 3,456,917

6. One of the AMA's oldest trademarks is the GYPSY TOUR mark.
7. At least as early as 1925, the AMA was using the GYPSY TOUR mark in commerce in conjunction with arranging and conducting motorcycle rides throughout the United States.
8. In 1925, the AMA organized over 200 GYPSY TOUR events.
9. In the early years, the AMA began producing goods – such as watch fobs, belt buckles, and pins – bearing the GYPSY TOUR mark.
10. Those goods were sold in commerce and have become prized collectors' items.
11. The AMA has continued to arrange and conduct motorcycle riding events under the GYPSY TOUR mark in interstate commerce since at least as early as 1925.
12. Moreover, the AMA has continued its sale of GYPSY TOUR items which bear the GYPSY TOUR mark in interstate commerce since 1925.
13. Long before December 4, of 2001, the product line of items bearing the GYPSY TOUR mark was expanded by the AMA to include t-shirts.
14. On July 23, 2007, the AMA filed U.S. Serial No. 77/235,861 (“the '861 Application”) to register the GYPSY TOUR mark.
15. The '861 Application was filed in International Class 039 as associated with “Arranging and conducting motorcycle riding events.”
16. The '861 Application was filed by the AMA based on use in interstate commerce as associated with the relevant services at least as early as June 01 of 1925;
17. On July 1, 2008, the '861 Application was duly registered by the United States Trademark Office as U.S. Trademark Registration No. 3,456,917 (“the '917 Registration”).

18. The '917 Registration is valid, in effect, has acquired incontestability status, and is owned by the AMA.
19. A true and accurate copy of the '917 Registration is hereby attached to this Petition as Exhibit A. *See also* Exhibit B which is a printout of the U.S. Trademark Office's Trademark Status & Document Retrieval system for the '917 Registration.
20. In addition to the registered rights reflected by the '917 Registration, the AMA has expansive common law rights in the GYPSY TOUR mark as associated with organizing and conducting motorcycle riding events and as associated with its use of the mark on goods such as pins, t-shirts, and decals.
21. The AMA's common law rights in the GYPSY TOUR mark as associated with organizing and conducting motorcycle riding events and as associated with its sale of pins, t-shirts, decals, and other goods bearing the GYPSY TOUR mark, pre-date December 4, 2001 and in fact date back at least as early as 1925.

REGISTRANT

22. On information and belief, Chelmsford Card & Gift ("Registrant") is a Massachusetts Partnership comprised of John M. Handley III and Joseph E. Handley and which has an address of 15 Central Square, Chelmsford, Massachusetts 01824 and an email address of davidlipsker@gmail.com.
23. On information and belief, Registrant does business as Chelmsford Gift Co.
24. Registrant filed U.S. Serial No. 85/172,329 ("the '329 Application") on November 9, 2010, for the mark GYPSY TOUR.
25. The '329 Application was filed in International Class 25 in association with "clothing namely; t shirts, shirts, caps, tops, bottoms."
26. Registrant filed the '329 Application based upon an alleged use of the GYPSY TOUR mark in commerce at least as early as December 4, 2001.
27. On March 20, 2012, the '329 Application was permitted to register as U.S. Registration No. 4,113,820 ("the '820 Registration").

LIKELIHOOD OF CONFUSION

28. The GYPSY TOUR mark represented by the '820 Registration and the AMA's GYPSY

- TOUR Mark (including the AMA's '917 Registration and the AMA's common law rights) are identical as to appearance, sound, connotation and commercial impression.
29. Moreover, many of the goods recited by the '820 Registration are identical to goods currently being sold by the AMA, and goods that have been sold by the AMA prior to December 4, 2001, under the GYPSY TOUR mark.
 30. Any goods recited by the '820 Registration that are not identical to goods being sold by the AMA and goods which have been sold by the AMA under the GYPSY TOUR mark are nonetheless such that a consumer would be reasonable in expecting that they would emanate from the AMA in light of the types of goods and services the AMA has been offering under the GYPSY TOUR mark in commerce.
 31. The AMA's GYPSY TOUR Mark was in use in interstate commerce long before the date on which the Registrant claims it began using the GYPSY TOUR Mark.
 32. The extent of potential confusion is substantial if the Registrant is permitted to maintain the '820 Registration.
 33. Continued registration of the '820 Registration would cause an impermissible dilution of the goodwill associated with the AMA's GYPSY TOUR trademark.
 34. Continued registration of the '820 Registration to Registrant and use of the GYPSY TOUR mark by Registrant is likely to cause confusion, or to cause mistake, or to deceive, to induce purchasers to believe that the goods and services of Registrant are those of the AMA, or are endorsed by, or are in some way affiliated or associated with the AMA.

WHEREFORE, the AMA prays that this Petition for Cancellation be sustained and that U.S. Registration No. 4,113,820 be cancelled in its entirety.

The Commissioner is authorized to charge any additional fees which may be required to Deposit Account 19-4076.

Respectfully submitted,

American Motorcycle Association

Date: January 30, 2017

By: /Melissa R. McCurdy /
Jeffrey S. Standley
Melissa A. Rogers McCurdy
all of whom are Ohio attorneys

STANDLEY LAW GROUP LLP
6300 Riverside Drive
Dublin, Ohio 43017
Telephone: (614) 792-5555
Facsimile: (614) 792-5536
E-mail: jstandley@standleyllp.com
E-mail: mrogers@standleyllp.com
E-mail: trademarks@standleyllp.com
Attorneys for Petitioner, the AMA

CERTIFICATE OF TRANSMITTAL

I hereby certify that a true copy of the foregoing PETITION FOR CANCELLATION is being filed electronically with the TTAB via ESTTA on this day, January 30, 2017.

I further certify that Daniel J. Bourque, counsel for Registrant, has been served with a courtesy copy of the foregoing PETITION FOR CANCELLATION at his email address, which is dbourque@nhpatlaw.com on this day, January 30, 2017.

/Melissa Rogers McCurdy/
Melissa Rogers McCurdy

Exhibit A

Int. Cl.: 39

Prior U.S. Cls.: 100 and 105

United States Patent and Trademark Office

Reg. No. 3,456,917

Registered July 1, 2008

**SERVICE MARK
PRINCIPAL REGISTER**

GYPSY TOUR

AMERICAN MOTORCYCLIST ASSOCIATION
(OHIO CORPORATION)
13515 YARMOUTH DRIVE
PICKERINGTON, OH 43147

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "TOUR", APART FROM THE
MARK AS SHOWN.

FOR: ARRANGING AND CONDUCTING MO-
TORCYCLE RIDING EVENTS, IN CLASS 39 (U.S.
CLS. 100 AND 105).

SEC. 2(F) AS TO "GYSPY".

FIRST USE 6-1-1925; IN COMMERCE 6-1-1925.

SER. NO. 77-235,861, FILED 7-23-2007.

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

GEORGIA CARTY, EXAMINING ATTORNEY

Exhibit B

Generated on: This page was generated by TSDR on 2017-01-30 14:34:25 EST

Mark: GYPSY TOUR

GYPSY TOUR

US Serial Number: 77235861

Application Filing Date: Jul. 23, 2007

US Registration Number: 3456917

Registration Date: Jul. 01, 2008

Register: Principal

Mark Type: Service Mark

Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Status Date: Jul. 16, 2013

Publication Date: Apr. 15, 2008

Mark Information

Mark Literal Elements: GYPSY TOUR

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Disclaimer: "TOUR"

Acquired Distinctiveness Claim: In part

Distinctiveness Limitation Statement: AS TO "GYSPY"

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Arranging and conducting motorcycle riding events

International Class(es): 039 - Primary Class

U.S Class(es): 100, 105

Class Status: ACTIVE

Basis: 1(a)

First Use: Jun. 01, 1925

Use in Commerce: Jun. 01, 1925

Basis Information (Case Level)

Filed Use: Yes

Currently Use: Yes

Amended Use: No

Filed ITU: No

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

Current Owner(s) Information

Owner Name: American Motorcyclist Association

Owner Address: 13515 Yarmouth Drive
Pickerington, OHIO 43147
UNITED STATES

Legal Entity Type: CORPORATION

State or Country OHIO
Where Organized:

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Jeffrey S. Standley

Docket Number: AMA1689-256B

Attorney Primary trademarks@standleyllp.com
Email Address:

Attorney Email Yes
Authorized:

Correspondent

Correspondent Jeffrey S. Standley
Name/Address: STANDLEY LAW GROUP LLP
6300 RIVERSIDE DRIVE
DUBLIN, OHIO 43017
UNITED STATES

Phone: 614-792-5555

Fax: 614-792-5536

Correspondent e- trademarks@standleyllp.com
mail:

Correspondent e- Yes
mail Authorized:

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Jan. 18, 2017	TEAS SECTION 7 REQUEST RECEIVED	
Jul. 16, 2013	NOTICE OF ACCEPTANCE OF SEC. 8 & 15 - E-MAILED	
Jul. 16, 2013	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	66607
Jul. 16, 2013	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	66607
Jul. 01, 2013	TEAS SECTION 8 & 15 RECEIVED	
Nov. 20, 2008	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Jul. 01, 2008	REGISTERED-PRINCIPAL REGISTER	
Apr. 15, 2008	PUBLISHED FOR OPPOSITION	
Mar. 26, 2008	NOTICE OF PUBLICATION	
Mar. 07, 2008	LAW OFFICE PUBLICATION REVIEW COMPLETED	77312
Mar. 06, 2008	APPROVED FOR PUB - PRINCIPAL REGISTER	
Mar. 04, 2008	TEAS/EMAIL CORRESPONDENCE ENTERED	77312
Mar. 04, 2008	CORRESPONDENCE RECEIVED IN LAW OFFICE	77312
Jan. 17, 2008	TEAS/EMAIL CORRESPONDENCE ENTERED	77312
Jan. 17, 2008	CORRESPONDENCE RECEIVED IN LAW OFFICE	77312
Jan. 17, 2008	ASSIGNED TO LIE	77312
Dec. 06, 2007	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Oct. 29, 2007	NON-FINAL ACTION MAILED	
Oct. 26, 2007	NON-FINAL ACTION WRITTEN	76927
Oct. 26, 2007	ASSIGNED TO EXAMINER	76927
Jul. 26, 2007	NEW APPLICATION ENTERED IN TRAM	

Maintenance Filings or Post Registration Information

Affidavit of Section 8 - Accepted
Continued Use:

Affidavit of Section 15 - Accepted
Incontestability:

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: TMO LAW OFFICE 117

Date in Location: Jul. 16, 2013