

ESTTA Tracking number: **ESTTA835422**

Filing date: **07/25/2017**

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 has filed a petition to cancel the registration indicated below.

**Petitioner Information**

Name	Mariana Travassos Miguel Pereira		
Entity	Individual	Citizenship	BRAZIL
Address	Estrada Julio Santoro, 318 Guapimirim, RJ 25940-000 BRAZIL		

Attorney information	Derek A. Simpson The Law Offices of Derek A. Simpson 555 S. Flower St., Ste. 3200 Los Angeles, CA 90071 UNITED STATES Email: derek@dsimpsonlegal.com Phone: 213-293-9401		
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**Registration Subject to Cancellation**

Registration No.	4771161	Registration date	07/14/2015
Registrant	DEAN THOMPSON SUITE 513, CONCORDIA PLAZA 1 SCIENCE MUSEUM ROAD KOWLOON HONG KONG		

**Goods/Services Subject to Cancellation**

Class 025. First Use: 2013/08/29 First Use In Commerce: 2013/08/29 All goods and services in the class are subject to cancellation, namely: Athletic apparel all for use in martialarts, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms, Beanies, Fight shorts for mixed martial arts or grappling, Hooded sweatshirts Martial arts uniforms, Track suits, allthe aforementioned for use in martial arts
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**Grounds for Cancellation**

Priority and likelihood of confusion	Trademark Act Sections 14(1) and 2(d)
Abandonment	Trademark Act Section 14(3)
Fraud on the USPTO	Trademark Act Section 14(3); In re Bose Corp., 580 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. 2009)

**Mark Cited by Petitioner as Basis for Cancellation**

U.S. Application	87199284	Application Date	10/11/2016
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No.			
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	HUNTER FIGHT WEAR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1997/12/31 First Use In Commerce: 1998/12/31 Belts made out of cloth; Caps; Rash guards; Shorts; Sweat shirts; T-shirts; Fight shorts for mixed martial arts or grappling; Martial arts uniforms, namely, gis		

Attachments	87199284#TMSN.png( bytes ) 2017_07_25 Petition to cancel HUNTER FIGHT WEAR registration of Dean Thompson.pdf(82669 bytes )
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Signature	/Derek Simpson/
Name	Derek A. Simpson
Date	07/25/2017

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

In the matter of Registration No.: 4771161  
For the mark: HUNTER FIGHT WEAR  
Registered on July 14, 2015

Mariana Travassos Miguel Pereira,

Petitioner,

vs.

Dean Thompson,

Registrant.

Cancellation No.

**PETITION FOR CANCELLATION**

Mariana Travassos Miguel Pereira (“Petitioner”) believes that she will be damaged by the continued registration of U.S. Registration 4771161, issued July 14, 2015, to Dean Thompson (“Registrant”). Petitioner hereby petitions to cancel the registration. As grounds therefore, Petitioner alleges as follows:

**First Count for Cancellation Based on Non-Use or Abandonment**

1. On information and belief Petitioner alleges that Registrant has never used the mark in connection with jiu-jitsu apparel or any other items of apparel in U.S. commerce and that, to obtain the registration, which was based on a section 1(a) use-in-commerce application, Registrant made false statements and submitted a bogus specimen of use.
2. On information and belief Petitioner alleges that Registrant has never used the HUNTER FIGHT WEAR mark in U.S. commerce in connection with the goods listed in its Registration: “Athletic apparel all for use in martial arts, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms,

Beanies, Fight shorts for mixed martial arts or grappling, Hooded sweatshirts  
Martial arts uniforms, Track suits, all the aforementioned for use in martial  
arts.”

3. Alternatively, on information and belief, Petitioner alleges that in the past two years, Registrant has not offered the goods listed in the Registration under the mark in U.S. commerce and does not intend to resume use of the mark.
4. Alternatively, on information and belief, Petitioner alleges that Registrant has ceased, with intent never to resume, offering the goods listed in the Registration under the mark in U.S. commerce.

#### **Second Count for Cancellation Based on Fraud**

5. On information and believe Petitioner alleges that it alleges that Registrant made blatant misrepresentations in his application with malice and an intent to defraud the U.S. Patent and Trademark Office (“USPTO”).
6. Petitioner alleges on information and belief that Registrant’s fraudulent conduct includes Registrant’s knowingly false assertion that Registrant was using the registered mark in connection with the goods listed in the application in United States commerce.
7. Petitioner alleges on information and belief that the specimen submitted by Registrant, to show use of his mark in United States commerce, consisted of a photograph of a jiu-jitsu kimonos jacket with a paper hang-tag displaying the mark that was not affixed to the jacket and a paper slip with the mark printed onto it and lain along the collar, by which Registrant intended to deceive the USPTO into perceiving it to be a collar patch and a hang tag displayed to buyers. In fact, Registrant has not displayed such a hangtag or paper slip (or collar patch) displaying the mark to U.S. customers in connection with sales of jiu-jitsu gis or any other goods listed in the registration.

### **Third Count for Priority and Likelihood of Confusion**

8. Petitioner, through her successor, is the prior user of the HUNTER FIGHT WEAR trademark in connection with Brazilian jiu-jitsu gis, fight shorts, and related apparel. Thus, Petitioner has superior rights in the mark over Registrant.
9. Petitioner's deceased father, Mauricio Miguel Pereira, started the HUNTER FIGHT WEAR apparel brand in Rio de Janeiro in the 1990s, shortly after Brazilian jiu-jitsu started becoming famous the world over along with the surging popularity of mixed-martial-arts competitions.
10. Mr. Pereira sold Brazilian-jiu-jitsu gis (or kimonos) and other related apparel under the HUNTER FIGHT WEAR mark until his death, with world-renown jiu-jitsu fighters wearing his HUNTER FIGHT WEAR trademarked gis and other clothing in competitions and fights viewed by the international community of jiu-jitsu and mixed-martial-arts enthusiasts.
11. Petitioner was Mr. Pereira's only child and he was unmarried when he died. Petitioner is her father's sole heir and she is the successor to all of his rights in the HUNTER FIGHT WEAR mark. Petitioner was a child when her father died and Petitioner's mother (Mr. Pereira's ex-wife) caused the mark to be used after her father's death. Petitioner has never discontinued use of the mark with intent not to resume such use.
12. Registrant did not coin the HUNTER FIGHT WEAR mark on his own. And at the time Registrant filed his application to register the mark, he knew of Mr. Pereira's HUNTER FIGHT WEAR brand. Registrant is not a stranger to the jiu-jitsu apparel business. For the past few years, he has operated a jiu-jitsu clothing brand STORM KIMONOS. In the case of this HUNTER FIGHT WEAR registration, Registrant is purposely trying to set himself up to exploit the

mark's old-school, Rio-de-Janeiro-based jiu-jitsu caché and goodwill in the jiu-jitsu international community, including the United States.

13. Registrant has never used the mark in connection with jiu-jitsu apparel in U.S. commerce or anywhere else. To obtain the registration, which was based on a use-in-commerce application, Registrant made false statements and submitted a bogus specimen of use.
14. Petitioner will be damaged by the continuing registration of the HUNTER FIGHT WEAR mark because Petitioner is the owner of the rights in the mark and because the registration will block Petitioner's trademark application Serial Number 87199284. Currently, the examining attorney assigned to Petitioner's trademark application Serial Number 87199284 is tentatively refusing registration on grounds of likelihood of confusion with Petitioner's registration.
15. Assuming for argument's sake that Registrant used the mark in connection with the apparel listed in the Registration, Petitioner, through her predecessor in interest, is the prior user of the mark in international and U.S. commerce. Petitioner's priority date is at least as early as December 31, 1997. Registrant filed his application on August 29, 2013 and claims a date of first use in U.S. commerce on the same date.
16. Likelihood of confusion exists between Petitioner's trademark and the mark listed in Registrant's registration. The marks are identical and the goods are identical. Plus, one item listed in Registrant's registration, "martial arts uniforms," would include jiu-jitsu gis. So the trade channels and prospective customers would be identical.

Based on these allegations, Petitioner requests that this Petition for cancellation of Registration No. 4771161 be granted.

Respectfully submitted,

Dated: July 25, 17

/s/ Derek A. Simpson

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