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Filing date: **11/28/2017**

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	G&S Sporting Goods, LLC		
Entity	Limited Liability Corporation	Citizenship	New York
Address	336 W. 37th St. Suite 1150 New York City, NY 10018 UNITED STATES		

Attorney information	Robert F Zielinski Law Offices of Robert F Zielinski, LLC One South Broad Street Suite 1600 Philadelphia, PA 19107 UNITED STATES Email: rfzielinski@rfzlaw.com Phone: 2157319100
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Registration Subject to Cancellation

Registration No.	4542986	Registration date	06/03/2014
Registrant	Gray, Derrick L 3270 Liberty Court SE Conyers, GA 30094 UNITED STATES Email: d_gray07@yahoo.com		

Goods/Services Subject to Cancellation

Class 025. First Use: 2008/05/15 First Use In Commerce: 2011/11/20 All goods and services in the class are subject to cancellation, namely: Women's clothing, namely, fashion T-shirts, Tank tops, Halter tops, Shirts, Short-sleeved or long-sleeved t-shirts, Polo shirts, Blouses, sweatshirts, hooded sweatshirts, jackets, caps, hats, footwear and sneakers, Skirts and dresses, Jeans, Pants, Capri pants, Denims, Shorts; Underwear, namely, boy shorts, thongs and Bras; Children's clothing, namely, fashion T-shirts, Tank tops, Halter tops, Shirts, Short-sleeved or long-sleeved t-shirts, Polo shirts, Blouses, sweatshirts, hooded sweatshirts, jackets, caps, hats, footwear and sneakers, Skirts and dresses, Jeans, Pants, Capri pants, Denims, Shorts
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Grounds for Cancellation

Abandonment	Trademark Act Section 14(3)
Other	Prior use of the same and similar marks by applicant

Attachments	Petition for Cancellation GS.pdf(188578 bytes)
Signature	/Robert F Zielinski/
Name	Robert F Zielinski
Date	11/28/2017

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

<p>G&S Sporting Goods, LLC, Petitioner</p> <p style="text-align: center;">v.</p> <p>Derrick L. Gray, Respondent and Registrant</p>	<p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p>	<p style="text-align: right;">Registration No. 4,542,986 Marks: G&S BOXING and G&S</p>
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PETITION TO CANCEL REGISTRATION

1. Petitioner, G&S Sporting Goods, LLC is New York Limited Liability Corporation, having a business address at Suite 1150, 336 W. 37th St., New York City, New York 10018.
2. To the best of petitioner's knowledge, the name and address of the current owner of U.S. Registration No. 4,542,986 is Derrick L. Gray, 3270 Liberty Court SE, Conyers, Georgia 30094.
3. The above-identified Petitioner believes that it is or will be damaged by the continued registration of above-identified and hereby petitions in accordance with 37 C.F.R. §2.111(b), to cancel said registration.
4. Petitioner is the owner of pending trademark applications Serial Nos. 87/359507 and 87/374988 for the Marks G&S BOXING and G&S filed March 6, 2017 and March 17, 2017, respectively, for a variety of goods and services, including goods in International Class 25, for clothing, namely, pants, robes, shirts, shorts, and underwear; boxing jerseys; briefs; exercise suits; jackets; jogging suits; muscle shirts; sauna suits; socks; sweatpants; sweatshirts; t-shirts, boxing trunks; track suits; martial arts uniforms; scarves; gloves; belts, namely, belts made of leather, belts of textile; footwear; headgear, namely, hats and caps.
5. U.S. Reg. No. 4,542,986 purportedly used in connection with women's clothing, namely, fashion t-shirts, tank tops, halter tops, shirts, short-sleeved or long-sleeved t-shirts, polo shirts, blouses, sweatshirts, hooded sweatshirts, jackets, caps, hats, footwear and sneakers, skirts and dresses, jeans, pants, capri pants, denims, shorts; underwear, namely, boy shorts, thongs and bras; children's clothing, namely, fashion t-shirts, tank tops, halter tops, shirts, short-sleeved or long-sleeved t-shirts, polo shirts, blouses, sweatshirts, hooded sweatshirts, jackets, caps, hats, footwear and sneakers, skirts and dresses, jeans,

pants, capri pants, denims, shorts, has been cited as a partial bar to the federal registration of Petitioner's mark based on a perceived likelihood of confusion between Registrant's mark and Petitioner's mark in International Class 25.

6. Petitioner does not agree that there is a likelihood of confusion between the marks based on, inter alia, the dissimilarities between the marks, the differences between the nature of the goods, the trade channels for the goods, consumer sophistication with respect to the purchasers of the goods and circumstances under which consumers encounter the marks in the marketplace. Nonetheless, Petitioner seeks to cancel the within identified registration in order to remove the cited registration as a bar to Petitioner's applications for registration of its G&S BOXING and G&S marks.

The grounds for cancellation are as follows:

FIRST COUNT – PRIOR USE

7. Petitioner through its predecessor in interest has since at least as early as January 1, 1940 first used in commerce and is now, using the Marks G&S BOXING and G&S in connection with a variety of goods, including clothing, namely, pants, robes, shirts, shorts, and underwear; boxing jerseys; briefs; exercise suits; jackets; jogging suits; muscle shirts; sauna suits; socks; sweatpants; sweatshirts; t-shirts, boxing trunks; track suits; martial arts uniforms; scarves; gloves; belts, namely, belts made of leather, belts of textile; footwear; headgear, namely, hats and caps.
8. Petitioner's use of the G&S BOXING and G&S Marks has been valid and continuous since its date of first use.
9. Petitioner's use of its G&S BOXING and G&S Marks pre-date Respondent's first use of, and application for registration of Respondent's G&S Mark, and establishes the priority of Petitioner's G&S BOXING and G&S Marks. As such, Petitioner has priority.
10. Petitioner's G&S BOXING and G&S Marks are symbolic of extensive goodwill established by Petitioner, have acquired a high degree of recognition through continued use and expenditures of time, effort and money in advertising and promotion, and serves as a unique identifier of the goods and services offered by Petitioner.
11. There can be no issue as to priority of use of the G&S BOXING and G&S Marks and Respondent's mark. Petitioner's rights in the G&S BOXING and G&S Marks long pre-dates any conceivable filing date or use date that could possibly be claimed by Respondent.
12. Petitioner will be damaged by Respondent's continued registration of Respondent's mark because the registration will likely block registration of Petitioner's G&S BOXING and G&S Marks for which Petitioner has presently applied for in, inter alia, International Class 25. Therefore, U.S. Registration No. 4,542,986 is a source of damage and injury to Petitioner.

COUNT TWO - ABANDONMENT

13. In addition to the foregoing, on information and belief, Derrick L. Gray is no longer reported as an active business entity or as being associated with any active business by the Georgia Department of State and has presumably ceased operations.
14. Upon information and belief, after reasonable efforts to locate clothing distributors and/or retailers selling goods bearing Respondent's G&S trademark, Petitioner was unable to find any such distributors and/or retailers in Georgia or elsewhere who were even aware of, let alone any who recall any clothing products bearing the Respondent's G&S trademark.
15. Upon further information and belief, the Respondent's G&S trademark has not been in use by registrant for at least approximately three years by registrant with intent not to resume use.

RELIEF SOUGHT

Petitioner believes it will be damaged by the continued registration and hereby petitions for cancellation of Registration No. 4,542,986 under 15 U.S.C. §1064 (1) in that the registered mark has been registered for less than 5 years and under 15 U.S.C. §1064(3) on the grounds that the registered mark has been abandoned.

Petitioner appoints as its attorney in these proceedings Robert F Zielinski, Esq. of the Firm the Law Offices of Robert F Zielinski, LLC, to whom all correspondence in this proceeding should be addressed.

Respectfully submitted,

LAW OFFICES OF ROBERT F. ZIELINSKI, LLC



By: Robert F. Zielinski
Suite 1600
One South Broad Street
Philadelphia, Pennsylvania 19107
(215) 731-9100
Attorneys for Petitioner

Certificate of Service

The undersigned hereby certifies that a copy of this pleading has been served upon all parties, at their address of record by first class mail on this date.

Respectfully submitted,

A handwritten signature in blue ink, consisting of a stylized, cursive 'R' followed by a horizontal line extending to the right.

Robert F. Zielinski

LAW OFFICES OF ROBERT F. ZIELINSKI, LLC
Suite 1600
One South Broad Street
Philadelphia, Pennsylvania 19107
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Attorneys for Petitioner