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Filing date: **02/05/2018**

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	Lange Windows & Siding, Inc.		
Entity	Corporation	Citizenship	Indiana
Address	11003 THIEL STREET St. John, IN 46373 UNITED STATES		

Attorney information	Daniel Zamudio Zamudio Law Professionals PC 233 South Colfax Griffith, IN 46319 UNITED STATES Email: dan@zlawpro.com, paralegal@zlawpro.com Phone: 219-924-2300		
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### Registrations Subject to Cancellation

Registration No.	4373059	Registration date	07/23/2013
Registrant	Lang Exterior, Inc. 2323 West 59th St Chicago, IL 60636 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 006. First Use: 2012/11/20 First Use In Commerce: 2012/11/20 All goods and services in the class are subject to cancellation, namely: METAL WINDOWS; METAL DOORS
Class 019. First Use: 2012/11/20 First Use In Commerce: 2012/11/20 All goods and services in the class are subject to cancellation, namely: NON-METAL WINDOWS; VINYL SIDING; NON-METAL DOORS
Class 035. First Use: 2012/11/20 First Use In Commerce: 2012/11/20 All goods and services in the class are subject to cancellation, namely: DISTRIBUTORSHIP SERVICES IN THE FIELD OF WINDOWS

### Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act Sections 14(1) and 2(d)
The mark is merely descriptive	Trademark Act Sections 14(1) and 2(e)(1)
The mark is primarily merely a surname	Trademark Act Sections 14(1) and 2(e)(4)
The mark comprises matter that, as a whole, is functional	Trademark Act Sections 14(1) and 2(e)(5), or Section 23 if on Supplemental Register
Misuse of registration symbol	Copelands' Enterprises Inc. v. CNV Inc., 945 F.2d 1563, 20 USPQ2d 1295 (Fed. Cir. 1991)

Registration No.	4340727	Registration date	05/28/2013
Registrant	Lang Exterior, Inc 2323 West 59th St Chicago, IL 60636 UNITED STATES		

## Goods/Services Subject to Cancellation

Class 006. First Use: 2011/05/01 First Use In Commerce: 2011/05/01 All goods and services in the class are subject to cancellation, namely: METAL WINDOWS; METAL DOORS
Class 019. First Use: 2011/05/01 First Use In Commerce: 2011/05/01 All goods and services in the class are subject to cancellation, namely: NON-METAL WINDOWS; VINYL SIDING; NON-METAL DOORS
Class 035. First Use: 2011/05/01 First Use In Commerce: 2011/05/01 All goods and services in the class are subject to cancellation, namely: DISTRIBUTORSHIP SERVICES IN THE FIELD OF WINDOWS

## Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act Sections 14(1) and 2(d)		
The mark is primarily merely a surname	Trademark Act Sections 14(1) and 2(e)(4)		
The mark comprises matter that, as a whole, is functional	Trademark Act Sections 14(1) and 2(e)(5), or Section 23 if on Supplemental Register		
Misuse of registration symbol	Copelands' Enterprises Inc. v. CNV Inc., 945 F.2d 1563, 20 USPQ2d 1295 (Fed. Cir. 1991)		
Registration No.	4340726	Registration date	05/28/2013
Registrant	Lang Exterior, Inc 2323 West 59th St Chicago, IL 60636 UNITED STATES		

## Goods/Services Subject to Cancellation

Class 006. First Use: 2006/12/14 First Use In Commerce: 2006/12/14 All goods and services in the class are subject to cancellation, namely: METAL WINDOWS; METAL DOORS
Class 019. First Use: 2006/12/14 First Use In Commerce: 2006/12/14 All goods and services in the class are subject to cancellation, namely: NON-METAL WINDOWS, VINYL SIDING, NON-METAL DOORS
Class 035. First Use: 2006/12/14 First Use In Commerce: 2006/12/14 All goods and services in the class are subject to cancellation, namely: Distributorship services in the field of windows, NON-METAL WINDOWS, AND VINYL AND WOOD SIDING

## Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act Sections 14(1) and 2(d)		
The mark is merely descriptive	Trademark Act Sections 14(1) and 2(e)(1)		
The mark is primarily merely a surname	Trademark Act Sections 14(1) and 2(e)(4)		
The mark comprises matter that, as a whole, is functional	Trademark Act Sections 14(1) and 2(e)(5), or Section 23 if on Supplemental Register		
Misuse of registration symbol	Copelands' Enterprises Inc. v. CNV Inc., 945 F.2d 1563, 20 USPQ2d 1295 (Fed. Cir. 1991)		

## Mark Cited by Petitioner as Basis for Cancellation

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	Lange		
Goods/Services	windows and siding		

Attachments	Petition to Cancel Lang Windows and others owned by Lang Exteriors Inc.pdf(75382 bytes )
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Signature	/Daniel Zamudio/
Name	Daniel Zamudio
Date	02/05/2018

**UNITED STATES PATENT AND TRADEMARK OFFICE**  
**Before the Trademark Trial and Appeal Board**

In re Registration Nos. 4373059 for the Mark Lang Window Products registered on July 23, 2013; 4340727 for the Mark Lang Windows Inc. registered on May 28, 2013; and 4340726 for the Mark Lang Windows registered on May 28, 2013.

Lange Windows & Siding, Inc.,  
**Petitioner,**

v.

Lang Exterior, Inc.,  
**Registrant.**

TO: Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

Cancellation No. \_\_\_\_\_

**PETITION TO CANCEL**

COMES NOW the Petitioner, Lange Windows & Siding, Inc., an Indiana corporation located at 11003 Thiel Street, St. John, Indiana 46373 and petitions the Trademark Trial and Appeal Board of the United States Patent and Trademark Office (the "TTAB") to cancel the above referenced registrations. In support thereof the Petitioner states the following.

1. To the best of Petitioner's knowledge, the name and address of the current owner of the registration is Lang Exterior, Inc., an Illinois corporation located at 2323 W 59<sup>th</sup> Street, Chicago, Illinois 60636.
2. Registrant's marks Lang Window Products, Lang Windows Inc., and Lang Windows (the "Marks") are registered on the principal register.
3. The Marks were registered less than five (5) years before the date of this petition and therefore remain contestable;

4. On January 26, 2018, Registrant demanded that Petitioner terminate its use of the name Lange Windows & Siding, Inc.

5. The above-identified Petitioner believes that it will be damaged by the above-identified registrations, and hereby petitions to cancel the same.

6. The grounds for cancellation are as follows:

- (a) The Marks are used merely in a descriptive sense by the registrant;
- (b) The Marks are merely functional;
- (c) Each of the Marks is merely a surname of Registrant's owner;
- (d) The Registrant fails to properly use the registration mark;
- (e) The Petitioner should be protected against an adverse commercial impact caused by the use of the Marks by registrant which are not proper trademarks; and
- (f) Petitioner's principal member, Roger Lange, and his family have used the name Lange with windows and siding for many decades before the Marks were registered, effectively predating Registrant's first use of the Marks.

7. Petitioner reserves the right to set forth any further grounds for cancellation as these cancellation proceedings proceed and any such grounds are discovered.

8. Service of this petition has been timely made upon the registrant or the registrant's attorney of record.

9. Petitioner has submitted the proper fee for filing this petition.

10. Petitioner has and continues to be damaged by registrant's use of the Marks in the marketplace.

**WHEREFORE**, Petitioner requests cancellation of registration numbers 4373059, 4340727 and 4340726, and for all other just and appropriate relief.

RESPECTFULLY SUBMITTED: /Daniel Zamudio/  
Daniel Zamudio, Ind, Atty. No. 26942-45  
233 South Colfax Street  
Griffith, Indiana 46319  
dan@zlawpro.com  
Ph: (219) 924-2300; Fax: (219) 924-2401  
*Patent Attorney for Plaintiff*

**CERTIFICATE OF SERVICE**

I certify that on February 5, 2018, service of a true and complete copy of the above and foregoing pleading or paper was made upon each party or attorney of record herein by depositing the same in the United States mail in envelopes properly addressed to each of them with sufficient first class postage affixed.

Attorney Joseph Ziccardi  
77 West Washington Street  
Suite 705  
Chicago, Illinois 60602-3641

Lang Exterior Inc.  
c/o its registered agent Quin R. Frazer  
191 North Wacker Drive, Suite 3700  
Chicago, IL 60606

By: /Daniel Zamudio/  
Daniel Zamudio