

ESTTA Tracking number: **ESTTA886567**

Filing date: **03/29/2018**

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	Tokyo Broadcasting System Television, Inc.		
Entity	Corporation	Citizenship	Japan
Address	5-3-6 Akasaka, Minato-Ku Tokyo, 107-8006 JAPAN		

Attorney information	Michael J. Rye Cantor Colburn LLP 20 Church Street 22nd Floor Hartford, CT 06103 UNITED STATES Email: mrye@cantorcolburn.com, tperkins@cantorcolburn.com, cmahler@cantorcolburn.com Phone: 8602862929
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Registration Subject to Cancellation

Registration No.	5205477	Registration date	05/16/2017
Registrant	Phengsykeo, Atticus 3401 Vintage St. Houston, TX 77026 UNITED STATES		

Goods/Services Subject to Cancellation

Class 025. First Use: 2016/08/10 First Use In Commerce: 2016/08/10 All goods and services in the class are subject to cancellation, namely: Head wear; Shirts; Tops
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Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act Sections 14(1) and 2(d)
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Marks Cited by Petitioner as Basis for Cancellation


U.S. Registration No.	4767586	Application Date	09/12/2014
Registration Date	07/07/2015	Foreign Priority Date	NONE
Word Mark	AMERICAN NINJA WARRIOR		


Design Mark	AMERICAN NINJA WARRIOR
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 2009/12/31 First Use In Commerce: 2009/12/31 Production of television programs, series and segments; design, creation, production and post-production of audiovisualworks, particularly television entertainment services, namely, a continuing competition-based program and companion variety programs with actual and/or fictional characters in comedic, dramatic, documental broadcast over television, satellite, audio and video media, and via a global computer network; providing information in the field of entertainment via a global computer network; entertainment services, namely, an on-going televisionseries broadcast over television and podcast featuring competition-based programming and companion programming with actual and/or fictional characters involved in comedic, dramatic, documental and animated stories; distribution for others of programs; Production of pre-recorded optical, electronic, digital, and magnetic media in the nature of downloadable media featuring competition-based entertainment and companion programming with actual and/or fictional characters involved in comedic, dramatic and documental stories

U.S. Registration No.	4109319	Application Date	12/16/2009
Registration Date	03/06/2012	Foreign Priority Date	NONE

Word Mark	AMERICAN NINJA WARRIOR
Design Mark	AMERICAN NINJA WARRIOR
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2010/07/01 First Use In Commerce: 2011/07/01 Pre-recorded compact discs, laser discs, CD-ROMs, DVDs, DVD-ROMs, videotapes, videocassettes, and other pre-recorded optical, electronic, digital, and magneticmedia featuring competition-based entertainment and companion programming with actual and/or fictional characters involved in comedic, dramatic, documental, live-action and animated stories; computergame software; computer game programs and cartridges; electronic game programs;video game software; computer screen saver software; downloadable graphics and sound

	recordings via a global computer network and wireless devices; analog and digital materials, namely, downloadable video recordings, audio recordings, digital photographs, digital still images, digital moving images, computer software screen savers, and digital computer desktop background images for computers and wireless devices; motion picture films featuring competition-based entertainment and companion programming with actual and/or fictional characters involved in comedic, dramatic, documental and animated stories
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U.S. Registration No.	4777365	Application Date	07/16/2010
Registration Date	07/21/2015	Foreign Priority Date	NONE
Word Mark	AMERICAN NINJA WARRIOR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2015/05/26 First Use In Commerce: 2015/05/26 clothing for men, women and children, namely, shirts, t-shirts, sweatshirts, hats, caps, headbands		

U.S. Application No.	86852438	Application Date	12/17/2015
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ANW		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 0 First Use In Commerce: 0 Clothing, namely, shirts, T-shirts, blouses, tank tops, skirts, trousers, jeans, pants, shorts, skorts, overalls, jumpers, rompers, dresses, sweaters, jackets, blazers, coats, ponchos, scarves, stoles, shawls, socks, tights, leotards, stockings, leggings, leg warmers, slipper socks, ties, bow ties, pocket squares, suspenders, belts, aprons, undershirts, underpants, underwear, snow suits,		

	snow pants, ear muffs; mittens, gloves, cloth bibs, plastic baby bibs, infantwear; sweatshirts, sweatpants, jogging suits, masquerade and Halloween costumes and masks sold in connection therewith; sleepwear; loungewear; swimwear; rainwear; footwear; headwear; Halloween costumes
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Attachments	86393966#TMSN.png(bytes) 77894610#TMSN.png(bytes) 85086615#TMSN.png(bytes) 86852438#TMSN.png(bytes) Petition for Cancellation.pdf(667184 bytes)
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Signature	/Michael J. Rye/
Name	Michael J. Rye
Date	03/29/2018

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

In the Matter of Trademark Registration No.	5205477
Filed:	August 5, 2015
Mark:	EAT SLEEP TRAIN ANW
Registered:	May 16, 2017

Tokyo Broadcasting System Television, Inc.,

Petitioner,

v.

Atticus Phengsykeo,

Registrant.

Cancellation No: _____

PETITION FOR CANCELLATION

Tokyo Broadcasting System Television, Inc. (“TBST” or “Petitioner”), a corporation duly organized and existing under the laws of Japan with a principal place of business located at 5-3-6 Akasaka, Minato-Ku, Tokyo, Japan 107-8006, believes it is being damaged by United States Trademark Registration No. 5205477 (the “Registration”) for the trademark EAT SLEEP TRAIN ANW (the “EAT SLEEP TRAIN ANW Mark”), filed on August 5, 2015, by Atticus Phengsykeo, an individual with an address of 3401 Vintage Street, Houston, Texas 77026 (“Registrant”), and registered on May 16, 2017, for “Head wear; Shirts; Tops” in International Class 25, and, therefore, TBST hereby petitions for cancellation pursuant to 15 U.S.C. § 1064.

The grounds for the cancellation are as follows:

A. Petitioner, Tokyo Broadcasting System Television, Inc.

1. Founded in 2004, TBST is part of the Tokyo Broadcasting System Group, Japan's premier media company, established over 66 years ago.

2. TBST leads two of the most extensive commercial broadcasting networks in Japan working with 28 TV stations affiliated with the Japan News Network nationwide.

3. Petitioner is involved in the planning, production and marketing of TV programming and has created countless hit drama, variety, and new programs, including the well-known, long-running television series American Ninja Warrior.

4. American Ninja Warrior, commonly abbreviated as ANW, is an American sports entertainment competition that is a spin-off of the Japanese television series Sasuke. Returning for its tenth season this summer, the ANW series has been broadcast on television in the United States since 2009.

5. Petitioner owns common law rights in and to the mark AMERICAN NINJA WARRIOR and owns the following U.S. Trademark Registrations:

a) U.S. Trademark Registration No. 4767586 for the mark AMERICAN NINJA WARRIOR, filed on September 12, 2014 and registered on July 7, 2015 for "Production of television programs, series and segments; design, creation, production and post-production of audiovisual works, particularly television entertainment services, namely, a continuing competition-based program and companion variety programs with actual and/or fictional characters in comedic, dramatic, documental broadcast over television, satellite, audio and video media, and via a global computer network; providing information in the field of

entertainment via a global computer network; entertainment services, namely, an on-going television series broadcast over television and podcast featuring competition-based programming and companion programming with actual and/or fictional characters involved in comedic, dramatic, documental and animated stories; distribution for others of programs; Production of pre-recorded optical, electronic, digital, and magnetic media in the nature of downloadable media featuring competition-based entertainment and companion programming with actual and/or fictional characters involved in comedic, dramatic and documental stories” in International Class 4, and claims a first use in commerce date of December 31, 2009;

b) U.S. Trademark Registration No. 4109319 for the mark AMERICAN NINJA WARRIOR filed on December 16, 2009 and registered on March 6, 2012, for “Pre-recorded compact discs, laser discs, CD-ROMs, DVDs, DVD-ROMs, videotapes, videocassettes, and other pre-recorded optical, electronic, digital, and magnetic media featuring competition-based entertainment and companion programming with actual and/or fictional characters involved in comedic, dramatic, documental, live-action and animated stories; computer game software; computer game programs and cartridges; electronic game programs; video game software; computer screen saver software; downloadable graphics and sound recordings via a global computer network and wireless devices; analog and digital materials, namely, downloadable video recordings, audio recordings, digital photographs, digital still images, digital moving images, computer software screen savers, and digital computer desktop background images for computers

and wireless devices; motion picture films featuring competition-based entertainment and companion programming with actual and/or fictional characters involved in comedic, dramatic, documental and animated stories” in International Class 9 and claims a first use in commerce date of July 1, 2011; and

c) U.S. Trademark Registration No. 4777365 for the mark AMERICAN NINJA WARRIOR, filed on July 16, 2010 and registered on July 21, 2015, for “clothing for men, women and children, namely, shirts, t-shirts, sweatshirts, hats, caps, headbands” in International Class 25, and claims a first use in commerce date of May 26, 2015.

6. Petitioner also owns common law rights in and to the mark ANW (“ANW Mark”) and owns U.S. Trademark Application No. 86852438 (“Application”) filed December 17, 2015, for “Clothing, namely, shirts, T-shirts, blouses, tank tops, skirts, trousers, jeans, pants, shorts, skorts, overalls, jumpers, rompers, dresses, sweaters, jackets, blazers, coats, ponchos, scarves, stoles, shawls, socks, tights, leotards, stockings, leggings, leg warmers, slipper socks, ties, bow ties, pocket squares, suspenders, belts, aprons, undershirts, underpants, underwear, snow suits, snow pants, ear muffs; mittens, gloves, cloth bibs, plastic baby bibs, infantwear; sweatshirts, sweatpants, jogging suits, masquerade and Halloween costumes and masks sold in connection therewith; sleepwear; loungewear; swimwear; rainwear; footwear; headwear; Halloween costumes” in International Class 25. A copy of the Application for the ANW Mark is attached hereto as Exhibit A.

7. In a Non-Final Office Action dated October 6, 2017, the United States Patent and Trademark Office (“USPTO”) refused to register the ANW Mark based on a

likelihood of confusion under Section 2(d) of the U.S. Trademark Act (“Section 2(d)”) with U.S. Trademark Registration No. 5205477 for the EAT SLEEP TRAIN ANW Mark.

8. Petitioner has contemporaneously requested, along with the filing of this Petition for Cancellation, that prosecution of its Application for the ANW mark be suspended pending the outcome of this Cancellation proceeding.

B. Registrant, Atticus Phengsykeo

9. On information and belief, Registrant is an individual residing at 3401 Vintage Street, Houston, Texas 77026.

10. On or about August 5, 2015, Registrant filed the application to register the EAT SLEEP TRAIN ANW Mark that matured into U.S. Trademark Registration No. 5205477 covering “Head wear; Shirts; Tops” in International Class 25. A copy of the Certificate for the Registration, U.S. Trademark Registration No. 5205477, from the USPTO electronic database is attached hereto as Exhibit B. In addition, the TARR status record for the Registration from the USPTO electronic database is attached hereto as Exhibit C.

11. The application to register the EAT SLEEP TRAIN ANW Mark was filed based on use under Section 1(b) of the Lanham Act, 15 U.S.C. § 1051(b). A Statement of Use was filed on August 11, 2016 amending the filing basis to Section 1(a) of the Lanham Act, 15, U.S.C. § 1051(a). In support thereof, Registrant claimed the EAT SLEEP TRAIN ANW Mark was first used in commerce in connection with Registrant’s Goods since August 10, 2016. A copy of the Statement of Use is attached hereto as Exhibit D.

12. The application to register the EAT SLEEP TRAIN ANW Mark was filed without Petitioner's authorization, consent, or prior knowledge.

13. Petitioner's rights in the American Ninja Warrior television series and the ANW mark predate the filing date of the application to register the EAT SLEEP TRAIN ANW Mark, and Registrant's claimed date of first use. Petitioner therefore has rights that are senior to any rights that may be claimed by Registrant.

C. Petitioner's Claims Against the Registration

COUNT I – LIKELIHOOD OF CONFUSION

14. Petitioner incorporates paragraphs 1 – 13 by reference and realleges the same as if originally set forth herein.

15. There is a likelihood of confusion based on source and/or association between the ANW Mark and the goods Petitioner offers under the ANW Mark, and Registrant's EAT SLEEP TRAIN ANW Mark and the goods Registrant offers under Registrant's Mark.

16. In particular, the marks are confusingly similar because the EAT SLEEP TRAIN ANW Mark is nearly identical to ANW Mark as they both share the dominant source identifying element ANW which is an abbreviation for Petitioner's well-known television series American Ninja Warrior.

17. Further, Registrant is using the EAT SLEEP TRAIN ANW Mark in connection with goods that are similar and related to the Petitioner's goods, targeted to the same class of consumers as the Petitioner's Goods intended to move within the same channels of trade as the Petitioner's Goods, and/or likely to be associated by consumers with Petitioner.

18. As a result, any minor differences between the marks do not avoid a likelihood of confusion between the marks.

19. Given the filing date of the Registrant's application, Registrant was clearly exposed to and aware of Petitioner, the American Ninja Warrior television series, and the ANW Mark before filing the application with the USPTO. Upon information and belief, due to the notoriety of the ANW Mark, Applicant's selection of a mark that is not only confusingly similar but whose dominant element is also identical to ANW Mark (which is an acronym for Petitioner's well-known American Ninja Warrior television series) was no coincidence, and was intended to trade off of the substantial reputation and goodwill of TBST and ANW Mark.

20. As a result of the reputation of TBST, the fame of the American Ninja Warrior television series, and the ANW Mark, Registrant's selection of a similar mark to Petitioner's mark and well-known abbreviation used to refer to Petitioner's American Ninja Warrior television series, was no coincidence, and was intended to trade off of the substantial reputation and goodwill of the Petitioner, the American Ninja Warrior television series, and the ANW Mark.

21. As a result of the similarity between the EAT SLEEP TRAIN ANW Mark and ANW Mark, registration of the EAT SLEEP TRAIN ANW Mark is likely to cause confusion, mistake, and/or deception of purchasers as to the source of the parties' respective goods, and, therefore, registration of the EAT SLEEP TRAIN ANW Mark should be cancelled. The likelihood of confusion is further evidenced by a Google search of the term "eat sleep train anw" which results in multiple images and links all

referencing Petitioner's television series American Ninja Warrior. See Exhibit E attached hereto.

22. As a result of the similarity between the EAT SLEEP TRAIN ANW Mark and ANW Mark, registration of the EAT SLEEP TRAIN ANW Mark is likely to cause confusion, mistake, and/or deception as to (a) the affiliation, connection, or association between Petitioner and Registrant, and/or (b) the origin, sponsorship, or approval of Registrant's goods by Petitioner, and, therefore, registration of the Applicant's EAT SLEEP TRAIN ANW Mark should be cancelled.

23. Because the USPTO issued an Office Action dated October 6, 2017, in which the USPTO refused to register the ANW Mark based on a likelihood of confusion under Section 2(d) with the Registration for the EAT SLEEP TRAIN ANW Mark, Petitioner is being and will continue to be damaged by the Registrant's Registration.

24. Therefore, registration of the EAT SLEEP TRAIN ANW Mark should be cancelled.

WHEREFORE, Petitioner Tokyo Broadcasting System Television, Inc. respectfully requests that the instant petition be granted, and that United States Trademark Registration No. 5205477 be cancelled.

RESPECTFULLY SUBMITTED,

**TOKYO BROADCASTING SYSTEM
TELEVISION, INC.**

Date: March 29, 2018

By: /Michael J. Rye/

Michael J. Rye, Esq.

Tasia E. Perkins, Esq.

CANTOR COLBURN LLP

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Hartford, CT 06103

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tperkins@cantorcolburn.com

Attorneys for Petitioner

Tokyo Broadcasting System Television, Inc.

EXHIBIT A

Trademark/Service Mark Application, Principal Register

Serial Number: 86852438

Filing Date: 12/17/2015

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86852438
MARK INFORMATION	
*MARK	ANW
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	ANW
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	TOKYO BROADCASTING SYSTEM TELEVISION, INC.
*STREET	5-3-6 Akasaka, Minato-Ku
*CITY	Tokyo
*COUNTRY	Japan
*ZIP/POSTAL CODE (Required for U.S. applicants)	107-8006
LEGAL ENTITY INFORMATION	
TYPE	corporation
STATE/COUNTRY OF INCORPORATION	Japan
GOODS AND/OR SERVICES AND BASIS INFORMATION	
INTERNATIONAL CLASS	025
*IDENTIFICATION	Clothing, namely, shirts, T-shirts, blouses, tank tops, skirts, trousers, jeans, pants, shorts, skorts, overalls, jumpers, rompers, dresses, sweaters, jackets, blazers, coats, ponchos, scarves, stoles, shawls, socks, tights, leotards, stockings, leggings, leg warmers, slipper socks, ties, bow ties, pocket squares, suspenders, belts, aprons, undershirts, underpants, underwear, snow suits, snow pants, ear muffs; mittens, gloves, cloth bibs, plastic baby bibs, infantwear; sweatshirts, sweatpants, jogging suits, masquerade and Halloween costumes and masks sold in connection therewith; sleepwear; loungewear; swimwear; rainwear; footwear; headwear; Halloween costumes.
FILING BASIS	SECTION 1(b)
ATTORNEY INFORMATION	

NAME	David Hazlehurst
FIRM NAME	NBCUniversal
INTERNAL ADDRESS	1280/6
STREET	100 Universal City Plaza
CITY	Universal City
STATE	California
COUNTRY	United States
ZIP/POSTAL CODE	91608
PHONE	8187776260
FAX	8188661426
EMAIL ADDRESS	trademarks@nbcuni.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
OTHER APPOINTED ATTORNEY	Tirzah Lowe, Tara Riley
CORRESPONDENCE INFORMATION	
NAME	David Hazlehurst
FIRM NAME	NBCUniversal
INTERNAL ADDRESS	1280/6
STREET	100 Universal City Plaza
CITY	Universal City
STATE	California
COUNTRY	United States
ZIP/POSTAL CODE	91608
PHONE	8187776260
FAX	8188661426
*EMAIL ADDRESS	trademarks@nbcuni.com
*AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
APPLICATION FILING OPTION	TEAS RF
NUMBER OF CLASSES	1
FEE PER CLASS	275
*TOTAL FEE DUE	275
*TOTAL FEE PAID	275
SIGNATURE INFORMATION	
SIGNATURE	/david b hazlehurst/
SIGNATORY'S NAME	David Hazlehurst
SIGNATORY'S POSITION	Attorney of Record, California bar member
SIGNATORY'S PHONE NUMBER	8187776260

DATE SIGNED

12/17/2015

Trademark/Service Mark Application, Principal Register

Serial Number: 86852438

Filing Date: 12/17/2015

To the Commissioner for Trademarks:

MARK: ANW (Standard Characters, see [mark](#))

The literal element of the mark consists of ANW.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, TOKYO BROADCASTING SYSTEM TELEVISION, INC., a corporation of Japan, having an address of
5-3-6 Akasaka, Minato-Ku
Tokyo 107-8006
Japan

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 025: Clothing, namely, shirts, T-shirts, blouses, tank tops, skirts, trousers, jeans, pants, shorts, skorts, overalls, jumpers, rompers, dresses, sweaters, jackets, blazers, coats, ponchos, scarves, stoles, shawls, socks, tights, leotards, stockings, leggings, leg warmers, slipper socks, ties, bow ties, pocket squares, suspenders, belts, aprons, undershirts, underpants, underwear, snow suits, snow pants, ear muffs; mittens, gloves, cloth bibs, plastic baby bibs, infantwear; sweatshirts, sweatpants, jogging suits, masquerade and Halloween costumes and masks sold in connection therewith; sleepwear; loungewear; swimwear; rainwear; footwear; headwear; Halloween costumes.

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services.

The applicant's current Attorney Information:

David Hazlehurst and Tirzah Lowe, Tara Riley of NBCUniversal
1280/6
100 Universal City Plaza
Universal City, California 91608
United States
8187776260(phone)
8188661426(fax)
trademarks@nbcuni.com (authorized)

The applicant's current Correspondence Information:

David Hazlehurst
NBCUniversal
1280/6
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Universal City, California 91608
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E-mail Authorization: I authorize the USPTO to send e-mail correspondence concerning the application to the applicant or applicant's attorney at the e-mail address provided above. I understand that a valid e-mail address must be maintained and that the applicant or the applicant's attorney must file the relevant subsequent application-related submissions via the Trademark Electronic Application System (TEAS). Failure to do so will result in an additional processing fee of \$50 per international class of goods/services.

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

Declaration

The signatory believes that: if the applicant is filing the application under 15 U.S.C. § 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant is using the mark in commerce on or in connection with the goods/services in the application; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e), the applicant is entitled to use the mark in commerce; the applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /david b hazlehurst/ Date: 12/17/2015

Signatory's Name: David Hazlehurst

Signatory's Position: Attorney of Record, California bar member

RAM Sale Number: 86852438

RAM Accounting Date: 12/18/2015

Serial Number: 86852438

Internet Transmission Date: Thu Dec 17 14:41:21 EST 2015

TEAS Stamp: USPTO/BAS-XXX.XXX.XXX.XX-201512171441218

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7-DA-458-20151216153545023713

ANW

EXHIBIT B

United States of America

United States Patent and Trademark Office

EAT SLEEP TRAIN ANW

Reg. No. 5,205,477

Phengsykeo, Atticus (UNITED STATES INDIVIDUAL)
3401 Vintage St.
Houston, TX 77026

Registered May 16, 2017

Int. Cl.: 25

CLASS 25: Head wear; Shirts; Tops

Trademark

FIRST USE 8-10-2016; IN COMMERCE 8-10-2016

Principal Register

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

SER. NO. 86-716,021, FILED 08-05-2015
JOHN C B HWANG, EXAMINING ATTORNEY



Michelle K. Lee

Director of the United States
Patent and Trademark Office

REQUIREMENTS TO MAINTAIN YOUR FEDERAL TRADEMARK REGISTRATION

WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.

Requirements in the First Ten Years*

What and When to File:

- **First Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.
- **Second Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between the 9th and 10th years after the registration date.* See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*

What and When to File:

- You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

NOTE: A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at <http://www.uspto.gov>.

EXHIBIT C

Generated on: This page was generated by TSDR on 2018-03-29 13:19:59 EDT

Mark: EAT SLEEP TRAIN ANW

EAT SLEEP TRAIN ANW

US Serial Number: 86716021

Application Filing Date: Aug. 05, 2015

US Registration Number: 5205477

Registration Date: May 16, 2017

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Trademark

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: May 16, 2017

Publication Date: Dec. 22, 2015

Notice of Allowance Date: Feb. 16, 2016

Mark Information

Mark Literal Elements: EAT SLEEP TRAIN ANW

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

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: Head wear; Shirts; Tops

International Class(es): 025 - Primary Class

U.S Class(es): 022, 039

Class Status: ACTIVE

Basis: 1(a)

First Use: Aug. 10, 2016

Use in Commerce: Aug. 10, 2016

Basis Information (Case Level)

Filed Use: No

Currently Use: Yes

Amended Use: No

Filed ITU: Yes

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: Phengsykeo, Atticus

Owner Address: 3401 Vintage St.
Houston, TEXAS 77026
UNITED STATES

Legal Entity Type: INDIVIDUAL

Citizenship: UNITED STATES

Attorney/Correspondence Information

Attorney of Record

Attorney Name: L. Jeremy Craft and Andrew W. Chu

Docket Number: 506/004

Attorney Primary Email Address: trademark@craftchu.com

Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: L. JEREMY CRAFT AND ANDREW W. CHU
Craft Chu PLLC
1445 North Loop W Ste 410
Houston, TEXAS 77008-4603
UNITED STATES

Phone: 7138029144

Fax: 8667077596

Correspondent e-mail: trademark@craftchu.com

Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
May 16, 2017	REGISTERED-PRINCIPAL REGISTER	
Apr. 08, 2017	NOTICE OF ACCEPTANCE OF STATEMENT OF USE E-MAILED	
Apr. 07, 2017	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Apr. 07, 2017	TEAS/EMAIL CORRESPONDENCE ENTERED	66213
Apr. 07, 2017	CORRESPONDENCE RECEIVED IN LAW OFFICE	66213
Apr. 05, 2017	ASSIGNED TO LIE	66213
Mar. 20, 2017	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Sep. 20, 2016	NOTIFICATION OF NON-FINAL ACTION E-MAILED	
Sep. 20, 2016	NON-FINAL ACTION E-MAILED	
Sep. 20, 2016	SU - NON-FINAL ACTION - WRITTEN	76843
Sep. 07, 2016	STATEMENT OF USE PROCESSING COMPLETE	61813
Aug. 11, 2016	USE AMENDMENT FILED	61813
Sep. 06, 2016	CASE ASSIGNED TO INTENT TO USE PARALEGAL	61813
Aug. 11, 2016	TEAS STATEMENT OF USE RECEIVED	
Feb. 16, 2016	NOA E-MAILED - SOU REQUIRED FROM APPLICANT	
Dec. 22, 2015	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Dec. 22, 2015	PUBLISHED FOR OPPOSITION	
Dec. 02, 2015	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Nov. 18, 2015	APPROVED FOR PUB - PRINCIPAL REGISTER	
Nov. 16, 2015	ASSIGNED TO EXAMINER	76843
Aug. 11, 2015	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Aug. 08, 2015	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Apr. 07, 2017

EXHIBIT D

Trademark/Service Mark Statement of Use (15 U.S.C. Section 1051(d))

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86716021
LAW OFFICE ASSIGNED	LAW OFFICE 114
EXTENSION OF USE	NO
MARK SECTION	
MARK	http://tmng-al.uspto.gov/resting2/api/img/86716021/large
LITERAL ELEMENT	EAT SLEEP TRAIN ANW
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size or color.
OWNER SECTION	
NAME	Phengsykeo, Atticus
STREET	3401 Vintage St.
CITY	Houston
STATE	Texas
ZIP/POSTAL CODE	77026
COUNTRY	United States
GOODS AND/OR SERVICES SECTION	
INTERNATIONAL CLASS	025
CURRENT IDENTIFICATION	Head wear; Shirts; Tops
GOODS OR SERVICES	KEEP ALL LISTED
FIRST USE ANYWHERE DATE	08/10/2016
FIRST USE IN COMMERCE DATE	08/10/2016
SPECIMEN FILE NAME(S)	
ORIGINAL PDF FILE	SPN0-17311198217-20160811170318177717_506.004.Specimen.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\867\160\86716021\xml10\SOU0002.JPG
SPECIMEN DESCRIPTION	image of the mark affixed onto the goods
REQUEST TO DIVIDE	NO
PAYMENT SECTION	
NUMBER OF CLASSES IN USE	1

SUBTOTAL AMOUNT [ALLEGATION OF USE FEE]	100
TOTAL AMOUNT	100
SIGNATURE SECTION	
DECLARATION SIGNATURE	/506/004/
SIGNATORY'S NAME	L. Jeremy Craft
SIGNATORY'S POSITION	Attorney of record, Texas bar member
DATE SIGNED	08/11/2016
SIGNATORY'S PHONE NUMBER	7138029144
FILING INFORMATION	
SUBMIT DATE	Thu Aug 11 17:08:08 EDT 2016
TEAS STAMP	USPTO/SOU-XXX.XX.XXX.XXX- 20160811170808324121-8671 6021-55093235fa6f927cfc1f b297d698e528ec5c5358de7aa f11b6d794f5b0fab847-CC-38 18-20160811170318177717

Trademark/Service Mark Statement of Use
(15 U.S.C. Section 1051(d))

To the Commissioner for Trademarks:

MARK: EAT SLEEP TRAIN ANW(Standard Characters, see <http://tmng-al.uspto.gov/resting2/api/img/86716021/large>)

SERIAL NUMBER: 86716021

The applicant, Phengsykeo, Atticus, having an address of
3401 Vintage St.
Houston, Texas 77026
United States

is submitting the following allegation of use information:

For International Class 025:

Current identification: Head wear; Shirts; Tops

The mark is in use in commerce on or in connection with all of the goods/services, or to indicate membership in the collective organization listed in the application or Notice of Allowance or as subsequently modified for this specific class.

The mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as 08/10/2016, and first used in commerce at least as early as 08/10/2016, and is now in use in such commerce. The applicant is submitting one specimen for the class showing the mark as used in commerce on or in connection with any item in the class, consisting of a(n) image of the mark affixed onto the goods.

Original PDF file:

[SPNO-17311198217-20160811170318177717_-_506.004.Specimen.pdf](#)

Converted PDF file(s) (1 page)

[Specimen File1](#)

The applicant is not filing a Request to Divide with this Allegation of Use form.

A fee payment in the amount of \$100 will be submitted with the form, representing payment for the allegation of use for 1 class.

Declaration

STATEMENTS: The signatory believes that: if the applicant is filing the amendment to allege use under 15 U.S.C. §1051(c) or a statement of use under 15 U.S.C. §1051(d), the applicant is the owner of the mark sought to be registered; the mark is in use in commerce; **for a trademark or service mark application**, the applicant is using the mark in commerce on or in connection with all the goods/services in the application or notice of allowance, or as subsequently modified; **for a collective trademark, collective service mark, collective membership mark application**, the applicant is exercising legitimate control over the use of the mark in commerce by members on or in connection with all the goods/services/collective membership organization in the application or notice of allowance, or as subsequently modified; **for a certification mark application**, the applicant is exercising legitimate control over the use of the mark in commerce by authorized users on or in connection with the all goods/services in the application or notice of allowance, or as subsequently modified, and the applicant is not engaged in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant; that to the best of the signatory's knowledge and belief, no other persons, except, if applicable, authorized users, members, and/or concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services/collective membership organization of such other persons, to cause confusion or mistake, or to deceive; and the specimen(s) shows the mark as used on or in connection with the goods/services/collective membership organization in commerce.

DECLARATION: The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under

18 U.S.C. §1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.

Signature: /506/004/ Date Signed: 08/11/2016
Signatory's Name: L. Jeremy Craft
Signatory's Position: Attorney of record, Texas bar member
Signatory's Phone: 7138029144

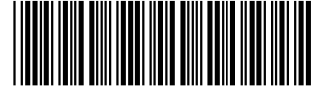
RAM Sale Number: 86716021
RAM Accounting Date: 08/12/2016

Serial Number: 86716021
Internet Transmission Date: Thu Aug 11 17:08:08 EDT 2016
TEAS Stamp: USPTO/SOU-XXX.XX.XXX.XXX-201608111708083
24121-86716021-55093235fa6f927cfc1fb297d
698e528ec5c5358de7aaf11b6d794f5b0fab847-
CC-3818-20160811170318177717



FEE RECORD SHEET

Serial Number: 86716021



RAM Sale Number: 86716021

Total Fees: \$100

RAM Accounting Date: 20160812

<u>Transaction</u>	<u>Fee Code</u>	<u>Transaction Date</u>	<u>Fee per Class</u>	<u>Number of Classes</u>	<u>Total Fee</u>
Statement of Use (SOU)	7003	20160811	\$100	1	\$100

Transaction Date: 20160811



EXHIBIT E



eat sleep train anw



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About 4,270 results (0.33 seconds)

EAT SLEEP TRAIN ANW Trademark of Phengsykeo, Atticus ...

<https://trademarks.justia.com/867/16/eat-sleep-train-86716021.html>

EAT SLEEP TRAIN ANW is a trademark of Phengsykeo, Atticus. Filed in August 5 (2015), the EAT SLEEP TRAIN ANW covers Head wear; Shirts; Tops.

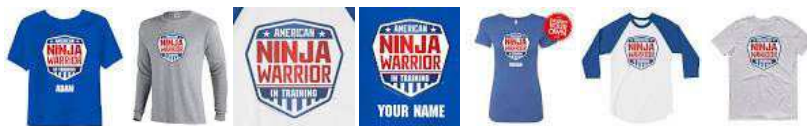
You've visited this page 2 times. Last visit: 3/26/18

EAT SLEEP TRAIN ANW Trademark of Phengsykeo, Atticus. Serial ...

<https://www.trademarkia.com> › Trademark Category › Clothing Products

EAT SLEEP TRAIN ANW is a trademark and brand of Phengsykeo, Atticus. Filed to USPTO On Wednesday, August 05, 2015, The EAT SLEEP TRAIN ANW covers Head wear; Shirts; Tops. Search for other trademarks at Trademarkia.

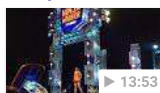
Images for eat sleep train anw



→ More images for eat sleep train anw

Report images

Bodybuilder Ninja Run! American Ninja Warrior Pittsburgh (Mimi ...



<https://www.youtube.com/watch?v=j4Z2WWGGYIA>

Jun 30, 2015 - Uploaded by EAT Not Diet

I really appreciate it! BIG thank you to everyone who watched ANW last night w...
Bodybuilder Ninja Run ...

Personalized American Ninja Warrior In Training Toddler T-Shirt

<https://www.nbcstore.com/personalized-american-ninja-warrior-in-training-toddler-t-s...>

\$19.95 - In stock

This t-shirt features the American Ninja Warrior color logo across the front as well as in training so you can let everyone know you are training to be the next American Ninja Warrior.

Missing: eat

You visited this page on 3/26/18.

Personalized American Ninja Warrior In Training Women's Tri-Blend ...

<https://www.nbcstore.com/personalized-american-ninja-warrior-in-training-women-s-t...>

\$27.95 - In stock

This t-shirt features the American Ninja Warrior color logo across the front as well as in training so you can let everyone know you are training to be the next American Ninja Warrior.

Missing: eat

American Ninja Warrior: Jessie Graff's Workout Challenge | PEOPLE ...

people.com/bodies/american-ninja-warrior-jessie-graff-workout-challenge/

Jun 4, 2017 - American Ninja Warrior star and stuntwoman Jessie Graff will compete along with the rest of USA's Dream Team as they take on some of the world's best ninjas on Sunday night's "USA vs. The World" special on NBC, and getting to her level of fitness came with a lot of hard work. Want to train like a Warrior?

'American Ninja Warrior' says he's really training for life

www.tampabay.com/news/health/american-ninja-warrior-says...training.../2196212

Sep 5, 2014 - "So I went home that night, looked it up on the Internet and said, 'Hey, I can do that.' "

Morris had learned how to ... "So you start to notice what you eat, where you go, how you feel, what you do," he said. "It all has to be in ... There is no way to train for the American Ninja Warrior course, Morris said. And he is ...

How to work out like an 'American Ninja Warrior' badass | New York Post

<https://nypost.com/.../american-ninja-warrior-badass-jessie-graff-reveals-her-fitness-ro...>

Sep 20, 2016 - There's lots of stunt-specific training and skill training that has to be mixed in as much as possible on the appropriate day, but everyone's schedule in stunts is chaotic. Modal Trigger Jessie Graff gets a leg up on the red-carpet competition at the Emmys Sunday night. David Crotty/PMC. I eat a balanced meal ...

A Day in the Life: American Ninja Warrior Josh Levin – Boston Magazine

<https://www.bostonmagazine.com/health/2016/07/.../josh-levin-american-ninja-warrio...>

Jul 13, 2016 - Josh Levin, a senior at Northeastern University, advanced to the finals of American Ninja Warrior. Here, he tells us about his training regimen. ... Ever wondered how people who eat, sleep, and breathe health spend their days? We did. So in this series, we'll take you behind the scenes and show you a day ...

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- [american ninja warrior headbands](#)
- [american ninja warrior dvd](#)
- [american ninja warrior kids](#)