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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	Defiance Machine, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	3881 MT Highway 40 West Columbia Falls, MT 59912 UNITED STATES		

Attorney information	Jeffrey A Nelson Cairncross & Hempelmann 524 2nd Avenue Suite 500 Seattle, WA 98104 UNITED STATES Email: trademark@cairncross.com, jnelson@cairncross.com Phone: 206.254.4476

Registration Subject to Cancellation

Registration No.	4516747	Registration date	04/22/2014
International Registration No.	NONE	International Registration Date	NONE
Registrant	Kriss International SA Chemin de la VuarpilliÃ¨re 35 CH-1260 Nyon SWITZERLAND		

Goods/Services Subject to Cancellation

Class 009. First Use: 0 First Use In Commerce: 0 All goods and services in the class are subject to cancellation, namely: Telescopes for firearms; clothing for protection against accidents, irradiationand fire, gloves for protection againstaccidents, bullet-proof vests, life jackets, clothing for protection against fire; batteries for pocket lamps, thermionic lamps and tubes, lasers, not for medical purposes; optical goods, namely, optical lenses, telescopes, goggles for sports, sighting telescopes for firearms; spectacle cases; signaling whistles; dog whistles
Class 013. First Use: 0 First Use In Commerce: 0 All goods and services in the class are subject to cancellation, namely: Firearms; ammunition and projectiles; explosives; fireworks, guns, harpoon gunsbeing weapons, pistols, air pistols, revolvers, automatic mortars, artillery guns, rocket launchers, ballistic missiles; mines; projectiles; rockets; fuses forexplosives for use in mines; fuses for explosives; breeches of firearms; noise-suppressors for guns; cartridge pouches,cartridge belts, cartridge cases; cleaning brushes for firearms; fuses for explosives; rifle cases, gunstocks, rifle barrels, hammers for guns and rifles, cases, sighting mirrors for guns and rifles,trigger guards for guns and rifles, gunstocks; sights, other than telescopic sights, for firearms, firearm sights; firing platforms
Class 025. First Use: 0 First Use In Commerce: 0

All goods and services in the class are subject to cancellation, namely: footwear, gloves, berets, hosiery; bonnet hoods, caps, hats, cap peaks, chasubles; boots, half-boots; belts, money belts; footwear, boots for sports, socks, slippers, spats, leggings; shirts, chemisettes, pullovers, slips, waistcoats, jerseys, uniforms, jackets, trousers, overcoats, parkas, pelerines; mittens, mitres;sweat-absorbent underclothing; scarves

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act Sections 14(1) and 2(d)
Abandonment	Trademark Act Section 14(3)

Mark Cited by Petitioner as Basis for Cancellation

U.S. Application No.	87483650	Application Date	06/11/2017
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	DEFIANCE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 013. First use: First Use: 2009/09/01 First Use In Commerce: 2009/09/01 International Class 13: Component partsfor firearms, namely, customized bolt action receivers		

Attachments	87483650#TMSN.png(bytes) Defiance Machine - Petition to Cancel DEFIANCE by Kriss.pdf(20205 bytes)

Signature	/Jeffrey A Nelson/
Name	Jeffrey A Nelson
Date	04/17/2018

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

Defiance Machine, Inc., Petitioner, v. Kriss International SA, Respondent.	Cancellation No.: _____ Registration Nos.: 4516747 PETITION FOR CANCELLATION

Defiance Machine, Inc., a corporation organized under the laws of the state of Delaware ("**Petitioner**"), petitions to cancel U.S. Registration No. 4516747 (the "**Kriss Registration**") filed by Kriss International SA ("**Respondent**").

Petitioner believes that it has been and will continue to be harmed by registration of the mark shown in the Kriss Registration. Accordingly, Petitioner seeks to cancel the Kriss Registration on the following grounds:

1. Petitioner has been manufacturing high-end bolt actions for firearms since its founding in 2009.

2. Petitioner enjoys an enviable reputation in the firearms industry built upon the quality, precision, and accuracy of its products, and its relentless focus on customer service.

3. Since at least as early as 2009, Petitioner has manufactured, distributed and sold high-quality actions for firearms bearing the distinctive DEFIANCE trademark to customers across the United States.

4. In connection therewith, Petitioner has sold or otherwise distributed clothing bearing the DEFIANCE trademark to customers and potential customers.

5. Over nearly a decade, Petitioner has developed considerable goodwill in its DEFIANCE mark based on significant sales and its sterling reputation as a customer-focused maker of high-quality firearm actions.

6. Petitioner's common law rights in its DEFIANCE trademark in the firearms industry and clothing related thereto date back to 2009.

7. Gun manufacturers and purchasers of firearms recognize Petitioner's DEFIANCE mark as identifying goods which emanate exclusively from Petitioner and have so recognized the DEFIANCE mark since before any date upon which Respondent can rely for priority purposes.

8. On information and belief, Respondent is a company organized under the laws of Switzerland. The USPTO records do not include an email address for Respondent. To the best of Petitioner's knowledge, from information available on Respondent's website, the following is a current email address for Respondent: info@kriss-usa.com.

9. On April 21, 2011, Respondent filed Application Serial No. 79/095497 to register the DEFIANCE mark with a December 9, 2010, priority claim, with an alleged intent to use the mark in association with firearms and a wide variety of products related to firearms, components and parts therefore, and clothing and other promotional items, in Classes 9, 13, and 25. The filing basis for Respondent's application was Section 66(a).

10. On April 22, 2014, Respondent's application matured into the Kriss Registration.

11. The Kriss Registration covers the following goods: "Telescopes for firearms; clothing for protection against accidents, irradiation and fire, gloves for protection against accidents, bullet-proof vests, life jackets, clothing for protection against fire; batteries for pocket lamps, thermionic lamps and tubes, lasers, not for medical purposes; optical goods, namely, optical lenses, telescopes, goggles for sports, sighting telescopes for firearms; spectacle cases;

signaling whistles; dog whistles" in Class 9; "Firearms; ammunition and projectiles; explosives; fireworks, guns, harpoon guns being weapons, pistols, air pistols, revolvers, automatic mortars, artillery guns, rocket launchers, ballistic missiles; mines; projectiles; rockets; fuses for explosives for use in mines; fuses for explosives; breeches of firearms; noise-suppressors for guns; cartridge pouches, cartridge belts, cartridge cases; cleaning brushes for firearms; fuses for explosives; rifle cases, gunstocks, rifle barrels, hammers for guns and rifles, cases, sighting mirrors for guns and rifles, trigger guards for guns and rifles, gunstocks; sights, other than telescopic sights, for firearms, firearm sights; firing platforms" in Class 13; and "footwear, gloves, berets, hosiery; bonnet hoods, caps, hats, cap peaks, chasubles; boots, half-boots; belts, money belts; footwear, boots for sports, socks, slippers, spats, leggings; shirts, chemisettes, pullovers, slips, waistcoats, jerseys, uniforms, jackets, trousers, overcoats, parkas, pelerines; mittens, mitres; sweat-absorbent underclothing; scarves" in Class 25 (collectively, the "**Kriss Goods**").

12. Under Section 66(a), Respondent's application included a declaration that Respondent had a bona fide intention to use the DEFIANCE mark in U.S. commerce with all of the Kriss Goods. On information and belief, Respondent has not used the DEFIANCE mark in U.S. commerce in association with all of the Kriss Goods in the four years since the Kriss Registration issued.

13. Respondent's DEFIANCE mark is identical to Petitioner's DEFIANCE mark.

14. Petitioner's firearm actions and clothing bearing its DEFIANCE mark and the Kriss Goods are sold to the same types of customers and through the same or similar trade channels within the firearms industry.

15. Petitioner's firearm actions and clothing bearing its DEFIANCE mark and the Kriss Goods are identical, competitive, complementary, or otherwise related products.

16. Respondent's use and registration of the DEFIANCE trademark with the Kriss Goods is likely to cause confusion, deception, and mistake with Petitioner's DEFIANCE mark.

17. The Kriss Registration gives Respondent prima facie evidence of the exclusive right to use the DEFIANCE trademark with the Kriss Goods, despite Petitioner's prior trademark rights in its DEFIANCE mark and the fact that Respondent has not used the DEFIANCE mark in association with all of the Kriss Goods. This is a source of harm to Petitioner.

18. The Kriss Registration was cited by the USPTO against Petitioner's application to register its DEFIANCE trademark, Serial No. 84/483650.

19. Respondent's registration of the DEFIANCE mark for the Kriss Goods in the Kriss Registration has damaged, and will continue to be a source of damage to, Petitioner.

Therefore, Petitioner requests cancellation of the Kriss Registration.

Dated: April 17, 2018

Respectfully submitted,

Jeffrey A. Nelson
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Attorneys for Petitioner