

ESTTA Tracking number: **ESTTA913905**

Filing date: **08/06/2018**

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	Supercell Oy		
Entity	osakeyhtio	Citizenship	Finland
Address	Itamerenkatu 11 Helsinki, FI-00180 FINLAND		

Attorney information	Karin Segall LEASON ELLIS LLP ONE BARKER AVENUE, FIFTH FLOOR White Plains, NY 10601 UNITED STATES Email: tmddocket@leasonellis.com , segall@leasonellis.com , clarke@leasonellis.com , lelitdocketing@leasonellis.com Phone: 914-821-9072
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Registration Subject to Cancellation

Registration No.	4233028	Registration date	10/30/2012
Registrant	Lavahound, Inc. 331 Louella Avenue Wayne, PA 19087 UNITED STATES		

Goods/Services Subject to Cancellation

Class 009. First Use: 2011/06/23 First Use In Commerce: 2011/06/23 All goods and services in the class are subject to cancellation, namely: computer game software in the nature of a mobile application

Grounds for Cancellation

Abandonment	Trademark Act Section 14(3)
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Attachments	02007950.PDF(106087 bytes)
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Signature	/deirdre a clarke/
Name	Deirdre A. Clarke
Date	08/06/2018

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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SUPERCELL OY,	:	
	:	
<i>Petitioner,</i>	:	
	:	
v.	:	
	:	
LAVAHOUND, INC.,	:	
	:	
<i>Registrant.</i>	:	
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PETITION FOR CANCELLATION

Supercell Oy (“Petitioner”), an osakeyhtiö organized and existing under the laws of Finland, having an address at Itämerenkatu 11 FI-00180 Helsinki, Finland, believes that it will be damaged by the continued existence of Registration No. 4233028 (the “Registration”) for the mark LAVAHOUND, issued January 29, 2002, in the name of Lavahound, Inc. (“Registrant”), a corporation organized under the laws of Delaware with an address of 331 Louella Avenue, Wayne, Pennsylvania 19087, and therefore petitions to cancel the same pursuant to Section 14(c) of the Lanham Trademark Act of 1946, 15 U.S.C. §1064(c).

As grounds for its cancellation, Petitioner, by its attorneys Leason Ellis LLP, alleges as follows:

FACTS

1. On June 12, 2017, Petitioner applied under Serial No. 79217159 (the “Application”) to register the mark LAVA HOUND for use with the following goods and services:

Class 9: Computer software and computer game software; downloadable computer software and computer game software; data storage media; game software adapted for use with television receivers; pre-recorded motion picture, television, and animation films; bags, cases and sleeves for storing and carrying

telephones, computers, headphones and cameras; covers for mobile phones, portable computers and tablets; headphones; downloadable publications; decorative magnets; memory sticks; belts and straps for telephones, computers, headphones and cameras; electric power units; all the aforementioned goods relating to computer games and computer game characters

Class 16: Paper and cardboard; comic books; newspapers, photographs, magazines, books, printed periodicals, newsletters, notebooks, and brochures; computer game instruction manuals; writing paper and envelopes; calendars; bookmarks; notebook and calendar covers; packing paper, wrapping paper and packaging materials; cardboard boxes; party decorations made of paper; pens, erasers; posters, paper banners; figures made of paper; paper bags; sticker albums, stickers; cards, post cards, collectable cards, trading cards; paper signs; all the aforementioned goods relating to computer games and computer game characters

Class 25: Clothing, footwear, headgear; T-shirts, sweat shirts, shirts, blouses, vests; jeans, pants, shorts; underwear, sportswear; socks; coats, jackets, suits; skirts; scarves; gloves, mittens; bathing suits, pajamas, negligee robes, bathrobes; caps and hats; all the aforementioned goods relating to computer games and computer game characters

Class 28: Electronic games; hand-held units for playing electronic games; action skill games; action figures as toys; toys, games and playthings; board games; game cards; play sets for action figures; game cards and playing cards; soft dolls; plush toys; stuffed toys, water toys, wooden toys, toys made of plastics; children's multiple activity toys; puzzles; balloons; bags, cases and sleeves for storing and carrying apparatus for games; all the aforementioned goods relating to computer games and computer game characters

Class 41: Electronic game services; providing on-line computer games; providing information on-line relating to computer games; provision of games by means of a computer based systems; providing interactive social games in a virtual environment; providing entertainment information relating to computer games via information network; entertainment services; providing on-line publications; presentation of movies, films, animations, and television programs; entertainment services in the nature of creation, development, and production of movies, films, animations, and television programs; organizing events and conferences for entertainment purposes; organizing of competitions; providing entertainment information relating to computer games via a website; providing computer games and gaming services through an internet website portal; all the aforementioned services relating to computer games and computer game characters

2. On October 6, 2017, the U.S. Patent and Trademark Office (“PTO”) refused registration to the Application under Lanham Act Section 2(d) on the ground of alleged likelihood of confusion with the mark covered by the Registration.
3. On April 6, 2018, Petitioner requested suspension of the Application pending the disposition of the Registration due to the opening of the filing period for the required continued use declaration.
4. On April 11, 2018, the U.S. Patent and Trademark Office issued a final action stating that suspension was not appropriate because the Registration’s renewal documents were not yet due and maintained the refusal based upon 2(d) of the Lanham Act.
5. The Registration is thus causing damage to Petitioner as it is preventing the Application from issuing to registration.
6. The Registration issued on October 30, 2012 for the mark LAVAHOUND for use with “computer game software in the nature of a mobile application” (the “Goods”).
7. On information and belief, Registrant is not using the mark covered by the Registration.
8. On information and belief, Registrant’s website located at www.lavahound.com is no longer functional.
9. On information and belief, Registrant is no longer in business.
10. On information and belief, Registrant has ceased use of the mark covered by the Registration without any intent to resume use.
11. On information and belief, Registrant has abandoned the mark covered by the Registration such that the Registration should be cancelled pursuant to 15 U.S.C. §1064(c).

WHEREFORE, it is respectfully requested that this cancellation action be sustained, and that
Registration No. 4233028 be cancelled.

Date: August 6, 2018
White Plains, New York

Respectfully submitted,

/Deirdre A. Clarke/
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