

ESTTA Tracking number: **ESTTA938261**

Filing date: **11/29/2018**

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	Xiaomi Inc.		
Entity	Corporation	Citizenship	China
Address	Rainbow City Shopping Mall II, Floor 13 No. 68, Qinghe Middle Street Beijing, 0 CHINA		

Attorney information	Ben Natter Haug Partners LLP 745 Fifth Avenue New York, NY 10151 UNITED STATES bnatter@haugpartners.com, jsblendorio@haugpartners.com, shomer@haugpartners.com, vnicolau@haugpartners.com 2125880800		
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Registration Subject to Cancellation

Registration No.	3763350	Registration date	03/23/2010
International Registration No.	NONE	International Registration Date	NONE
Registrant	Pinghu Mijia Children's Products Co., Ltd. QianJin Village, QuanTang Town, CHINA		

Goods/Services Subject to Cancellation

Class 012. First Use: 0 First Use In Commerce: 0 All goods and services in the class are subject to cancellation, namely: Electric vehicles, namely, cars, motorcycles; bicycles; tricycles; baby carriages; railway handcars; hoods for baby carriages; wheelchairs; folding luggage trolleys; covers for baby carriages; bicycles for children

Grounds for Cancellation

Abandonment	Trademark Act Section 14(3)
Fraud on the USPTO	Trademark Act Section 14(3); In re Bose Corp., 580 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. 2009)

Attachments	01865638.PDF(92700 bytes)
Signature	/Ben Natter/
Name	Ben Natter
Date	11/29/2018

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

Xiaomi Inc.,

Petitioner,

v.

Pinghu Mijia Children's Products Co., Ltd.,

Registrant.

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CANCELLATION NO.:
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To: Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

PETITION FOR CANCELLATION

Petitioner, Xiaomi Inc., is a Chinese corporation having an address of Rainbow City Shopping Mall II of China Resources, Floor 13, NO. 68, Qinghe Middle Street, Haidian District, Beijing, China, believes that it is and will continue to be damaged by Registration No. 4,344,082 and, pursuant to 15 U.S.C. § 1064 *et seq.* and 37 C.F.R. § 2.111, hereby petitions to cancel the same.

As grounds for cancellation it is alleged that:

1. On August 14, 2008, Registrant filed Application Serial No. 79/063,904, for the mark MIJIA (plus design) in connection with the following goods in international class 12: “Electric vehicles, namely, cars, motorcycles; bicycles; tricycles; baby carriages; railway

handcars; hoods for baby carriages; wheelchairs; folding luggage trolleys; covers for baby carriages; bicycles for children.”¹

2. Application Serial No. 79/063,904 matured into Reg. No. 3,763,350 on March 23, 2010 in connection with the above-listed goods.

3. Upon information and belief, Registrant is not using the mark MIJIA (plus design) in the United States in connection with the goods of Registration No. 3,763,350 or in any capacity and has never used the mark in the United States.

4. Upon information and belief, on May 21, 2015, Registrant, aware that false statements would jeopardize its registration, executed a declaration and submitted a specimen showing its mark was in use in commerce in the United States when in fact it was not.

5. Upon information and belief, Registrant did not have a bona fide intention to use the mark in commerce in connection with the goods listed in the application as of the date of filing of the application.

6. Upon information and belief, Registrant procured and maintained the aforesaid registration, Reg. No. 3,763,350, by false means and/or by knowingly and willfully making false and/or fraudulent representations.

7. Upon information and belief, said false statements were made with the intent to induce the USPTO to grant and maintain said registration, and reasonably relying upon the truth of said false statements, the USPTO did, in fact, grant and renew said registration to Registrant.

8. Upon information and belief and based upon Internet research, Registrant has not used its mark in commerce in connection with the goods of Registration No. 3,763,350 within the past three years.

¹ The mark MIJIA (plus design) was assigned in July 2018 to current owner, Pinghu Mijia Children’s Products Co., Ltd., and for purposes of this cancellation, Registrant refers to the previous owner, Pinghu Mega Vacuum Flask Industries Co., Ltd.

9. Upon information and belief, Registrant's mark is abandoned.

10. Registration No. 3,763,350 has been cited as a basis for refusal for Application Serial No. 79/231,500, for Petitioner's mark MIJIA (plus design).

11. Continued existence of Reg. No. 3,763,350 potentially dilutes the capacity of Petitioner's mark to identify goods originating from Petitioner.

12. Continued existence of Registration No. 3,763,350 will cause irreparable harm, injury and damage to Petitioner.

WHEREFORE, Petitioner requests that Registration No. 3,763,350 be canceled and that this Petition for Cancellation be sustained in favor of Petitioner.

Dated: New York, NY
November 29, 2018

Respectfully submitted,

By: /Ben Natter/

Ben Natter, Esq.
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New York, NY 10151
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email: bnatter@haugpartners.com

Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Petition for Cancellation was served this 29th day of November, 2018, by e-mailing a copy to Registrant's listed Correspondent, at: anthealee_ch@hotmail.com as required by the Trademark Trial and Appeal Board.

Date: November 29, 2018

By: /Ben Natter/
Ben Natter