

ESTTA Tracking number: **ESTTA971889**

Filing date: **05/07/2019**

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	The Poo Crew LLC		
Entity	Limited Liability Company	Citizenship	Colorado
Address	3895 Donnington Cir. Castle Rock, CO 80104 UNITED STATES		

Correspondence information	Russell Kinsey Attorney The Kinsey Law Office 1302 Columbine St. #106 Denver, CO 80206 UNITED STATES russell@thekinseylawoffice.com 720-316-7733
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Registration Subject to Cancellation

Registration No.	5189301	Registration date	04/25/2017
Registrant	Dog Poo Crew LLC PO Box 1023 Fargo, ND 58107 PO Box 1023 Fargo, ND 58107 UNITED STATES Email: service@dogpoocrew.com		

Goods/Services Subject to Cancellation


Class 037. First Use: 2012/01/01 First Use In Commerce: 2012/01/01 All goods and services in the class are subject to cancellation, namely: Dog waste removal services

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.	3622408	Application Date	10/02/2008
Registration Date	05/19/2009	Foreign Priority Date	NONE

Word Mark	THE POO CREW GOT POO? CALL THE CREW!		
Design Mark			
Description of Mark	<p>The mark consists of a brown line above the word "THE" appearing in green and outlined in black over the word "POO" appearing in brown and outlined in black over the word "CREW" appearing in the color green outlined in the color black. To the right of this wording appears a brown dog in a standing position with a brown line above its left ear with a white stomach, white jaw, white teeth, white nose, red tongue and black eyes with white surrounding the eyes, wearing a red tie with black polka dots and holding a gray bucket on the right leg and a gray shovel in the left paw. The bucket is attached to the dog's leg with a green ring. Inside the bucket is brown poo. The dog's right arm goes through the last "O" in the term "POO" to grasp the shovel. All of these elements are outlined in black. To the right of dog appears the wording "GOT POO? CALL THE CREW!" in brown. A short brown line follows this wording. Behind the dog and the wording "THE POO CREW" appears a background in the shape of a circle outlined in the color black with green grass and green trees with blue and white mountains, and a blue sky inside.</p>		
Goods/Services	Class 037. First use: First Use: 2006/10/03 First Use In Commerce: 2007/06/01 Pet odor removers, namely, removing pet odors from business or residential premises		
U.S. Registration No.	3770358	Application Date	06/04/2009
Registration Date	04/06/2010	Foreign Priority Date	NONE
Word Mark	THE POO CREW		

Design Mark	<h1>The POO Crew</h1>
Description of Mark	NONE
Goods/Services	Class 037. First use: First Use: 2006/10/03 First Use In Commerce: 2006/10/03 Pet waste removal

U.S. Registration No.	4854288	Application Date	02/02/2015
Registration Date	11/17/2015	Foreign Priority Date	NONE

Word Mark	THE POO CREW
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Design Mark	 <p>The logo features a cartoon dog with brown fur, white chest, and a red tie. The dog is holding a gray bucket in its left hand and a gray and black scooper in its right hand. The text 'The POO Crew' is written in a stylized font. 'The' and 'Crew' are in green with a black outline, while 'POO' is in dark brown with a black outline.</p>
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Description of Mark	The mark consists of the literal element "THE POO CREW" and stylized design of a dog holding a bucket, with the word "POO" appearing in dark brown and the words "THE" and "CREW" appearing in green with a black outline, with the dog appearing in the colors brown, white, red and gray holding a gray and black bucket and gray and black scooper.
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Goods/Services	Class 037. First use: First Use: 2006/10/03 First Use In Commerce: 2007/06/01 Pet odor removers, namely, removing petodors from business or residential premises
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Attachments	77583713#TMSN.png(bytes) 77752138#TMSN.png(bytes)
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Signature	/Russell W Kinsey/
Name	Russell Kinsey
Date	05/07/2019

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

In re Registration of: Dog Poo Crew, LLC
Reg. No.: 5,189,301
Reg. Date: April 25, 2017
Mark: Dog Poo Crew
Dog Waste Removal and Pet Services

The Poo Crew LLC)
)
Petitioner,)
)
) Cancellation No.
)
Dog Poo Crew, LLC)
)
)
Registrant.)

PETITION TO CANCEL

The Poo Crew LLC (“Petitioner”) a Colorado limited liability company with a principal place of business at 3895 Donnington Cir, Castle Rock, CO 80104, is being damaged by registration of the mark shown in registration No. 5,189,301 (the “Registration”) held by Dog Poo Crew, LLC (“Registrant”) and petitions to cancel the same under Section 14 of the Trademark Act of 1946 (“Lanham Act”), 15 U.S.C. § 1064. As grounds for cancellation, Petitioner alleges that:

1. Petitioner is the owner of record of trademark registration No. 3770358, 4854288, and 3622408 in International Class 37 for “pet waste removal” (“Petitioner’s Registrations”) as shown below:



2. Upon information and belief, Petitioner began using The Poo Crew (“Petitioner’s Mark”) before Registrant filed an application for or began using Registrant’s Mark. Accordingly, and for the reasons more fully set out below, the Registration should be cancelled.

4. On April 4, 2016, Registrant applied to register Registrant’s Mark in connection with “dog waste removal services” in Class 37 and alleged use of Registrant’s Mark in commerce at least as early as January 1, 2012.

5. Petitioner began using Petitioner’s Mark in connection with “pet waste removal” at least as early as 2006. Petitioner received a registration for Petitioner’s mark in 2009.

6. Petitioner’s Mark has been used in connection with Petitioner’s pet waste removal services which has been distributed, advertised, promoted and sold in interstate commerce.

7. By reason of the Petitioner’s continued and exclusive use, promotion and advertising of Petitioner’s Mark in the United States, this mark has become identified and recognized as an indicator of source of Petitioner’s high quality services.

8. Upon information and belief, by the time that Registrant claims to have first used Registrant’s Mark, Petitioner had already been using Petitioner’s Mark in the United States and received a federal trademark registration. Accordingly, Petitioner’s use of Petitioner’s Mark and USPTO registration pre-date Registrant’s filing of its application for and use of Registrant’s Mark.

10. For the foregoing reasons, Petitioner prays that its petition be granted and that Registration No. 5,189,301 be cancelled.

Dated: May 7, 2019

Respectfully Submitted,

The Poo Crew LLC

By Counsel

/Russell W Kinsey/

Russell Kinsey

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Counsel for The Poo Crew LLC

Electronically Filed via ESTTA:

CERTIFICATE OF SERVICE

On May 7, 2019 a copy of this document was sent by USPS to Registrant, Dog Poo Crew, LLC,
PO Box 1023 Fargo, ND 58107.

/Russell W Kinsey/
Russell Kinsey