

ESTTA Tracking number: **ESTTA978601**

Filing date: **06/05/2019**

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	SUNNYSIDEUS, LLC		
Entity	Limited Liability Company	Citizenship	California
Address	2895 Nina St. Pasadena, CA 91107 UNITED STATES		

Attorney information	Paul A. McLean, Esq. Greenberg Traurig LLP 1900 University Avenue, Fifth Floor East Palo Alto, CA 94303 UNITED STATES gtipmail@gtlaw.com, mcleand@gtlaw.com, lanej@gtlaw.com, zuluetai@gtlaw.com 650.289.7890		
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Registration Subject to Cancellation

Registration No.	4749007	Registration date	06/02/2015
Registrant	Soto, Odalis 1285 West 77th Street Hialeah, FL 33014 UNITED STATES		

Goods/Services Subject to Cancellation

Class 025. First Use: 2014/11/07 First Use In Commerce: 2014/11/07 All goods and services in the class are subject to cancellation, namely: Clothing, namely, T-shirts, shirts, blouses, sweaters, sweatshirts, tops, bottoms, pants, shorts, jeans, skirts, dresses, jackets, blazers, coats, loungewear, footwear, socks, undergarments, headwear, scarves, and gloves

Grounds for Cancellation

Abandonment	Trademark Act Section 14(3)
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Attachments	Petition for Cancellation.pdf(185839 bytes)
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Signature	/Paul A. McLean/
Name	Paul A. McLean, Esq., Greenberg Traurig LLP
Date	06/05/2019



In Re Registration No. 4749007– SUNNY SIDE UP THREADS and Design
Registered on June 2, 2015
Petitioner Ref.: 183692-010101

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

SUNNYSIDEUS, LLC,)	
)	
Petitioner,)	<i>Cancellation No.: Not Yet Assigned</i>
)	
v.)	
)	
ODALIS SOTO.)	
)	
Respondent.)	
)	
_____)	

PETITION FOR CANCELLATION

SUNNYSIDEUS, LLC (“Petitioner”), a limited liability company organized under the laws of California, with an address of 2895 Nina St., Pasadena, California 91107, believes that it will be damaged by the continued presence on the Register of Registration No. 4749007 for the mark SUNNY SIDE UP THREADS and Design in Class 25 (the “Abandoned Registration”) for all the goods described in the registration as “Clothing, namely, T-shirts, shirts, blouses, sweaters, sweatshirts, tops, bottoms, pants, shorts, jeans, skirts, dresses, jackets, blazers, coats, loungewear, footwear, socks,

undergarments, headwear, scarves, and gloves”. Petitioner thus hereby petitions to cancel the Abandoned Registration.

Petitioner’s grounds for this Petition are as follows:

1. Petitioner applied to register the mark SUNNY SIDE US in the United States Patent and Trademark Office on or about March 1, 2018 for use on and in connection with, as amended, “Clothing for women and children, namely, shirts, blouses, skirts, trousers, pants, suits, dresses, gowns, tops, jumpers, pullovers, overalls, bodysuits; all related to matching outfits between mothers and their children and none related to screen printed clothing” in Class 25 (“Petitioner’s Class 25 Goods”), and to which Application Serial No. 87817091 was assigned.

2. Petitioner applied to register the mark SUNNY SIDE US and Design in the United States Patent and Trademark Office on or about March 1, 2018 for use on and in connection with Petitioner’s Class 25 Goods, and to which Application Serial No. 87817095 was assigned.

3. Petitioner’s Application Serial Nos. 87817091 and 87817095 for SUNNY SIDE US and SUNNY SIDE US and Design have been refused registration because of an alleged likelihood of confusion with Respondent’s Abandoned Registration for SUNNY SIDE UP THREADS and Design.

4. Upon information and belief, Respondent ODALIS SOTO is the record owner of the Abandoned Registration. To the best of Petitioner’s information, ODALIS

SOTO's last known mailing address is 1285 West 77th Street, Hialeah, Florida 33014.

5. ABANDONMENT. Upon information and belief, Respondent discontinued use of the mark SUNNY SIDE UP THREADS and Design for all the goods in the Abandoned Registration, with an intent not to resume use and thereby has abandoned the mark within the meaning of Section 45 of the United States Trademark Act of 1946, 15 U.S.C. § 1127.

6. The goods in the Abandoned Registration and the goods offered by Petitioner and/or identified in Petitioner's Application Serial Nos. 87817091 and 87817095, are alleged by the Examining Attorney to be related and are of the type which could be offered in the same channels of trade and to the same prospective customers.

7. Therefore, if Respondent's Abandoned Registration remains registered on the Principal Register, Respondent would thereby maintain a prima facie exclusive right to the SUNNY SIDE UP THREADS and Design mark, and may ultimately block the registration of Petitioner's SUNNY SIDE US and SUNNY SIDE US and Design marks. Such registration is a source of damage and injury to Petitioner.

8. Given that the Abandoned Registration has been abandoned by Respondent, the Abandoned Registration is subject to cancellation under Section 15 of the United States Trademark Act of 1946, as amended, U.S.C. § 1064.

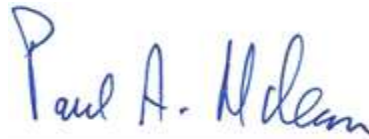
9. By virtue of the foregoing, Petitioner is now and will be damaged by the continued presence on the Register of Registration No. 4749007 for the mark SUNNY SIDE UP THREADS and Design.

WHEREFORE, the Petitioner prays that Registration No. 4749007 be cancelled and that this Petition for Cancellation be sustained in favor of the Petitioner.

Please recognize as attorneys for Petitioner Paul A. McLean, Esq., member of the Bar of the State of California, and the law firm of Greenberg Traurig LLP, 1900 University Avenue, Fifth Floor, East Palo Alto, California 94303. All communications regarding this petition should be addressed to Paul A. McLean, Esq. at the foregoing address.

Dated: June 5, 2019

GREENBERG TRAURIG, LLP

A handwritten signature in blue ink that reads "Paul A. McLean". The signature is written in a cursive style and is contained within a thin black rectangular border.

By: _____
Paul A. McLean, Esq.

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Attorneys for Petitioner
SUNNYSIDEUS, LLC