

ESTTA Tracking number: **ESTTA988825**

Filing date: **07/19/2019**

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 Vermont Teddy Bear Company, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	6655 Shelburne Road P.O. Box 965 Shelburne, VT 05482 UNITED STATES		

Attorney information	H. Jay Spiegel H. Jay Spiegel & Associates P.O. Box 11 Mount Vernon, VA 22121 UNITED STATES jayspiegel@aol.com 703-619-0101		
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**Registration Subject to Cancellation**

Registration No.	5677084	Registration date	02/12/2019
Registrant	C2B, llc 112 South Main Street Stowe, VT 05672 UNITED STATES Email: Vermonttoycompany@gmail.com		

**Goods/Services Subject to Cancellation**

<p>Class 028. First Use: 2018/01/22 First Use In Commerce: 2018/01/22 All goods and services in the class are subject to cancellation, namely: Toy action figures; Toy action figures and accessories therefor; Toy aircraft; Toy airplanes; Toy and novelty face masks; Toy animals; Toy animals and accessories therefor; Toy armor; Toy artificial fingernails; Toy bakeware and cookware; Toy balloons; Toy banks; Toy beanbags; Toy boats; Toy bows and arrows; Toy boxes; Toy brooches; Toy building blocks; Toybuilding blocks capable of interconnection; Toy building structures and toy vehicle tracks; Toy buildings and accessories therefor; Toy butterfly nets; Toy cameras; Toy candy dispensers; Toy cap pistols; Toy cars; Toy Christmas trees; Toy clocks and watches; Toy construction blocks; Toy construction sets; Toy dough; Toy drones; Toy figures; Toy figures in the form of a potato; Toy film cartridgesand viewers; Toy fireworks; Toy foam novelty items, namely, foam fingers and hands; Toy food; Toy for pets; Toy furniture; Toy gliders; Toy glockenspiels; Toy glow sticks; Toy guns; Toy hand buzzers for playing jokes; Toy harmonicas; Toy helicopters; Toy holsters; Toy hoop sets; Toy houses; Toy imitation cosmetics; Toy jewelry; Toy LED light sticks; Toy mailboxes; Toy masks; Toy microscopes; Toy mobiles; Toy model cars; Toy model guitars; Toy model kit cars; Toy model train sets; Toy model vehicles and related accessories sold as units; Toy modeling dough; Toy models; Toy music boxes; Toy musical boxes; Toy noisemakers; Toy pianos; Toy pianos, sold as a unit with printedbooks in the field of music education; Toy pinwheels; Toy pirate hats;</p>
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Toy pistols; Toy prism glasses; Toy projectile shooters and accessories therefor; Toy projectiles and accessories therefor; Toy putty; Toy record players; Toy robots; Toy rockets; Toy scooters; Toy scooters and accessories therefor; Toy sets of carpenters' tools; Toy sling planes; Toy snow globes; Toy spring horses; Toy stamps; Toy strollers; Toy stuffed animals; Toy swords; Toy telescopes; Toy tiaras; Toy tools; Toy trains and parts and accessories therefor; Toy tricycles for children; Toy vehicle track sets and roadways and accessories therefor; Toy vehicles; Toy vehicles and accessories therefor; Toy vehicles with transforming parts; Toy vehicles, namely, caster boards; Toy watches; Toy water globes; Toy water guns; Toy weapons; Toy whistles; Toy xylophones; Toy zip guns; Toy, namely, battery-powered computer game with LCD screen which features animation and sound effects; Toys for domestic pets; Toys, namely, a disk to toss in playing a game wherein other disks are flipped and collected; Toys, namely, bean bag animals; Toys, namely, children's dress-up accessories; Toys, namely, detonating caps; Toys, namely, kites and accessories for kites, namely, kite handles, kite lines, kite reels, kite string and kite tails; Toys, namely, percussion caps; Toys, namely, puppets and accessories therefor; Action figure toys; Arrows; Articles of clothing for toys; Attachable, wearable, magnetic toy figurines; Baby multiple activity toys; Bath toys; Bathtub toys; Battery operated action toys; Bendable toys; Caps for toy pistols; Carry bags sold filled with children's toys; Carrying bags specially adapted for toy vehicles; Cases for toy structures; Cases for toy vehicles; Cat toys; Children's toy bicycles other than for transport; Children's activity tables containing manipulative toys which convert to easels; Children's dress up accessories, namely, toy helmets for play; Children's educational toys for developing fine motor, oral language, numbers, counting, colors and alphabet skills sold in a fabric bag which has a clear vinyl window for viewing small trinkets and toys securely contained within the bag itself; Children's multiple activity toys; Children's multiple activity toys sold as a unit with printed books; Children's wire construction and art activity toys; Clockwork toys; Collectable toy figures; Construction toys; Construction toys incorporating magnets; Crib toys; Decorative toy mobiles and plush toys for children made of felt; Desktop toy sports games; Disc toss toys; Dog toys; Dolls and doll accessories, namely, clothing for dolls, doll rooms, doll beds, doll houses, toy fabrics and linens for dolls and strollers for dolls; Drawing toys; Educational toy for the purpose of the demonstration of alternative energy sources; Educational toys for teaching and testing knowledge relating to the politics, political process, and political history of the United States; Educational toys for teaching math principles to children, namely, manipulative blocks for displaying patterns and groupings; Educational toys for teaching music principles to children, namely, hand-held music notation symbols and music related figures, such as individual hand-held piano keys; Educational toys in the nature of an illustrated wall map; Electric toy train transformers; Electric action toys; Electric educational toy used to demonstrate alternative energy sources; Electronic toy building blocks that light up as a night light; Electronic toy vehicles; Electronic action toys; Electronic learning toys; Electronically operated toy motor vehicles; Fantasy character toys; Flying toys using electrostatic levitation; Flying saucers; Gift baskets comprised primarily of toy imitation sporting goods, namely, toy game balls and accessories therefor; Gift baskets comprised primarily of imitation toys sports-products, namely, toy game balls and accessories therefor; Gift baskets containing plush toys; Hand-powered non-mechanical flying toy; Helical spring toys; Infant toys; Infant action crib toys; Infant development toys; Inflatable toys; Inflatable toys showing decorative pictures; Inflatable bath toys; Inflatable pool toys; Inflatable ride-on toys; Inflatable thin rubber toys; Interchangeable magnetic toy vehicles; Interlocking construction toys; Kinetic motion desk toys; Lever action toys; Mechanical toys; Mechanical action toys; Miniature toy helmets; Miniature toy sports games; Model toy steam engines; Model toy steam operated traction engines; Model toy vehicles; Modeled plastic toy figurines; Molded toy figures; Music box toys; Musical toys; Non-electronic toy vehicles; Non-riding transportation toys; Novelty toy item in the nature of a dispenser of stream material; Novelty toy items in the nature of pop ups; Novelty toy items, namely, fake teeth; Novelty toys for playing jokes; Novelty noisemaker toys for parties; Novelty plush toys for parties; Party favors in the nature of small toys; Perpetual motion desk toys; Pet toys; Pet toys containing catnip; Pet toys made of rope; Plastic toy hoops; Plastic character toys; Play houses and toy accessories therefor; Play mats containing infant toys; Play mats for use with toy vehicles; Playing pieces in the nature of miniature action figures and toy model vehicles for use with table top hobby battle games in the nature of battle, war and skirmish games, and fantasy games; Plush toys; Plush toys with attached comfort blanket; Pop up toys; Portable musical toys incorporating telecommunication functions; Positionable toy figures; Positionable printed toy figures for use in games; Positionable printed toy figures for use in puzzles; Positionable three dimensional toys for use in games; Positionable two dimensional toys for use in games; Printed positionable toys for use in children's board games; Printing toys; Pull toys; Punching toys; Push toys; PVC toy figures; Racks and stands specifically designed to hold toy scooters; Racks and stands specifically designed to hold toy vehicles; Radio controlled toy vehicles; Radio transmitters for use with radio-

controlled toys; Radio-controlled toy vehicles; Remote-controlled toy vehicles; Ride-on toys; Ride-on toys and accessories therefor; Rideable toy vehicles; Rideable toys and accessories therefor; Rubber character toys; Sand toys; Sandbox toys; Scale model kits; Sketching toys; Smart electronic toy vehicles; Smart plush toys; Smart robot toys; Soft sculpture toys; Soft sculpture plush toys; Spinning fidget toys; Squeezable squeaking toys; Squeeze toys; Stacking toys; Stands for rideable toys; Stress relief exercise toys; Stuffed toy animals; Stuffed toy bears; Stuffed toys; Stuffed and plush toys; Talking toys; Talking electronic press-down toy; Tessellation toys; Tossing disc toys; Transforming robotic toy vehicles; Transforming robotic toys; Two and three dimensional positionable toy figures sold as a unit with educational books; Two and three dimensional positionable toy figures sold as a unit with memory training equipment.; Two and three dimensional positionable toy figures sold as a unit with other toys; Two and three dimensional positionable figures sold as an integral component of toys; Vending machine toys; Visors for toy helmets; Water toys; Water squirting toys; Water-squirting toys; Wheels for toy vehicles; Wind-up toys; Wind-up walking toys


### Grounds for Cancellation

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

### Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	1941985	Application Date	09/30/1993
Registration Date	12/19/1995	Foreign Priority Date	NONE
Word Mark	THE VERMONT TEDDY BEAR COMPANY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 028. First use: First Use: 1984/02/00 First Use In Commerce: 1984/02/00 toy animals Class 039. First use: First Use: 1984/02/00 First Use In Commerce: 1984/02/00 message delivery services accompanied by a stuffed animal		

U.S. Registration No.	2201144	Application Date	06/02/1997
Registration Date	11/03/1998	Foreign Priority Date	NONE
Word Mark	VERMONT TEDDY BEAR		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 039. First use: First Use: 1995/10/00 First Use In Commerce: 1995/10/00 message delivery services accompanied by a stuffed animal

U.S. Registration No.	2201145	Application Date	06/02/1997
Registration Date	11/03/1998	Foreign Priority Date	NONE

Word Mark	THE VERMONT TEDDY BEAR CO.
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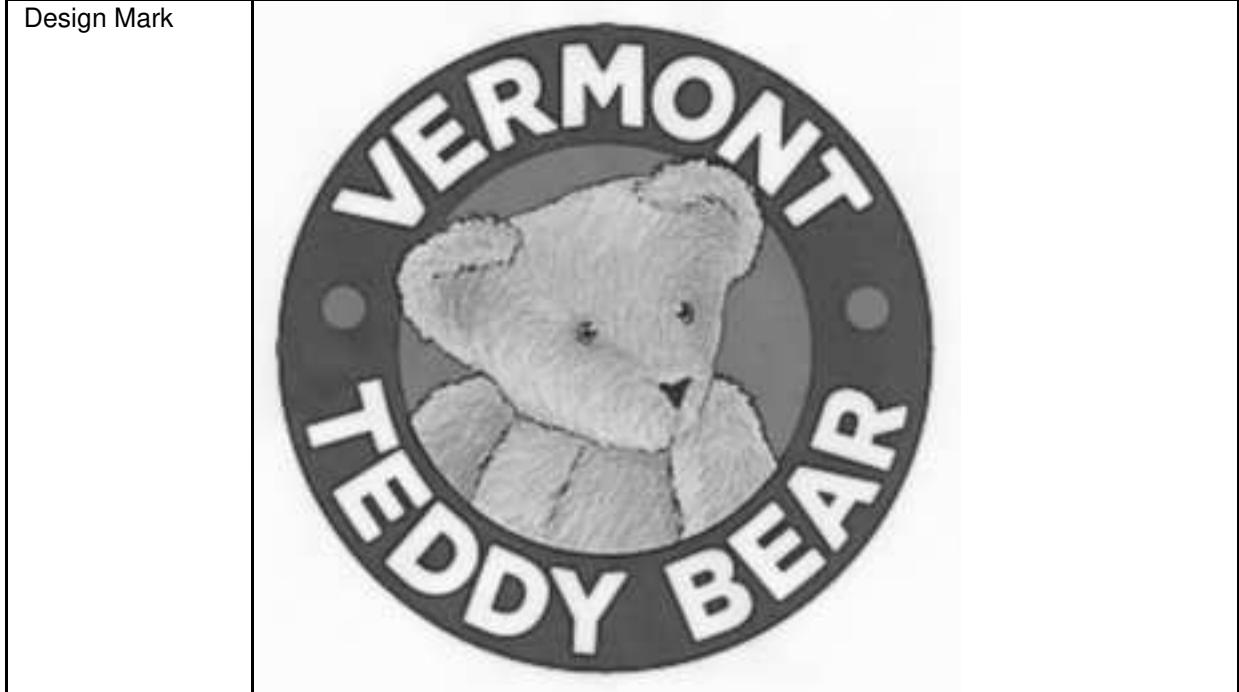
Design Mark	
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Description of	NONE
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Mark	
Goods/Services	Class 039. First use: First Use: 1994/11/00 First Use In Commerce: 1994/11/00 message delivery services accompanied by a stuffed animal

U.S. Registration No.	5427606	Application Date	08/11/2017
Registration Date	03/20/2018	Foreign Priority Date	NONE

Word Mark	Â· VERMONT Â· TEDDY BEAR
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Description of Mark	The mark consists of a ring made up of inner and outer concentric circles, within the ring at the top the word "VERMONT" and at the bottom the words "TEDDY BEAR," between the word "TEDDY" and "VERMONT" a circular dot within the ring, between the word "VERMONT" and the word "BEAR" a circular dot within the ring, and within the inner concentric circle of the ring an image of a stuffed teddy bear with its head slightly angled downward to the left and turned slightly to the right with the ears slightly overlapping the inner concentric circle.
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Goods/Services	Class 039. First use: First Use: 2016/11/01 First Use In Commerce: 2016/11/01 Message delivery services accompanied by a stuffed animal
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U.S. Application No.	88246906	Application Date	01/02/2019
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	VERMONT TEDDY BEAR
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Design Mark	VERMONT TEDDY BEAR
Description of Mark	NONE
Goods/Services	Class 028. First use: First Use: 1985/04/00 First Use In Commerce: 1985/04/00 Stuffed toy animals; Toy stuffed animals Class 039. First use: First Use: 1985/04/00 First Use In Commerce: 1985/04/00 Delivery of messages by courier; Message delivery; Transport, delivery, packaging, and storage of gifts; Transportation and delivery services by air, road, rail and sea

Attachments	74442088#TMSN.png( bytes ) 75301396#TMSN.png( bytes ) 75301397#TMSN.png( bytes ) 87565133#TMSN.png( bytes ) 88246906#TMSN.png( bytes ) VTBVTCCancellation.pdf(2169275 bytes )
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Signature	/H. Jay Spiegel/
Name	H. Jay Spiegel
Date	07/19/2019

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

THE VERMONT TEDDY BEAR ) COMPANY, INC., a Delaware Corporation ) 6655 Shelburne Road, P.O. Box 965 ) Shelburne, VT 05482 ) <p style="text-align: right;">Plaintiff,</p>	)	Cancellation No. _____
v.	)	Mark: VERMONT TOY COMPANY
C2B, LLC d/b/a VERMONT TOY ) COMPANY, a Vermont Limited Liability ) Company, Address of Record: 112 South ) Main Street, Stowe, VT 05672 ) <p style="text-align: right;">Defendant</p>	)	Registration No. 5,677,084 Registered: February 12, 2019
_____	)	

**PETITION TO CANCEL**

COMES NOW Plaintiff, THE VERMONT TEDDY BEAR COMPANY, INC. (Plaintiff), and hereby petitions to cancel Registration No. 5,677,084 for the mark “VERMONT TOY COMPANY” allegedly owned by the captioned Defendant. The basis justifying cancellation is as follows:

(1) Plaintiff is the owner of Registration No. 1,941,985, registered December 19, 1995 for the mark THE VERMONT TEDDY BEAR COMPANY (in standard characters) covering toy animals in International Class 28 and message delivery services accompanied by a stuffed animal in International Class 39, and claiming a date of first use in both Classes at least as early as February 29, 1984.

(2) Plaintiff is the owner of Registration No. 2,201,144, registered November 3, 1998 for the mark VERMONT TEDDY BEAR and Design covering message delivery services

accompanied by a stuffed animal in International Class 39, and claiming a date of first use at least as early as January 31, 1995.

(3) Plaintiff is the owner of Registration No. 2,201,145, registered November 3, 1998 for the mark THE VERMONT TEDDY BEAR CO. and Design covering message delivery services accompanied by a stuffed animal in International Class 39, and claiming a date of first use at least as early as November 30, 1994.

(4) Plaintiff is the owner of Registration No. 5,427,606, registered March 20, 2018 for the mark VERMONT TEDDY BEAR and Design for message delivery services accompanied by a stuffed animal in International Class 39, and claiming a date of first use at least as early as November 1, 2016.

(5) Plaintiff is the owner of application Serial No. 88/246,906, filed January 2, 2019 (Plaintiff's application) for the mark VERMONT TEDDY BEAR in standard characters (Plaintiff's mark) covering stuffed toy animals and toy stuffed animals in International Class 28, and delivery of messages by courier, message delivery, transport, delivery, packaging, and storage of gifts, transportation and delivery services by air, road, rail and sea in International Class 39, and claiming a date of first use at least as early as April 1985.

(6) Defendant is the owner of Registration No. 5,677,084, registered February 12, 2019 (Defendant's registration) for the mark VERMONT TOY COMPANY (Defendant's mark).

(7) Defendant's mark purports to cover the following goods in International Class 28, and claiming a date of first use at least as early as January 22, 2018: Toy action figures; Toy action figures and accessories therefor; Toy aircraft; Toy airplanes; Toy and novelty facemasks; Toy animals; Toy animals and accessories therefor; Toy armor; Toy artificial fingernails; Toy



bakeware and cookware; Toy balloons; Toy banks; Toy beanbags; Toy boats; Toy bows and arrows; Toy boxes; Toy brooches; Toy building blocks; Toy building blocks capable of interconnection; Toy building structures and toy vehicle tracks; Toy buildings and accessories therefor; Toy butterfly nets; Toy cameras; Toy candy dispensers; Toy cap pistols; Toy cars; Toy Christmas trees; Toy clocks and watches; Toy construction blocks; Toy construction sets; Toy dough; Toy drones; Toy figures; Toy figures in the form of a potato; Toy film cartridges and viewers; Toy fireworks; Toy foam novelty items, namely, foam fingers and hands; Toy food; Toy for pets; Toy furniture; Toy gliders; Toy glockenspiels; Toy glow sticks; Toy guns; Toy hand buzzers for playing jokes; Toy harmonicas; Toy helicopters; Toy holsters; Toy hoop sets; Toy houses; Toy imitation cosmetics; Toy jewelry; Toy LED light sticks; Toy mailboxes; Toy masks; Toy microscopes; Toy mobiles; Toy model cars; Toy model guitars; Toy model kit cars; Toy model train sets; Toy model vehicles and related accessories sold as units; Toy modeling dough; Toy models; Toy music boxes; Toy musical boxes; Toy noisemakers; Toy pianos; Toy pianos, sold as a unit with printed books in the field of music education; Toy pinwheels; Toy pirate hats; Toy pistols; Toy prism glasses; Toy projectile shooters and accessories therefor; Toy projectiles and accessories therefor; Toy putty; Toy record players; Toy robots; Toy rockets; Toy scooters; Toy scooters and accessories therefor; Toy sets of carpenters' tools; Toy sling planes; Toy snow globes; Toy spring horses; Toy stamps; Toy strollers; Toy stuffed animals; Toy swords; Toy telescopes; Toy tiaras; Toy tools; Toy trains and parts and accessories therefor; Toy tricycles for children; Toy vehicle track sets and roadways and accessories therefor; Toy vehicles; Toy vehicles and accessories therefor; Toy vehicles with transforming parts; Toy vehicles, namely, caster boards; Toy watches; Toy water globes; Toy water guns; Toy weapons; Toy whistles; Toy

xylophones; Toy zip guns; Toy, namely, battery-powered computer game with LCD screen which features animation and sound effects; Toys for domestic pets; Toys, namely, a disk to toss in playing a game wherein other disks are flipped and collected; Toys, namely, bean bag animals; Toys, namely, children's dress-up accessories; Toys, namely, detonating caps; Toys, namely, kites and accessories for kites, namely, kite handles, kite lines, kite reels, kite string and kite tails; Toys, namely, percussion caps; Toys, namely, puppets and accessories therefor; Action figure toys; Arrows; Articles of clothing for toys; Attachable, wearable, magnetic toy figurines; Baby multiple activity toys; Bath toys; Bathtub toys; Battery operated action toys; Bendable toys; Caps for toy pistols; Carry bags sold filled with children's toys; Carrying bags specially adapted for toy vehicles; Cases for toy structures; Cases for toy vehicles; Cat toys; Children's toy bicycles other than for transport; Children's activity tables containing manipulative toys which convert to easels; Children's dress up accessories, namely, toy helmets for play; Children's educational toys for developing fine motor, oral language, numbers, counting, colors and alphabet skills sold in a fabric bag which has a clear vinyl window for viewing small trinkets and toys securely contained within the bag itself; Children's multiple activity toys; Children's multiple activity toys sold as a unit with printed books; Children's wire construction and art activity toys; Clockwork toys; Clockwork toys; Collectable toy figures; Construction toys; Construction toys incorporating magnets; Crib toys; Decorative toy mobiles and plush toys for children made of felt; Desktop toy sports games; Disc toss toys; Dog toys; Dolls and doll accessories, namely, clothing for dolls, doll rooms, doll beds, doll houses, toy fabrics and linens for dolls and strollers for dolls; Drawing toys; Educational toy for the purpose of the demonstration of alternative energy sources; Educational toys for teaching and testing knowledge relating to the politics, political process, and

political history of the United States; Educational toys for teaching math principles to children, namely, manipulative blocks for displaying patterns and groupings; Educational toys for teaching music principles to children, namely, hand-held music notation symbols and music related figures, such as individual hand-held piano keys; Educational toys in the nature of an illustrated wall map; Electric toy train transformers; Electric action toys; Electric educational toy used to demonstrate alternative energy sources; Electronic toy building blocks that light up as a night light; Electronic toy vehicles; Electronic action toys; Electronic learning toys; Electronically operated toy motor vehicles; Fantasy character toys; Flying toys using electrostatic levitation; Flying saucers; Gift baskets comprised primarily of toy imitation sporting goods, namely, toy game balls and accessories therefor; Gift baskets comprised primarily of imitation toys sports products, namely, toy game balls and accessories therefor; Gift baskets containing plush toys; Hand-powered non-mechanical flying toy; Helical spring toys; Infant toys; Infant action crib toys; Infant development toys; Inflatable toys; Inflatable toys showing decorative pictures; Inflatable bath toys; Inflatable pool toys; Inflatable ride-on toys; Inflatable thin rubber toys; Interchangeable magnetic toy vehicles; Interlocking construction toys; Kinetic motion desk toys; Lever action toys; Mechanical toys; Mechanical action toys; Miniature toy helmets; Miniature toy sports games; Model toy steam engines; Model toy steam operated traction engines; Model toy vehicles; Modeled plastic toy figurines; Molded toy figures; Music box toys; Musical toys; Non-electronic toy vehicles; Non-riding transportation toys; Novelty toy item in the nature of a dispenser of stream material; Novelty toy items in the nature of pop ups; Novelty toy items, namely, fake teeth; Novelty toys for playing jokes; Novelty noisemaker toys for parties; Novelty plush toys for parties; Party favors in the nature of small toys; Perpetual motion desk toys; Pet

toys; Pet toys containing catnip; Pet toys made of rope; Plastic toy hoops; Plastic character toys; Play houses and toy accessories therefor; Play mats containing infant toys; Play mats for use with toy vehicles; Playing pieces in the nature of miniature action figures and toy model vehicles for use with table top hobby battle games in the nature of battle, war and skirmish games, and fantasy games; Plush toys; Plush toys with attached comfort blanket; Pop up toys; Portable musical toys incorporating telecommunication functions; Positionable toy figures; Positionable printed toy figures for use in games; Positionable printed toy figures for use in puzzles; Positionable three dimensional toys for use in games; Positionable two dimensional toys for use in games; Printed positionable toys for use in children's board games; Printing toys; Pull toys; Punching toys; Push toys; PVC toy figures; Racks and stands specifically designed to hold toy scooters; Racks and stands specifically designed to hold toy vehicles; Radio controlled toy vehicles; Radio transmitters for use with radio-controlled toys; Radio-controlled toy vehicles; Remote-controlled toy vehicles; Ride-on toys; Ride-on toys and accessories therefor; Rideable toy vehicles; Rideable toys and accessories therefor; Rubber character toys; Sand toys; Sandbox toys; Scale model kits; Sketching toys; Smart electronic toy vehicles; Smart plush toys; Smart robot toys; Soft sculpture toys; Soft sculpture plush toys; Spinning fidget toys; Squeezable squeaking toys; Squeeze toys; Stacking toys; Stands for rideable toys; Stress relief exercise toys; Stuffed toy animals; Stuffed toy bears; Stuffed toys; Stuffed and plush toys; Talking toys; Talking electronic press-down toy; Tessellation toys; Tossing disc toys; Transforming robotic toy vehicles; Transforming robotic toys; Two and three dimensional positionable toy figures sold as a unit with educational books; Two and three dimensional positionable toy figures sold as a unit with memory training equipment.; Two and three dimensional positionable toy figures sold as a

unit with other toys; Two and three dimensional positionable figures sold as an integral component of toys; Vending machine toys; Visors for toy helmets; Water toys; Water squirting toys; Water-squirting toys; Wheels for toy vehicles; Wind-up toys; Wind-up walking toys.

(8) On March 7, 2019, Plaintiff's application was refused registration solely with reference to the goods in International Class 28, the U.S. Patent and Trademark Office (USPTO) citing Defendant's registration as the basis for the refusal.

(9) Given that Defendant's registration is being relied upon to refuse registration to Plaintiff's application for the goods in International Class 28, Plaintiff has standing to pursue cancellation of Defendant's registration.

(10) Plaintiff has been in the business of selling gifts including stuffed animals since at least as early as 1984. In so doing, Plaintiff has used the expression "VERMONT TEDDY BEAR" in various forms since 1984 and to date. Plaintiff's use of the expression "VERMONT TEDDY BEAR" as a trademark predates Defendant's claimed date of first use by well over 30 years. Since the USPTO has concluded there is a likelihood of confusion between Defendant's mark and the mark "VERMONT TEDDY BEAR" for which registration is sought in Plaintiff's application, the converse is also true, in particular, Defendant's mark creates a likelihood of confusion with respect to Plaintiff's mark "VERMONT TEDDY BEAR" in its various forms as reflected in the registrations and application set forth above. Accordingly, Defendant's registration should be canceled under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

(11) Preliminary to preparing this Petition to Cancel, Plaintiff conducted an investigation. The investigation determined that Defendant was terminated as a corporation by

the Secretary of State of Vermont on or about April 1, 2019. See Exhibit 1, papers printed from the Corporations Division of the Secretary of State of Vermont.

(12) Plaintiff also conducted a search of the Internet to determine whether Defendant has any presence on the Internet. Attached is the result of a search on www.google.com using the search term “vermont toy company.” See Exhibit 2. Exhibit 2 reveals no evidence of any existence of Defendant on the Internet.

(13) Exhibit 2 also evidences that none of the dozens upon dozens of goods listed in Defendant’s registration certificate are actually for sale via the Internet. As such, Plaintiff believes Defendant’s mark is abandoned and since Defendant no longer exists as an entity, and the USPTO records do not evidence any assignment of ownership of Defendant’s mark, Plaintiff believes Defendant cannot provide any evidence of an intent to resume use of Defendant’s mark.

#### **GROUND FOR CANCELLATION**

1. **PRIOR USE AND LIKELIHOOD OF CONFUSION UNDER SECTION 2(d) OF THE TRADEMARK ACT, 15 U.S.C. § 1052(d)**

(14) Plaintiff incorporates by reference paragraphs (1) - (13) as if stated herein.

(15) Plaintiff owns Registration Nos. 1,941,985; 2,201,144; 2,201,145 and 5,427,606, each of which includes, in pertinent part, the literal element “VERMONT TEDDY BEAR.” These marks have been used in interstate commerce in some cases since at least as early as February 1984, and continuously to date.

(16) Plaintiff owns the mark “VERMONT TEDDY BEAR” in standard characters as set forth in Plaintiff’s application. This mark has been used in interstate commerce since at least as early as April 1985, and continuously to date.

(17) Defendant's mark has allegedly been used in interstate commerce since January 22, 2018. As such, Plaintiff's use of its marks which incorporate the literal element "VERMONT TEDDY BEAR" has occurred over 30 years prior to Defendant's use of Defendant's mark.

(18) Accordingly, Plaintiff asserts that it is the prior user of marks including the literal element "VERMONT TEDDY BEAR" and that Defendant's mark (VERMONT TOY COMPANY) creates a likelihood of confusion vis a vis Plaintiff's marks incorporating the literal element "VERMONT TEDDY BEAR."

(19) As such, Defendant's registration should be canceled under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

2. **ABANDONMENT UNDER 15 U.S.C. § 1127**

(20) Plaintiff incorporates by reference paragraphs (1) - (19) as if stated herein.

(21) Plaintiff has uncovered no evidence that Defendant is using Defendant's mark in interstate commerce in association with any of the goods listed in its certificate of registration.

(22) Accordingly, Plaintiff submits that Defendant's mark is abandoned under 15 U.S.C. § 1127.

(23) Defendant ceased existence on or about April 1, 2019. The assignment records of the USPTO reflect no assignment having been executed prior to April 1, 2019 or, in fact, thereafter. As such, Defendant cannot demonstrate any intention to resume use.

(24) 15 U.S.C. § 1127 states that "Intent not to resume may be inferred from circumstances." Plaintiff submits that where Defendant no longer exists as an entity, the Trademark Trial and Appeal Board can infer that there is no intention to resume use.

**PRAYER FOR RELIEF**

Based upon the facts and circumstances set forth above, Plaintiff requests that the Trademark Trial and Appeal Board cancel Registration No. 5,677,084 for the mark "VERMONT TOY COMPANY."

Respectfully submitted,

THE VERMONT TEDDY BEAR COMPANY, INC.

/s/ *H. Jay Spiegel*

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By H. Jay Spiegel  
Attorney for Plaintiff  
Registration No. 30,722

H. JAY SPIEGEL & ASSOCIATES  
P.O. Box 11  
Mount Vernon, VA 22121  
(703) 619-0101 - Phone  
(703) 619-0110 - Facsimile  
[jayspiegel@aol.com](mailto:jayspiegel@aol.com) - e-mail



**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing PETITION TO CANCEL was served on Defendant by Certified First Class Mail this 19<sup>th</sup> day of July, 2019, addressed to:

Ms. Lorna Dill, Registered Agent  
C2B, LLC  
112 South Main Street  
Stowe, VT 05672.

Date: July 19, 2019

By: /s/ *H. Jay Spiegel*  
H. Jay Spiegel

# **EXHIBIT 1**



Secretary of State

CORPORATIONS DIVISION

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**Filing History**

<b>Business Name</b>	<b>Business ID</b>
C2B, LLC	0304136

<b>Filing Number</b>	<b>Filing Date/Time</b>	<b>Effective Date</b>	<b>Filing Type</b>
0002545260	04/01/2019		STATUS CHANGED TO TERMINATED
0002362767	03/15/2018	03/15/2018	<u>ANNUAL REPORT (2017)</u>
0002260464	03/22/2017	03/22/2017	<u>ANNUAL REPORT (2016)</u>
0002179603	07/15/2016	07/14/2016	<u>REINSTATEMENT</u>
0002160523	04/01/2016		STATUS CHANGED TO TERMINATED
0002074766	06/05/2015		<u>BUSINESS FORMATION</u>

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Secretary of State

CORPORATIONS DIVISION

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**Business Search Result**

Business Name	Business ID	Business Type	Principal Business Office Address	Registered Agent Name	Fiscal Year Month	Status
<u>C2B, LLC</u>	0304136	Domestic Limited Liability Company	112 South Main Street, Stowe, VT, 05672, USA	LORNA DILL	12	Terminated

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Secretary of State

CORPORATIONS DIVISION

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### Business Information

#### Business Details

**Business Name:** C2B, LLC

**Business ID:** 0304136

**Business Type:** Domestic Limited Liability Company

**Business Status:** Terminated

**LLC Subtype:** Member Managed

**Did the LLC have members at the time of filing?** No

**Date of Incorporation / Registration Date:** 06/05/2015

**Fiscal Year Month:** 12

**NAICS Code:** 44-Retail Trade

**NAICS sub code:** 140-Family Clothing Stores

**Designated Office Business Address:** 112 South Main Street, Stowe, VT, 05672, USA

**Designated Office Mailing Address:** 112 South Main Street, Stowe, VT, 05672, USA

**Citizenship / Domestic Jurisdiction:** Domestic/VT

**Last Annual Report Year:** 2017

**Last Report Filed:** 03/15/2018

**Next Filing Due Date:** 01/01/2019

#### Principals Information

**Name/Title:**

**Physical Address:**

Lorna Dill/Member

112 South Main Street, Stowe, VT, 05672, USA

#### Registered Agent Information

**Name:** LORNA DILL

**Physical Address:** 112 SOUTH MAIN STREET, STOWE, VT, 05672, USA

**Mailing Address:** 112 SOUTH MAIN STREET, STOWE, VT, 05672, USA

**Agent Type:** Individual Person

#### Trade Name Information

No Trade Name(s) associated to this business.

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# **EXHIBIT 2**



vermont toy company



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### Vermont Wooden Toys

[www.vermontwoodentoys.com/](http://www.vermontwoodentoys.com/)

Vermont Wooden Toys Catalog of Fine Hardwood Toys .... a series of recalls this year, dozens of small toy companies are struggling to meet surging demand.

### Maple Landmark

<https://www.maplelandmark.com/>

... eco-friendly, educational wooden toys, games and gifts since 1979 at our shop here in Middlebury, Vermont. We pride ourselves in being a local company that ... Toys · Montgomery Schoolhouse · NameTrains · Buy Products

### Maple Landmark History

<https://www.maplelandmark.com/infocenter/about/history.lasso>

In 1987, Mike acquired the Troll's Toy Workshop, formerly of Barnet, VT. ... another long established Vermont wooden toy company, became a part of Maple ...

### Nova Natural Toys & Crafts: Wooden Toys, Dolls & Baby Toys

<https://www.novanatural.com/>

Inspire children's imaginations with our selection of classic wooden toys and dolls, infant supplies, toddler toys and art & craft supplies.

Sale · Toys & Games · Arts & Crafts · Baby

### Vermont wooden toy | Etsy

[https://www.etsy.com/market/vermont\\_wooden\\_toy](https://www.etsy.com/market/vermont_wooden_toy)

Check out our Vermont wooden toy selection for the very best in unique or ... Made in Canada By The Wooden Toy Company, and Some Also Made By The ...

### Toys - The Vermont Country Store

<https://www.vermontcountrystore.com/home/category/toys>

Results 1 - 48 - Rediscover your youth with our collection of vintage toys! Shop collectible classic Fisher Price toys, antique dolls, musical instruments and classic ...

Classic Toys · Children's Play Furniture · Craft Kits and Building Sets for ...

### Vermont Wooden Toy Factory

<https://vtwoodtoy.com/>

This family business designs and handcrafts unique wooden toys and crafts from local hardwood in their Charlotte, VT wood shop. Not only do we build toys, but ...

### Links - Woodbury Mountain Toys : Vermont Toy Store in Montpelier ...

<https://www.woodburymountaintoys.com/links.php>

ASTRA Manufacturers Respond to Toy Safety Concerns ASTRA manufacturer members take very seriously their responsibility to provide quality, safe toys to ...

### Woodbury Mountain Toys : Vermont Toy Store in Montpelier, VT with ...

<https://www.woodburymountaintoys.com/>

Vermont Toys, toys vermont, toys vt, vermont toy store, toy store vt, toy store vermont, montpelier vt toy store, vermont made toys, wooden toys, toys, video games, ...

### Red Wagon Toy Company (Woodstock) - 2019 All You Need to Know ...

<https://www.tripadvisor.com> > ... > Woodstock > Things to Do in Woodstock

Rating: 3 - 7 reviews

Proctor, VT. "Nothing Special". My wife loves visiting toy stores. She browsed while I rested and came back empty. Her response was... read more. Reviewed ...

### Turner Toys & Hobbies | Located in Essex Junction, VT

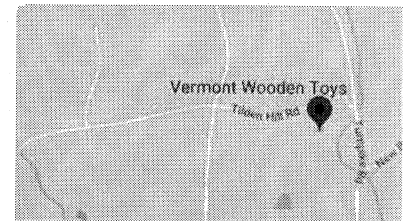
[www.turnertoys.com/](http://www.turnertoys.com/) (802) 233-6102

We Are Here to Provide Toy Suggestions for Children of All Ages. Multiple Payment Options.

### See vermont toy company

	
Classic Wooden Toy Train <b>\$59.95</b> The Vermont Co...	Wooden Toy Tractor <b>\$70.00</b> Bella Luna Toys (4)

More on Google



## Vermont Wooden To

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Toy store in Norwich, Vermont

Address: 31 Tilden Hill Rd, Norwich, VT 05055

Hours: Opens soon · 9AM

Phone: (802) 738-5266

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1 Google review

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vermont toy company



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