

ESTTA Tracking number: **ESTTA991578**

Filing date: **07/31/2019**

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	Birger Christensen A/S		
Entity	private limited company	Citizenship	Denmark
Address	Å#stergade 38 Copenhagen K., DK-1100 DENMARK		

Attorney information	William J. Seiter Seiter Legal Studio 2500 Broadway, Bldg F, Suite F-125 Santa Monica, CA 90404 UNITED STATES williamjseiter@seiterlegalstudio.com no phone number provided
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**Registration Subject to Cancellation**

Registration No.	3833036	Registration date	08/10/2010
Registrant	WILSTER EQUITIES, LLC 300 Deschuts Way South West Tumwater, WA 98501 UNITED STATES Email: jharlow@fsglawyers.com		

**Goods/Services Subject to Cancellation**

Class 025. First Use: 2010/03/01 First Use In Commerce: 2010/03/01 All goods and services in the class are subject to cancellation, namely: DRESSES, SKIRTS, SHORTS, BLOUSES, T-SHIRTS, KNIT TOPS, SHIRTS, SUITS, PANTS, TROUSERS, JEANS, VESTS, LEGGINGS, SWEATSHIRTS, SWEATPANTS, AND SWEATERS; OUTERWEAR, NAMELY, COATS, JACKETS, PUFFER JACKETS, LEATHER JACKETS, AND SUEDE JACKETS; LEATHER SKIRTS, SUEDED SKIRTS, BATHING SUITS, LINGERIE, PANTIES, BRAS, CAMISOLES, TEDDIES, PAJAMAS, ROBES, BELTS, GLOVES, MITTENS, SCARVES, SOCKS, LEG WARMERS, SOCKS, HATS, CAPS, BEANIES, VISORS, FOOTWEAR
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**Grounds for Cancellation**

Abandonment	Trademark Act Section 14(3)
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Attachments	Petition to Cancel 3833036.pdf(19111 bytes )
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Signature	/wjs/
Name	William J. Seiter
Date	07/31/2019

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

In the Matter of Trademark  
Registration No.: 3833036  
For the mark: REMAIN  
Date registered: August 10, 2010

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Birger Christensen A/S, )  
a Danish private limited company )  
 )  
Petitioner, )  
 )  
v. ) Cancellation No. \_\_\_\_\_  
 )  
Wilster Equities, LLC, )  
a Washington limited liability company )  
 )  
Registrant. )  
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**PETITION TO CANCEL**

Petitioner:

Birger Christensen A/S  
Østergade 38  
DK-1100 Copenhagen K.  
Denmark

To the best of petitioner's knowledge, the name and address of the current owner of the registration is:

Wilster Equities, LLC  
300 Deschuts Way South West  
Tumwater, Washington 98501

Petitioner believes that it will be damaged by the registration, and hereby petitions to cancel the same as to all goods listed in the registration.

The grounds for the cancellation are as follows:

1. Petitioner is the owner of the trademark REMAIN, under U.S. Trademark Application Serial No. 79254809, filed on December 27, 2018, with a priority date of November 13, 2018, for “Bags, trunks and travelling bags; umbrellas,” in International Class 18; “Clothing, furs (clothing), footwear, headgear; sportswear; lingerie; belts [clothing],” in International Class 25; and “Wholesale and retail services (also via the Internet) of bags, trunks and travelling bags, umbrellas, clothing, furs (clothing), footwear headgear, sportswear, lingerie, belts [clothing],” in International Class 35.

2. On October 22, 2009, Registrant’s predecessor-in-interest, Ms. Mimi Levitas, aka Yetta Merrill Levitas, filed Application Serial No. 77855451 for the mark REMAIN for “DRESSES, SKIRTS, SHORTS, BLOUSES, T-SHIRTS, KNIT TOPS, SHIRTS, SUITS, PANTS, TROUSERS, JEANS, VESTS, LEGGINGS, SWEATSHIRTS, SWEATPANTS, AND SWEATERS; OUTERWEAR, NAMELY, COATS, JACKETS, PUFFER JACKETS, LEATHER JACKETS, AND SUEDE JACKETS; LEATHER SKIRTS, SUEDED SKIRTS, BATHING SUITS, LINGERIE, PANTIES, BRAS, CAMISOLES, TEDDIES, PAJAMAS, ROBES, BELTS, GLOVES, MITTENS, SCARVES, SOCKS, LEG WARMERS, SOCKS, HATS, CAPS, BEANIES, VISORS, FOOTWEAR,” in International Class 25, based on intent to use in United States commerce under Section 1(b) of the Trademark Act, 15 U.S.C. Section 1051(b).

3. On June 7, 2010, Ms. Levitas filed a statement of use regarding Application Serial No. 77855451 claiming a date of first use in commerce and date of first in United States commerce of March 1, 2019, under Section 1(a) of the Trademark Act, 15 U.S.C. Section 1051(a), declaring that the applicant, or the applicant’s related company, licensee, or predecessor in interest was using the mark in U.S. commerce for all of the applied for goods: “DRESSES,

SKIRTS, SHORTS, BLOUSES, T-SHIRTS, KNIT TOPS, SHIRTS, SUITS, PANTS, TROUSERS, JEANS, VESTS, LEGGINGS, SWEATSHIRTS, SWEATPANTS, AND SWEATERS; OUTERWEAR, NAMELY, COATS, JACKETS, PUFFER JACKETS, LEATHER JACKETS, AND SUEDE JACKETS; LEATHER SKIRTS, SUEDED SKIRTS, BATHING SUITS, LINGERIE, PANTIES, BRAS, CAMISOLES, TEDDIES, PAJAMAS, ROBES, BELTS, GLOVES, MITTENS, SCARVES, SOCKS, LEG WARMERS, SOCKS, HATS, CAPS, BEANIES, VISORS, FOOTWEAR,” in International Class 25.

4. Thereafter, on August 10, 2010, Application Serial No. 77855451 registered based on Section 1(a) of the Trademark Act for all of the aforementioned Class 25 goods, under U.S. Trademark Registration No. 3833036.

5. On April 10, 2012, Ms. Levitas assigned U.S. Trademark Registration No. 3833036 to Registrant Wilster Equities, LLC.

6. Upon information and belief, Petitioner alleges that Registrant is not using the mark in U.S. Registration No. 3833036 in United States commerce on or in connection with the goods registered thereunder.

7. Upon information and belief, Petitioner alleges that Registrant ceased use in U.S. commerce of the mark in U.S. Registration No. 3833036 during or prior to the year 2015 on or in connection with the goods registered thereunder, without a bona fide intent to resume use.

8. Accordingly, Petitioner alleges upon information and belief that Registrant has abandoned use of the mark in Registration No. 3833036, such that the registration should be cancelled in accordance with Trademark Act Section 14(3), 15 U.S.C. §1064(3).

9. Petitioner will be irreparably harmed and financially damaged by the continued registration of Registration No. 3833036, because Registration No. 3833036 has been cited in an

Examining Attorney's Office Action, issued April 16, 2019, against Petitioner's pending Application Serial No. 79254809 as grounds for refusal thereof. Therefore, Registration No. 3833036 should be cancelled,

**Request For Relief**

For the foregoing reasons, Petitioner requests cancellation of Registration No. 3833036 as to all of the goods listed therein.

The Petition fee in the amount of \$400.00 for one class is filed electronically herewith.

Dated: July 31, 2019

Respectfully submitted,  
SEITER LEGAL STUDIO

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