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Filing date: **08/08/2019**

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	Elevated Faith LLC		
Entity	limited liability company	Citizenship	Wisconsin
Address	8426 Pioneer Rd. Larsen, WI 54947 UNITED STATES		

Attorney information	Kevin Christopher Rockridge Venture Law 801 Broad St. STE 428 Chattanooga, TN 37402 UNITED STATES kevin@rockridgelaw.com 4237085310
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Registration Subject to Cancellation

Registration No.	5187052	Registration date	04/18/2017
Registrant	GODISGHL, LLC 2315 EAST LARKWOOD STREET WEST COVINA, CA 91791 UNITED STATES		

Goods/Services Subject to Cancellation

Class 025. First Use: 2017/01/27 First Use In Commerce: 2017/01/27 All goods and services in the class are subject to cancellation, namely: Baseball caps and hats; Bucket caps; Hooded sweatshirts; Shirts; Socks; Sweaters; Sweatshirts; T-shirts; Tank-tops

Grounds for Cancellation

The mark is or has become generic	Trademark Act Section 14(3), or Section 23 if on Supplemental Register
The mark is deceptively misdescriptive	Trademark Act Sections 14(1) and 2(e)(1)
Registrant not rightful owner of mark for identified goods or services	Trademark Act Sections 14(1) and 1
Deceptiveness	Trademark Act Sections 14(3) and 2(a)
Fraud on the USPTO	Trademark Act Section 14(3); In re Bose Corp., 580 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. 2009)

Attachments	EF_CancellationPetition_Final2.pdf(100616 bytes)
Signature	/Kevin Christopher/
Name	Kevin Christopher, Attorney of record
Date	08/08/2019

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

ELEVATED FAITH LLC,)	Cancellation No.
)	
Petitioner,)	Registration No. 5,187,052
)	
vs.)	Mark: G V V
)	
GODISGHL, LLC,)	
)	
Registrant.)	
)	

PETITION TO CANCEL

Elevated Faith LLC (“Petitioner”) hereby files its Petition to Cancel pursuant to Fed. R. Civ. P. 15(a), petitioning for the cancellation of U.S. Registration No. 5187052 for the G V V mark, registered to GODISGHL, LLC, as follows:

The Parties

1. Petitioner is a Wisconsin limited liability company.
2. The United States Patent and Trademark Office (“USPTO”) records identify Registrant, GODISGHL, LLC, with an address of 2315 East Larkwood Street, West Covina, California 91791, as the owner of U.S. Registration No. 5187052 (the “Registrant’s Registration”) for the mark G V V (the “Registered Mark”) for:

International Class 25: “Baseball caps and hats; Bucket caps; Hooded sweatshirts; Shirts; Socks; Sweaters; Sweatshirts; T-shirts; Tank-tops” (the “Registrant’s Goods”).

3. Petitioner is a seller of apparel featuring the Registered Mark, and has an interest in continuing to freely make use of the Registered Mark. Petitioner is entitled to present this

Petition under 15 U.S.C. § 1064.

The Mark

4. The Registrant submitted in its March 16, 2015, application (the “Application”) for the Registered Mark an image consisting of symbols representing as shorthand the phrase “God is Greater than the Highs and Lows,” symbolized as:



5. The Registrant claimed literal elements in its Application consisting of the letters G and V. In describing the Registered Mark the Applicant stated, “The mark consists of the letter G, the symbol greater than, an inverted V, and the letter V.” The Registrant made no mention of any aggregate symbolism, nor did the Registrant define symbols as “higher than” or “lower than,” or make any reference to religious meaning.

6. The Registrant in its February 1, 2017, Statement of Use in support of registration submitted T-shirt specimens emblazoned with the Registered Mark on the left breast portion of said T-shirts, without any additional showings of labels, tags, or retail displays.

COUNT 1: IMPROPER REGISTRATION AS A GENERIC UNIVERSAL SYMBOL

7. Petitioner sells apparel bearing the Registered Mark, specifically apparel bearing positive and Christian-themed messages. Petitioner sells apparel with the Registered Mark because the Registered Mark is readily apparent as religious symbolism referring to the phrase “God is greater than the highs and lows.” Petitioner’s customers purchase apparel with the Registered Mark exclusively because of its highly recognizable meaning. This meaning constitutes religious symbolism under Trademark Manual of Examining Procedure (“TMEP”) §

1202.17(e)(iv).

8. The commonly interpreted meaning of the Registered Mark is exactly the same as that of U.S. Serial No. 88322995, GOD IS GREATER THAN THE HIGHS AND LOWS (the “’995 mark”), which on June 18, 2019, was subject to a refusal to register

because the applied-for-mark is a slogan or term that does not function as a trademark or service mark to indicate the source of applicant’s goods and to identify and distinguish them from others... In this case, the applied-for-mark is a commonplace term, message, or expression widely used by a variety of sources that merely conveys an ordinary, familiar, well-recognized concept or sentiment.

In its Office Action, the Examiner of the ‘995 mark included numerous Attachments showing the very same graphical design as the Registered Mark in connection with the objectionable phrasing.

9. Under TMEP § 1202.17(e)(iv), the Registered Mark is a universal symbol used in an ornamental manner by the Registrant, and “should be refused [registration] accordingly.”

COUNT TWO: IMPROPER REGISTRATION BY NON-OWNER

10. The Registrant filed its Application on March 16, 2015, and did not submit a specimen alleging use until February 1, 2017.

11. On August 10, 2013, the popular musician Nick Jonas released images of a new tattoo with the exact same design as the Registered Mark (the “Jonas Tattoo”). In response, Mr. Jonas received 130,000 “likes” of the Jonas Tattoo on his Instagram account. Upon information and belief, in the nearly four years between the Jonas Tattoo release and the Registrant’s specimen submission, hundreds—if not thousands—of vendors sold apparel with the exact same image as the Jonas Tattoo and the Registered Mark. The USPTO even highlighted some of these vendors in rejection of the similarly situated and deficient ‘995 mark. The ‘995 mark and the Registered Mark are the same in that they were both advanced by owners attempting to hijack and

monopolize the freely used and traded designs of others.

12. Under TMEP§ 1201, an “application that is not filed by the owner is void.” *See also* TMEP § 1201.02(b). The Registrant is not the owner of the mark, but merely an exploiter of a popular interest design, and therefore its registration of the Registered Mark is improper and void.

COUNT THREE: IMPROPER REGISTRATION AS A DECEPTIVE MARK

13. The Registrant claimed in its Application that the literal elements of the design consisted of a G, greater than symbol, a V, and an inverted V.

14. The Registrant submitted its application nearly two years, and its specimen nearly four years, after a celebrity brandished the same design as the Registered Mark on his body, and after hundreds of thousands of people viewed the design and purchased copies of the image on multiple types of apparel by unrelated third parties. In parallel, many online sellers sold copies of the image on apparel and jewelry to consumers wishing to embrace the religious symbolism of the design independent of the acts of Mr. Jonas.

15. Upon information and belief, the Registrant, situated right inside the celebrity and fashion center of Los Angeles, was fully aware of the widespread use and sale of the design that became the Registered Mark.

16. Upon information and belief, the Registrant purposefully misidentified certain design elements in its Application and failed to include a statement defining the true representative nature of these elements in order to avoid rejection by the USPTO examiner in light of widespread use and sale of the design at the time of Registrant’s Application.

17. Upon information and belief, the Registrant purposefully submitted deceptive matter to the USPTO in an effort to wrongfully monopolize a popular design as its own for commercial

gain. The Registrant has wrongfully accused the Petitioner of trademark infringement and sought compensation from the Petitioner by the same deceptive means.

18. Under TMEP § 1203.02, submission of deceptive matter on either the Principal Register or Supplemental Register is an absolute bar to registration.

COUNT FOUR: FRAUD

19. Upon information and belief, Registrant made false, material representations of fact in connection with the Application with intent to deceive the USPTO.

20. Upon information and belief, Petitioner alleges that the Registered Mark was registered based on a fraudulent declaration made on March 16, 2015, in which the Registrant falsely and knowingly alleged no other person had the right to use the applied-for-mark in commerce.

21. Upon information and belief, Petitioner alleges that the Registered Mark was registered based on a fraudulent declaration made on February 1, 2017, in which the Registrant falsely and knowingly alleged ownership of the applied-for-mark.

22. Upon information and belief, Petitioner alleges that the Registered Mark was registered based on a fraudulent declaration made on February 1, 2017, in which the Registrant falsely and knowingly alleged exclusive use of the applied-for-mark.

23. The Registrant knew, or should have known, the legal requirements for filing sworn declarations before the USPTO.

24. The Petitioner's research has uncovered a factual basis for its claims. Specifically, Petitioner's search of Internet archives has uncovered substantial commercial use and sale of the Registered Mark predating both the Registrant's Application and subsequent statement of use. All allegations of intentional fraud made on information and belief may be proven with

information solely within the control of Registrant.

25. Upon information and belief, the Registrant's fraudulent declarations were material to the USPTO's decision to register the Registered Mark, and the Registered Mark would not have been registered but for Registrant's knowingly false and fraudulent declarations.

26. Registrant is not entitled to maintain the Registered Mark because Registrant committed fraud in the procurement of its registration, and said registration is therefore void.

27. Petitioner has been and will continue to be damaged by registration of the Registrant's Mark. By reason of all of the foregoing, Petitioner will be gravely damaged by the continued registration of the Registered Mark.

WHEREFORE, Petitioner prays that Registration No. 5,187,052 be cancelled, and that this Petition be sustained in favor of Petitioner.

Dated: August 7, 2019

Respectfully submitted,
**Christopher Intellectual Property Law,
PLLC d/b/a Rockridge Venture Law**

/Kevin Christopher/
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