

ESTTA Tracking number: **ESTTA1032573**

Filing date: **01/30/2020**

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	Great Knives Manufacture Co., Ltd.		
Entity	limited company	Citizenship	Taiwan
Address	No.115, Wugong 3rd Road Wugu District New Taipei City, 24889 TAIWAN		

Attorney information	Daniel I. Schloss Greenberg Traurig, LLP 200 Park Avenue, 38th Floor New York, NY 10166 UNITED STATES schlossd@gtlaw.com, biancoc@gtlaw.com, hasana@gtlaw.com, nytm-dkt@gtlaw.com 212-801-2256		
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**Registration Subject to Cancellation**

Registration No.	5829055	Registration date	08/06/2019
Registrant	Universal Sewing Supply, Inc. 1011 East Park Drive St. Louis, MO 63130 UNITED STATES		

**Goods/Services Subject to Cancellation**

Class 008. First Use: 1994/00/00 First Use In Commerce: 1994/00/00 All goods and services in the class are subject to cancellation, namely: arts and crafts notions, namely, nippers, and scissors
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**Grounds for Cancellation**

Priority and likelihood of confusion	Trademark Act Sections 14(1) and 2(d)
No use of mark in commerce before application, amendment to allege use, or statement of use was filed	Trademark Act Sections 14(1) and 1(a), (c), and (d)
Registrant not rightful owner of mark for identified goods or services	Trademark Act Sections 14(1) and 1
Fraud on the USPTO	Trademark Act Section 14(3); In re Bose Corp., 580 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. 2009)

## Mark Cited by Petitioner as Basis for Cancellation

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	GOLDEN EAGLE		
Goods/Services	<p>Class 7: arts and crafts notions, namely, nippers, and scissors; machine parts, namely, blades, chisels for machines, grindstones, knives; circular saws; knives, electric; power saw blades; scissors, electric; sewing machines; sewing machine parts, namely, knives, needle plates, feed dogs, gauge sets, and presser feet; fabric cutting machines; fiber cutting machines; fabric cutting machine parts, namely, knives, gears, base plates, knife guards; textile cleaning gun; leather skiving machines parts, namely, knives, grinding stones, and presser feet; components for machines for the cutting and grinding of materials, namely, power operated grinding wheels; non-woven abrasive belts, sheets, rolls, and disks for power-operated sanders Class 6: jets of metal; metal shims; metal bolts; screws of metal; rivets of metal; nuts of metal; hardware, namely, metal pins; metal hardware, namely, springs</p>		

Attachments	Petition for Cancellation - GOLDEN EAGLE 30 Jan 2020 Final.pdf(134573 bytes )
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Signature	/Daniel I. Schloss/
Name	Daniel I. Schloss
Date	01/30/2020

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

In the Matter of Registration No. 5,829,055  
Mark: GOLDEN EAGLE

Great Knives Manufacture Co., Ltd.,	:	
	:	Cancellation No.
Petitioner,	:	
	:	
v.	:	
	:	
Universal Sewing Supply, Inc.	:	
	:	
Respondent.	:	
	:	
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**PETITION FOR CANCELLATION**

Petitioner Great Knives Manufacture Co., Ltd. believes it is being damaged by Registration No. 5,829,055 for the mark GOLDEN EAGLE and hereby petitions for its cancellation. As grounds for cancellation, Petitioner alleges the following:

**FIRST GROUND:**

**FRAUD**

1. For many years prior to Respondent’s filing of the application that matured into Registration No. 5,829,055 for the mark GOLDEN EAGLE (“Respondent’s Fraudulent Registration”), Petitioner has used in US commerce the identical trademark GOLDEN EAGLE for, *inter alia*, goods identical to those identified in Respondent’s Fraudulent Registration.

2. On February 26, 2019, Respondent filed Application Serial No. 88/317,119 for the

mark GOLDEN EAGLE for “arts and crafts notions, namely, nippers, and scissors.”

3. Contrary to the sworn statement made in its Application Serial No. 88/317,119, Respondent knew at the time of its filing that Petitioner – not Respondent – was “the owner of the trademark . . . sought to be registered.” This material statement of fact was false. Respondent knowingly made this material misstatement of fact with the intent to deceive the Office, for the purpose of inducing the Office to issue a registration to which Respondent knew it was not entitled.

4. Respondent also made the sworn statement in its Application Serial No. 88/317,119 that “[t]he mark is in use in commerce on or in connection with the goods/services in the application.” This material statement of fact was false; Respondent knew at the time of filing that, in fact, it was not using in commerce the trademark GOLDEN EAGLE. Respondent knowingly made this material misstatement of fact with the intent to deceive the Office, for the purpose of inducing the Office to issue a registration to which Respondent knew it was not entitled.

5. Respondent made the further sworn statement in its Application Serial No. 88/317,119 that “[t]he specimen(s) shows the mark as used on or in connection with the goods/services in the application.” This material statement of fact was false. As Respondent well knew, the purported use specimen that it submitted was actually a photograph of one of Petitioner’s conspicuously branded GOLDEN EAGLE products – not Respondent’s. Respondent knowingly made this material misstatement of fact with the intent to deceive the Office, for the purpose of inducing the Office to issue a registration to which Respondent knew it was not entitled.

6. Respondent made the further sworn statement in its Application Serial No. 88/317,119 that “the facts recited in the application are accurate.” This material statement of fact was false; Respondent knew at the time of filing that, in fact, it was deliberately making multiple false representations to the Office for the express purpose of inducing the Office to issue a

registration to which Respondent knew it was not entitled.

7. Respondent made the further sworn statement in its Application Serial No. 88/317,119 that “no other persons . . . have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive.” This material statement of fact was false; Respondent knew at the time of filing that, in fact, Petitioner had the exclusive right to use and was actually using in commerce the identical mark GOLDEN EAGLE in commerce for the identical goods. Respondent knowingly made this material misstatement of fact with the intent to deceive the Office, for the purpose of inducing the Office to issue a registration to which Respondent knew it was not entitled.

8. The Office relied upon Respondent’s multiple material misstatements of fact made with the intent to deceive the Office in issuing Respondent’s Fraudulent Registration No. 5,829,055, to the great damage of Petitioner.

**SECOND GROUND:**  
**PRIORITY AND LIKELIHOOD OF CONFUSION**

9. Since long prior to Respondent’s filing of the application that matured into Respondent’s Fraudulent Registration No. 5,829,055, Petitioner has used in commerce the trademark GOLDEN EAGLE for, *inter alia*, goods identical to those identified in Respondent’s Fraudulent Registration.

10. Petitioner’s GOLDEN EAGLE trademark is identical to the GOLDEN EAGLE mark that is the subject of Respondent’s Fraudulent Registration. Petitioner’s GOLDEN EAGLE mark is used by Petitioner for, *inter alia*, goods identical to those identified in Respondent’s Fraudulent Registration.

11. Respondent's continued registration of Respondent's Fraudulent Registration No. 5,829,055 is therefore likely to cause confusion, mistake, and deception as to the source of Respondent's goods, and confers legal presumptions and statutory rights to which Respondent is not rightfully entitled.

**THIRD GROUND:**  
**RESPONDENT WAS NOT THE OWNER OF THE MARK WHEN IT FILED THE USE-BASED APPLICATION No. 88/317,119, WHICH MATURED INTO THE SUBJECT REGISTRATION No. 5,829,055**

12. Respondent was not the owner of the mark GOLDEN EAGLE at the time that it filed the use-based Application No. 88/317,119 under Section 1(a), which matured into Registration No. 5,829,055.

13. Since Respondent was not the owner of the mark GOLDEN EAGLE at the time that it filed the use-based Application No. 88/317,119 under Section 1(a), that application was void *ab initio*. Consequently, the resulting Registration No. 5,829,055 should be cancelled.

**FOURTH GROUND:**  
**RESPONDENT WAS NOT USING IN COMMERCE THE MARK WHEN IT FILED THE USE-BASED APPLICATION No. 88/317,119, WHICH MATURED INTO THE SUBJECT REGISTRATION No. 5,829,055**

14. Respondent was not using in commerce the mark GOLDEN EAGLE at the time that it filed the use-based Application No. 88/317,119 under Section 1(a), which matured into Registration No. 5,829,055.

15. Since Respondent was not using in commerce the mark GOLDEN EAGLE at the time that it filed the use-based Application No. 88/317,119, that application was void *ab initio*. Consequently, the resulting Registration No. 5,829,055 should be cancelled.

WHEREFORE, Petitioner prays that this Petition be granted and that Registration No. 5,829,055 be cancelled.

Respectfully submitted,

GREENBERG TRAUERIG, LLP

Dated: January 30, 2020

By: /Daniel I. Schloss/

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