ESTTA Tracking number:

ESTTA1092372

Filing date:

10/30/2020

## 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	Pro-Tracker IP Holding, LLC		
Entity	limited liabilty company	Citizenship	Idaho
Address	P.O. BOX 413 REXBURG, ID 83440 UNITED STATES		

Correspondence information	GRANT R. CLAYTON CLAYTON HOWARTH, P.C. P.O. BOX 1909 SANDY, UT 84091 UNITED STATES Primary Email: docketclerk@clayhow.com Secondary Email(s): gclayton@clayhow.com 801-255-5335

## Registration Subject to Cancellation

Registration No.	5070850	Registration date	11/01/2016
Registrant	Bad Boy Calls LLC 544 COUNTY ROAD 2400 DEWEY, IL 61840 UNITED STATES		

## Goods/Services Subject to Cancellation

Class 028. First Use: 2008/08/17 First Use In Commerce: 2009/01/10
All goods and services in the class are subject to cancellation, namely: Bird calls; Hunting game calls

#### Grounds for Cancellation

Abandonment	Trademark Act Section 14(3)
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Attachments	Petition_for_Cancellation.pdf(2702312 bytes )	
Signature	/Grant R. Clayton/	
Name	Grant R. Clayton	
Date	10/30/2020	

Attorney Docket No. T13434.C.1

Grant R. Clayton (USPTO Reg. No. 32,462)
D. Owen Johnson (USPTO Reg. No. 76,254)
CLAYTON HOWARTH, P.C.
6975 Union Park Avenue, Suite 600
Cottonwood Heights, Utah 84047
P.O. Box 1909
Sandy, Utah 84091
Telephone: (801) 255-5335

Attorneys for Pro-Tracker IP Holding, LLC

Mark: BAD BOY CALLS

U.S. Trademark Registration No.: 5,070,850

Registered: November 1, 2016

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

PRO-TRACKER IP HOLDING, LLC,	) ) DETITION FOR CANCELL ATION
Petitioner,	) PETITION FOR CANCELLATION ) No.
V.	)
BAD BOY CALLS LLC	)
Registrant.	)

#### **PETITION FOR CANCELLATION**

As grounds for cancelling U.S. Trademark Registration No. 5,070,850 ("the '850 Registration"), it is alleged that:

#### **PARTIES**

- 1. Petitioner Pro-Tracker IP Holding, LLC is an Idaho Limited Liability Company (hereinafter referred to as "Petitioner").
  - 2. Upon information and belief, Registrant, Bad Boy Calls LLC, is a former Illinois

Limited Liability Company, with an address of 544 County Road 2400, Dewey, Illinois 61840 (hereinafter referred to as "Registrant").

3. Upon information and belief, Registrant has been involuntary dissolved by the Illinois Department of State

#### **FACTS**

- 4. On January 7, 2019, Petitioner filed U.S. Trademark Application No. 88/252,594 for the mark BAD BOYS.
- 5. On February 6, 2020, a Final Office Action refused Petitioner's application due to a Section 2(d) refusal based on Registration No. 5,070,850.
- 6. On June 13, 2013, Registrant filed U.S. Trademark Application No. 85/955,218 (the '218 Application) for the mark BAD BOY CALLS (the "Mark").
- 7. On February 7, 2012, the subject '850 Registration (U.S. Trademark Registration No. 5,070,850) issued from the '218 Application.
- 8. Upon information and belief, Registrant operated the Facebook.com business webpage www.facebook.com/badboycalls/ and badboycalls.myshopify.com, from about November 2016 to about December 29, 2018. See Exhibit 1.
- 9. On December 29, 2018, Registrant posted an announcement via its Facebook.com business page to its existing and potential clientele that "Our shop is closed due to family reasons. Please respect our privacy and we apologize for the inconvenience." See Exhibit 1.
- 10. On February 14, 2020, the Secretary of State, Jesse White, for the State of Illinois, recorded Involuntary Dissolution, on 14 February 2020, of Bad Boy Calls LLC. See Exhibit 2.
- 11. The last known email address for Registrant in U.S. Patent and Trademark Office records is mdeering@meyercapel.com.

- 12. Upon information and belief, Registrant sold devices marked with the BAD BOY CALLS Mark but has not used the BAD BOY CALLS mark in at least 22 months and is not currently in business.
- 13. Upon information and belief, Registrant does not sell any products under the BAD BOY CALLS mark and has not used the mark in the ordinary course of trade since at least as early as December 29, 2018.
- 14. Upon information and belief www.facebook.com/badboycalls/ has not been updated nor any activity seen since the last post on December 29, 2018, indicating its shop would be closing due to "family reasons."
- 15. Upon information and belief, Registrant's website badboycalls.myshopify.com is currently unavailable.
- 16. Upon information and belief, Registrant has abandoned, without an intent to resume use of, BAD BOYS CALLS.

# GROUNDS FOR CANCELLATION (Abandonment -Trademark Act Section 14(3) & TBMP Section 309.03(C))

- 17. Petitioner hereby incorporates the preceding facts and allegations as if fully set forth herein.
- 18. Upon information and belief, Registrant has abandoned, without an intent to resume, BAD BOYS CALLS.
- 19. Upon information and belief, Bad Boy Calls LLC has made no use of the mark BAD BOY CALLS since its self-proclaimed closure of business on December 29, 2018.
- 20. The '085 Registration must be cancelled because Bad Boy Calls LLC has abandoned, without an intent to resume, BAD BOY CALLS.

#### **PRAYER FOR RELIEF**

WHEREFORE, Petitioner requests that the '850 Registration be cancelled and that this cancellation be sustained in its favor.

Any deficiency in the fee submitted can be charged to Deposit Account No. 50–0836.

All correspondence and telephonic communications should be directed to:

Grant R. Clayton
D. Owen Johnson
Attorney Docket No. T13434.C.1
CLAYTON HOWARTH, P.C.
6975 Union Park Avenue, Suite 600
Cottonwood Heights, Utah 84047
P.O. Box 1909
Sandy, Utah 84091
Telephone: (801) 255-5335

DATED this 30<sup>th</sup> day of October, 2020.

Respectfully submitted,

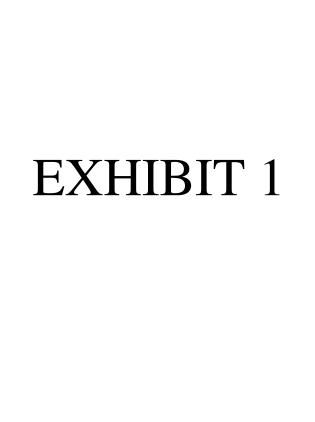
/s/ Grant R. Clayton
Grant R. Clayton
D. Owen Johnson

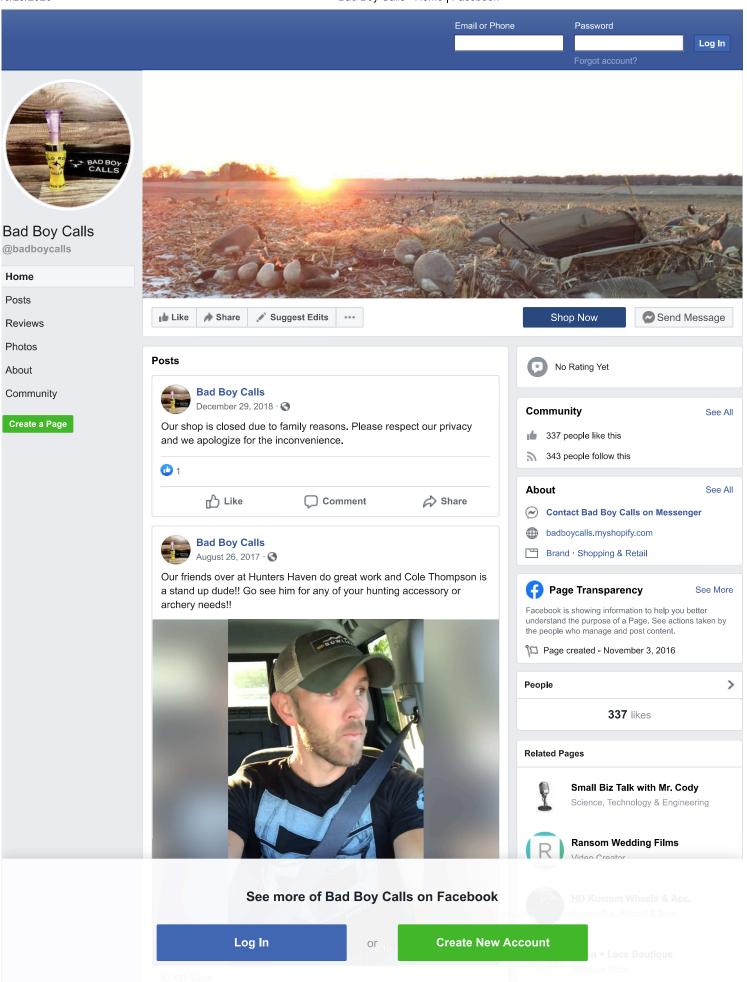
CLAYTON HOWARTH, P.C. P.O. Box 1909 Sandy, Utah 84091 Telephone: (801) 255-5335

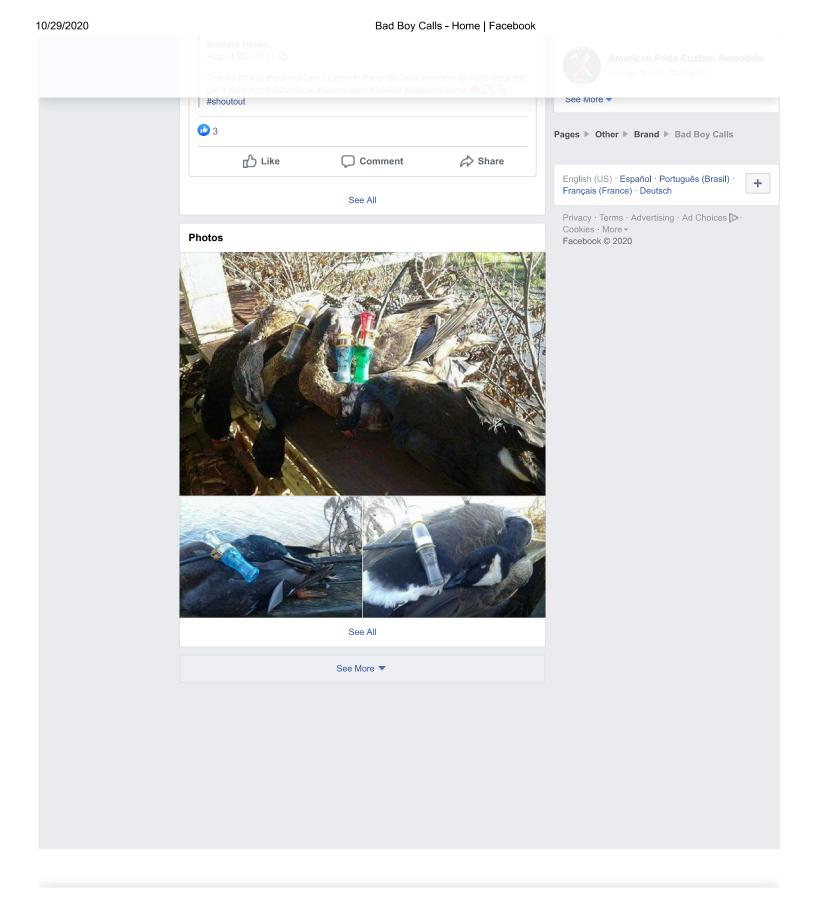
Attorneys for Petitioner Pro-Tracker IP Holding, LLC

GRC/src

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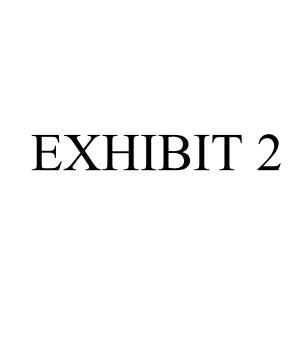
## See more of Bad Boy Calls on Facebook

Log In Or Create New Account

Want to setup an online store?
 Sign up for Shopify
 Buy a store

Sorry, this shop is currently unavailable.

Start a store | Find products to sell | Buy an existing online store





## Corporation/LLC Search/Certificate of Good Standing

## LLC File Detail Report

File Number	02579537
Entity Name	BAD BOY CALLS LLC
Status	INVOLUNTARY DISSOLUTION on Friday, 14 February 2020

## **Entity Information**

Principal Office 201 W SPRINGFIELD AVE #601 CHAMPAIGN, IL 61820

Entity Type

LLC

Type of LLC Domestic

Organization/Admission Date Wednesday, 13 August 2008

Jurisdiction

IL

Duration PERPETUAL

## **Agent Information**

Name

JEFFREY W TOCK

Address 201 W SPRINGFIELD AVE #601 CHAMPAIGN , IL 61820

Change Date Wednesday, 13 August 2008

## **Annual Report**

For Year 2019

Filing Date 00/00/0000

### Managers

Name Address SULLIVAN, CODY 544 COUNTY RD 2400 N DEWEY, IL 61840

#### **Assumed Name**

INACTIVE BAD BOY CALLS FISHING

### **Series Name**

NOT AUTHORIZED TO ESTABLISH SERIES

#### Return to Search