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Filing date: **10/17/2023**

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	Twentieth Century Fox Film Corporation		
Entity	Corporation	Incorporated or registered in	Delaware
Address	10201 WEST PICO BOULEVARD LOS ANGELES, CA 90035 UNITED STATES		

Attorney information	LINDA K. MCLEOD KELLY IP, LLP 1300 19TH STREET, NW, SUITE 420 WASHINGTON, DC 20036 UNITED STATES Primary email: linda.mcleod@kelly-ip.com Secondary email(s): lauren.jancuska@kelly-ip.com, lit-docketing@kelly-ip.com No phone number provided
Docket no.	

Registration subject to cancellation

Registration no.	6279712	Registration date	03/02/2021
Register	Principal		
Registrant	SUN JIN TAO NO.337, DONGZHUANGTOU VILLAGE WENCHANGLU STREET LAIZHOU CITY, SHANDONG CHINA		

Goods/services subject to cancellation

Class 014. First Use: Dec 7, 2016 First Use In Commerce: Dec 8, 2016 All goods and services in the class are subject to cancellation, namely: Alloys of precious metal; Beads for use in the manufacture of jewelry; Bracelets; Clocks; Costume jewelry; Earrings; Hat jewelry; Jewellery chains; Jewelry; Jewelry made in whole or significant part of silver; Jewelry cases; Jewelry charms; Jewelry, namely, magnetic necklaces; Locketts; Necklaces; Ornaments of precious metal in the nature of jewelry; Palladium and its alloys; Pendants; Rhodium and its alloys; Rings; Synthetic diamonds; Watches; Amulets; Pearls

Grounds for cancellation

Abandonment	Trademark Act Section 14(3)
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Registration subject to cancellation

Registration no.	5964384	Registration date	01/21/2020
Register	Principal		
Registrant	SUN JIN TAO NO.337, DONGZHUANGTOU VILLAGE WENCHANGLU STREET LAIZHOU CITY, SHANDONG CHINA		

Goods/services subject to cancellation

<p>Class 014. First Use: Dec 7, 2016 First Use In Commerce: Dec 8, 2016 All goods and services in the class are subject to cancellation, namely: Alloys of precious metal; Amulets; Beads for use in the manufacture of jewelry; Bracelets; Clocks; Costume jewelry; Earrings; Hat jewellery; Jewellery charms; Jewelry; Jewelry cases; Jewelry chains; Jewelry made in whole or significant part of silver; Locketts; Necklaces; Ornaments of precious metal in the nature of jewelry; Palladium and its alloys; Pearls; Pendants; Rhodium and its alloys; Rings; Synthetic diamonds; Watches; Jewelry, namely, magnetic necklaces</p>
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Grounds for cancellation

Abandonment	Trademark Act Section 14(3)
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Attachments	Petition for Cancellation - Avatar and Avatarjewelry.pdf(167912 bytes)
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Signature	/Lauren Jancuska/
Name	Lauren Jancuska
Date	10/17/2023

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

<p>TWENTIETH CENTURY FOX FILM CORPORATION,</p> <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">v.</p> <p>SUN JIN TAO,</p> <p style="text-align: center;">Respondent.</p>	<p>Cancellation No.:</p> <p>Mark: AVATAR Registration No.: 6279712 Registration Date: March 2, 2021</p> <p style="text-align: center;"></p> <p>Mark: AVATARJEWELRY Registration No.: 5964384 Registration Date: January 21, 2020</p>
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CONSOLIDATED PETITION FOR CANCELLATION

Petitioner Twentieth Century Fox Film Corporation, a Delaware corporation having an address at 10201 West Pico Boulevard, Los Angeles, California 90035, believes that it is being and will continue to be damaged by the registration of Sun Jin Tao's ("Respondent") stylized AVATAR mark shown in Registration No. 6279712 and Respondent's AVATARJEWELRY and design mark shown in Registration No. 5964384, and hereby petitions to cancel the same in their entirety. Petitioner's entitlement to statutory causes of action and grounds for this Consolidated Petition for Cancellation are set forth below, with allegations regarding Petitioner's own acts based on actual knowledge and regarding other matters based on information and belief.

Petitioner and Its Business

1. Twentieth Century Fox Film Corporation, by and through its related companies and licensees (collectively, "Petitioner"), is one of the world's leading and largest entertainment and media companies. Petitioner routinely offers and sells a

variety of entertainment products and services, including motion picture films and television series, and related consumer products and merchandise. Petitioner also engages in a vast licensing program under which it uses or licenses the use of its properties and characters in connection with a wide variety of products and services, including but not limited to entertainment services, television programs, motion picture films, toys, dolls, apparel, jewelry, personal care products, linens, towels, interactive theme parks, online games, computer games, video games, music, and mobile applications.

Petitioner and Its AVATAR Mark

2. Petitioner owns U.S. Trademark Application No. 97729217 (the “Application”) for the AVATAR and design mark (“Petitioner’s AVATAR Mark”), which was filed on December 22, 2022 under Section 1(b) of the Lanham Act, 15 U.S.C. § 1051(b). The Application covers “jewelry, precious and semi-precious stones; charms for jewelry; imitation jewelry; gemstone jewelry; jewelry, namely, necklaces, bracelets, and rings; cuff links and tie clips; decorative boxes made of precious metal; jewelry boxes; jewelry organizer rolls for travel; keychains; keyrings; medals and medallions; non-monetary coins; ornamental lapel pins; semi-wrought precious metals and their imitations; statues of precious and semi-precious stones; statues of precious metal; watch bands and straps; watches” in Class 14.

3. On April 21, 2023, the U.S. Patent and Trademark Office issued a Non-Final Office Action refusing registration of Petitioner’s AVATAR Mark under Section 2(d), 15 U.S.C. Section 1052(d), based on an alleged likelihood of confusion with Respondent’s Registration Nos. 6279712 and 5964384 (collectively, “Respondent’s

Registrations”) for its stylized AVATAR mark and AVATARJEWELRY and design mark, respectively (collectively, “Respondent’s AVATAR Marks”).

4. Because Petitioner’s AVATAR Mark has been refused registration based on an alleged likelihood of confusion with Respondent’s AVATAR Marks, Petitioner has been damaged by Respondent’s Registrations and therefore has an entitlement to a statutory cause of action. TBMP § 309.03(b).

Respondent, Its Registrations and Its Marks

5. Respondent is a Chinese individual with an address at No.337, DongZhuangTou Village, WenChangLu Street, LaiZhou City, ShanDong, China.

6. Respondent is the listed owner of Registration No. 6279712, which registered on March 2, 2021, for the stylized mark AVATAR covering “Alloys of precious metal; Beads for use in the manufacture of jewelry; Bracelets; Clocks; Costume jewelry; Earrings; Hat jewelry; Jewellery chains; Jewelry; Jewelry made in whole or significant part of silver; Jewelry cases; Jewelry charms; Jewelry, namely, magnetic necklaces; Locketts; Necklaces; Ornaments of precious metal in the nature of jewelry; Palladium and its alloys; Pendants; Rhodium and its alloys; Rings; Synthetic diamonds; Watches; Amulets; Pearls” in Class 14 (collectively, the “712 Goods”).

7. Respondent is also the listed owner of Registration No. 5964384, which registered on January 21, 2020, for the AVATARJEWELRY and design mark covering “Alloys of precious metal; Amulets; Beads for use in the manufacture of jewelry; Bracelets; Clocks; Costume jewelry; Earrings; Hat jewellery; Jewellery charms; Jewelry; Jewelry cases; Jewelry chains; Jewelry made in whole or significant part of silver; Locketts; Necklaces; Ornaments of precious metal in the nature of jewelry; Palladium

and its alloys; Pearls; Pendants; Rhodium and its alloys; Rings; Synthetic diamonds; Watches; Jewelry, namely, magnetic necklaces” in Class 14 (collectively, the “‘384 Goods”).

8. Collectively, the ‘712 Goods and the ‘384 Goods are referred to herein as “Respondent’s Goods.”

Abandonment Under Section 45, 15 U.S.C. § 1127

9. Petitioner repeats and realleges each and every allegation set forth in the paragraphs above.

10. On information and belief, Respondent has abandoned Respondent’s AVATAR Marks shown in Respondent’s Registrations based on non-use of Respondent’s AVATAR Marks in commerce in connection with Respondent’s Goods and with an intent not to resume use of Respondent’s AVATAR Marks for such goods.

11. On information and belief, Respondent has abandoned Respondent’s AVATAR Marks shown in Respondent’s Registrations based on non-use in commerce for at least three consecutive years in connection with Respondent’s Goods and with an intent not to resume use of Respondent’s AVATAR Marks for such goods.

12. In particular, a reasonable search of the Internet does not reveal any use of Respondent’s AVATAR Marks for Respondent’s Goods. Further, a reasonable search of the Internet does not show any retail outlets, stores or manufacturing locations for Respondent’s Goods in the U.S. Additionally, there is no use of Respondent’s AVATAR Marks for Respondent’s Goods on any website owned or operated by Respondent.

13. In the alternative, to the extent that Respondent has made any use of Respondent’s AVATAR Marks in commerce for any of Respondent’s Goods, such use

has been token, de minimis, and/or not in the ordinary course of trade as required under section 45 of the Lanham Act, 15 U.S.C. § 1127.

14. Accordingly, Respondent's Registrations should be cancelled based on abandonment under Section 45 of the Lanham Act, 15 U.S.C. § 1127.

WHEREFORE, Petitioner believes that it is being and will continue to be damaged by Respondent's Registrations. Petitioner is entitled to a statutory cause of relief and respectfully requests that this Consolidated Petition for Cancellation be granted and that Respondent's Registrations be cancelled in their entirety.

The filing fee has been submitted electronically. Any deficiency in the fee should be charged to Deposit Account No. 506154.

Respectfully submitted,

Dated: October 17, 2023

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