

ESTTA Tracking number: **ESTTA1357495**
Filing date: **05/08/2024**

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	Garan Services Corp.		
Entity	Corporation	Incorporated or registered in	Delaware
Address	99 PARK AVENUE 7TH FLOOR NEW YORK, NY 10016 UNITED STATES		

Attorney information	G. ROXANNE ELINGS DAVIS WRIGHT TREMAINE LLP 1251 AVENUE OF THE AMERICAS 21ST FLOOR NEW YORK, NY 10020 UNITED STATES Primary email: NYC-Trademark@dwt.com Secondary email(s): RoxanneElings@dwt.com, OrrinFalby@dwt.com, NicoleMedeiros@dwt.com, JenniferAshton@dwt.com, CelyraMyers@dwt.com, LatoyaTyson@dwt.com, AlyssaOcchiboi@dwt.com, TamiAverna@dwt.com, BriannaNewman@dwt.com 2124898230		
Docket no.	115571.85		

Registration subject to cancellation

Registration no.	7238645	Registration date	12/12/2023
Register	Principal		
Registrant	Easy-PZ, LLC 17011 LINCOLN AVE, # 434 PARKER, CO 80134 UNITED STATES		

Goods/services subject to cancellation

Class 035. First Use: Sep 1, 2014 First Use In Commerce: Sep 6, 2014
Goods and services in the class that are subject to cancellation: On-line retail gift shops; On-line retail store services featuring a wide variety of consumer goods of others; On-line retail store services featuring products for infants, babies, and small children

Grounds for cancellation

No use of mark in commerce before application, amendment to allege use, or statement of use was due	Trademark Act Sections 14(1) and 1(a), (c), and (d)
Fraud on the USPTO	Trademark Act Section 14(3); In re Bose Corp.,

	580 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. 2009)
Other	Section 18 of the Trademark Act, 15 U.S.C. §1068.

Attachments	Cancellation - EZPZ .pdf(259741 bytes)
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Signature	/GRE/
Name	G. Roxanne Elings
Date	05/08/2024

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

Garan Services Corp.,

Petitioner,

v.

Easy-PZ, LLC,

Registrant.

Cancellation No.:

Registration No. 7238645

Mark:  (EZ PZ)

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

PETITION TO CANCEL

Garan Services Corp. (hereinafter referred to as “Garan” or “Petitioner”) believes that it will be damaged by the above identified trademark and hereby petitions to cancel same. As grounds thereof, it is alleged as follows:

FACTS


1. Petitioner is a Delaware corporation with a place of business at 99 Park Avenue, 7th Floor, New York, New York 10016.
2. Petitioner is a worldwide leader in the design, manufacture, distribution, marketing, and promotion of children’s apparel, including hosiery, undergarments, outerwear and sleepwear; footwear; headwear, including hats and caps; books; backpacks; carrying bags; tote bags; bedding; games and toys (hereinafter “Petitioner’s Goods”).
3. Petitioner is the owner of the following United States Trademark Applications (“Petitioner’s Applications”) for EASY-PEASY and EASY-PEASY BY GARANIMALS

(collectively, “Petitioner’s Marks”):


TRADEMARK	FILING DATE	GOODS/SERVICES
EASY – PEASY App No 97022369	Sep. 10, 2021	18 - Knapsacks; Umbrellas; Wallets; All-purpose carrying bags; Backpacks; Change purses; Duffle bags; Fanny packs; Tote bags.
EASY – PEASY App No 97304522	Mar. 9, 2022	18 - Diaper Bags; Baby carriers worn on the body.
EASY-PEASY BY GARANIMALS App No 97022387	Sep. 10, 2021	18 - Backpacks; Knapsacks; Umbrellas; Wallets; All-purpose carrying bags; Change purses; duffle bags; Fanny packs; Tote bags.
EASY-PEASY BY GARANIMALS App No 97304544	Mar. 9, 2022	18 - Diaper Bags; Baby carriers worn on the body.
EASY-PEASY App No 97029032	Sep. 15, 2021	Class 24: Bath linen; Bed blankets; Bed linen; Crib bumpers; Household linen; Swaddling blankets
EASY- PEASY App No 97304533	Mar. 9, 2022	24 - Baby bedding, namely, bundle bags, swaddling blankets, crib bumpers, fitted crib sheets, crib skirts, crib blankets, and diaper changing pad covers not of paper; Curtains; Textile place mats; Washcloths; Towels.
EASY- PEASY BY GARANIMALS App No 97029000	Sep. 15, 2021	Class 24: Bath linen; Bed blankets; Bed linen; Crib bumpers; Household linen; Swaddling blankets
EASY- PEASY BY GARANIMALS App No 97304548	Mar. 9, 2022	24 - Baby bedding, namely, bundle bags, swaddling blankets, crib bumpers, fitted crib sheets, crib skirts, crib blankets, and diaper changing pad covers not of paper; Curtains; Textile place mats; Washcloths; Towels.
EASY- PEASY App No 97022380	Sep. 10, 2021	25 - Footwear; Headwear; Hosiery; Sleepwear; Bottoms as clothing; Tops as clothing.
EASY- PEASY App No 97304538	Mar. 9, 2022	25 - Baby bibs not of paper; Shoes for babies and children; robes.
EASY- PEASY BY GARANIMALS App No 97022381	Sep. 10, 2021	25 - Footwear; Headwear; Hosiery; Sleepwear; Bottoms as clothing; Tops as clothing.
EASY- PEASY BY GARANIMALS App No 97304557	Mar. 9, 2022	25 - Baby bibs not of paper; Shoes for babies and children; robes.
EASY- PEASY	Mar. 9, 2022	28 - Activity Gyms for infants and toddlers; Play mats

TRADEMARK	FILING DATE	GOODS/SERVICES
App No 97304540		containing infant toys; Play mats for use with toy vehicles; Plush toys; Stuffed toys; Squeeze toys; Construction toys; Infant toys; Plastic character toys; Baby rattles; Mobiles for children; Bath toys.
EASY- PEASY BY GARANIMALS App No 97304564	Mar. 9, 2022	28 - Activity Gyms for infants and toddlers; Play mats containing infant toys; Play mats for use with toy vehicles; Plush toys; Stuffed toys; Squeeze toys; Construction toys; Infant toys; Plastic character toys; Baby rattles; Mobiles for children; Bath toys.

4. Petitioner’s Applications have been suspended on the grounds that U.S.

Application Serial Nos. 86846378 for EZ-PZ and 86851508 for  pose a potential obstacle to the registration of Petitioner’s Marks, pursuant to Trademark Act Section 2(d).

5. Upon information and belief, Easy-PZ, LLC (hereinafter “Registrant”) is a limited liability company organized under the laws of Colorado, having a mailing address at 17011 Lincoln Ave, # 434, Parker, Colorado 80134.

6. On or about December 16, 2015, Registrant filed United States Trademark Application Serial No. 86851508, pursuant to Section 1(a) of the Lanham Act, 15 U.S.C. § 1051(a) to register  (“Registrant’s Mark”) on the Principal Register.

7. On or about September 26, 2023, Registrant’s Mark was published for opposition in the *Official Trademark Gazette* in connection with, *inter alia*, the following services (hereinafter “Registrant’s Services”): “*On-line retail gift shops; On-line retail store services featuring a wide variety of consumer goods of others; On-line retail store services featuring downloadable books, cook books and recipe books; On-line retail store services featuring products for infants, babies, and small children*” in International Class 35.

8. On or about December 12, 2023, the Application was granted under Registration No. 7238645 (“the Registration”).

9. Upon information and belief, the recitation of services in the Registration, namely,

“On-line retail gift shops; On-line retail store services featuring a wide variety of consumer goods of others; On-line retail store services featuring products for infants, babies, and small children” is inaccurate and overly broad because Registrant only uses Registrant’s Mark in connection with feeding products and related cleaning products.

COUNT I
CANCELLATION BY RESTRICTION, PURSUANT TO SECTION 18

10. Petitioner repeats and realleges each and every allegation set forth in paragraphs 1 through 9 hereof as if fully set forth herein.

11. Upon information and belief, Registrant is engaged in the manufacture and sale of children’s and pet’s feeding products and related cleaning products.

12. Upon information and belief, Registrant does not operate an online gift shop, manufacture or sell apparel items, household bedding and linen, games and toys and/or carrying bags.

13. Petitioner seeks cancellation in part of the Registration in the nature of restrictions by amending the recitation of services as set forth below:

“~~On-line retail gift shops; On-line retail store services featuring a wide variety of consumer goods of others; On-line retail store services featuring downloadable books, cook books and recipe books; On-line retail store services featuring products for infants, babies, and small children~~ dinnerware, namely, plastic bowls, plates, cups and place mats for infants and children, dishes, pet feeding dishes, serving dishes, child and infant dishes, plastic place mats with integrated bowl and receptacle dishes.”

14. Petitioner requests that the description of services in the Registration be restricted in the above-identified manner that is consistent with Registrant’s actual use of Registrant’s Mark in U.S. commerce and in a manner that avoids any likelihood of confusion with Petitioner’s Marks.

15. A finding of likelihood of confusion between the Petitioner's Marks and Registrant's Mark would be avoided by restricting the services identified in the Registration to identify the services with greater particularity and conforming the services to identify only those services which are actually rendered under Registrant's Mark.

16. WHEREFORE, Petitioner prays that Registration No. 7238645 be modified to limit the services specified therein and that this petition for partial cancellation be sustained, pursuant to Section 18 of the Trademark Act, 15 U.S.C. §1068.

COUNT II
LACK OF BONA FIDE USE IN COMMERCE

17. Petitioner repeats and realleges each and every allegation set forth in paragraphs 1 through 16 hereof as if fully set forth herein.

18. Registrant filed the Application based on use of Registrant's Mark in commerce in connection with Registrant's Services, claiming use in commerce since at least as early as September 6, 2014.

19. Upon information and belief, Registrant did not have bona fide use of Registrant's Mark on or in connection with all of the services recited in the Application in commerce on the date the Application was filed.

20. Upon information and belief, Registrant did not have bona fide use of Registrant's Mark on or in connection with all of the services recited in the Application in commerce at least as early as September 6, 2014.

21. Upon information and belief, Registrant has not used Registrant's Mark in commerce in connection with "on-line retail gift shops."

22. Upon information and belief, Registrant has not used Registrant's Mark in

commerce in connection with “on-line retail gift shops” on the date the Application was filed.

23. Upon information and belief, Registrant has not used Registrant’s Mark in commerce in connection with “on-line retail gift shops” since at least as early as September 6, 2014.

24. Upon information and belief, Registrant has not used Registrant’s Mark in commerce in connection with “On-line retail store services featuring a wide variety of consumer goods of others.”

25. Upon information and belief, Registrant has not used Registrant’s Mark in commerce in connection with “On-line retail store services featuring a wide variety of consumer goods of others” on the date the Application was filed.

26. Upon information and belief, Registrant has not used Registrant’s Mark in commerce in connection with “On-line retail store services featuring a wide variety of consumer goods of others” since at least as early as September 6, 2014.

COUNT III
FRAUD ON THE TRADEMARK OFFICE

27. Petitioner repeats and realleges each and every allegation set forth in paragraphs 1 through 23 hereof as if fully set forth herein.

28. At the time Registrant submitted the Application, Registrant submitted a verified statement that it had used Registrant’s Mark in commerce on or in connection with all of the services recited in the Application.

29. At the time Registrant submitted the Application, Registrant knew that the verified statement it made to the USPTO that it had used Registrant’s Mark in United States commerce on or in connection with all of the services listed in the Application was false.

30. At the time Registrant submitted the Application, Registrant knew that the verified statement it made to the USPTO that it had used Registrant's Mark in United States commerce on or in connection with all of the services listed in the Application since at least as early as September 6, 2014 was false.

31. Upon information and belief, at the time Registrant submitted the Application, Registrant had not used Registrant's Mark in commerce in connection with some of the services listed in the Application.

32. Upon information and belief, at the time Registrant submitted the Application, Registrant had not used Registrant's Mark in commerce in connection with "On-line retail store services featuring a wide variety of consumer goods of others."

33. Upon information and belief, Registrant has not used Registrant's Mark in commerce in connection with all of Registrant's Services.

34. Upon information and belief, Registrant has not used Registrant's Mark in commerce in connection with "On-line retail store services featuring a wide variety of consumer goods of others."

35. Registrant knowingly made material misrepresentations to the USPTO in order to procure approval of the Application for publication in the *Official Trademark Gazette* in connection with services with which it had not yet commented use on the date the Application was filed.

36. Registrant knowingly made material misrepresentations to the USPTO in order to procure approval of the Application for publication in the *Official Trademark Gazette* in connection services with which it had not commented use since at least as early as September 6, 2014.

37. The USPTO relied upon Registrant's false representations in approving Registrant's Mark for publication in the *Official Trademark Gazette* in connection with the services listed in the Application.

38. The USPTO would not have approved Registrant's Mark for publication in the *Official Trademark Gazette* in connection with the services listed in the Application but for Registrant's false representation.

39. Registrant's actions in inducing the USPTO to approve Registrant's Mark for publication in the *Official Trademark Gazette* constitutes fraud, thereby voiding the Registration *ab initio*.

WHEREFORE, Petitioner prays that this proceeding be sustained.

DATED: New York, New York
May 8, 2024

Respectfully submitted,

DAVIS WRIGHT TREMAINE LLP

/G. Roxanne Elings/
By: G. Roxanne Elings

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