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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	Top Tobacco, L.P.		
Entity	limited partnership	Incorporated or registered in	Delaware
Address	2301 RAVINE WAY GLENVIEW, IL 60025 UNITED STATES		
Attorney information	ANTONY J. MCSHANE NEAL, GERBER & EISENBERG LLP 2 NORTH LASALLE STREET, SUITE 1700 CHICAGO, IL 60602 UNITED STATES Primary email: <a href="mailto:ecfdocket@nge.com">ecfdocket@nge.com</a> Secondary email(s): <a href="mailto:amcshane@nge.com">amcshane@nge.com</a> , <a href="mailto:afraker@nge.com">afraker@nge.com</a> , <a href="mailto:jshering@nge.com">jshering@nge.com</a> , <a href="mailto:temanuelson@nge.com">temanuelson@nge.com</a> , <a href="mailto:acrawford@nge.com">acrawford@nge.com</a> , <a href="mailto:ecfdocket@nge.com">ecfdocket@nge.com</a> 312-269-8000		
Docket no.	016471.0702		

#### Registration subject to cancellation

Registration no.	5916968	Registration date	11/19/2019
Register	Supplemental		
Registrant	Remington, Steve 3 13100 BEECH AVE DESERT HOT SPRINGS, CA 92240 UNITED STATES		

#### Goods/services subject to cancellation

Class 034. First Use: Apr 18, 2019 First Use In Commerce: Apr 18, 2019  
All goods and services in the class are subject to cancellation, namely: Electronic cigarette accessory in the nature of a cap that slides on to cover and protect the mouthpiece, cartridge, and atomizer of an electronic cigarette

#### Grounds for cancellation

Abandonment	Trademark Act Section 24
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Attachments	Petition to Cancel VAPETOPZ.pdf(16020 bytes )
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Signature	/Antony J. McShane/
Name	Antony J. McShane
Date	10/31/2024

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

	)	Cancellation No.
	)	
TOP TOBACCO, L.P.	)	U.S. Reg. 5,916,968
	)	
Petitioner,	)	Mark: <b>VAPETOPZ</b>
	)	
v.	)	Reg. Date: November 19, 2019
	)	
STEVE REMINGTON	)	
	)	
Registrant.	)	
	)	

**PETITION FOR CANCELLATION**

Pursuant to 15 U.S.C. § 1064, Top Tobacco, L.P. (“Petitioner”), a Delaware limited partnership having a place of business at 2301 Ravine Way, Glenview, Illinois 60025, believes it will be damaged by the continued registration of U.S. Federal Trademark Registration No. 5,916,968 for the mark VAPETOPZ and, accordingly, petitions to cancel the same. As grounds in support of this Petition for Cancellation, Petitioner alleges the following:

1. For many years, Petitioner has been engaged in the manufacture, distribution and sale of smoker’s articles, including, cigarette rolling papers, smoking tobacco, filter tubes, and cigarette machines. Petitioner’s products are distributed through tobacco shops, drugstores, tobacco outlets, convenience stores and other retail stores.

2. Petitioner owns multiple federal registrations for the mark TOP, as a word mark and as a prominent part of a design mark, in connection with smokers’ articles, including the following (collectively, the “TOP Marks”):

<b>Mark</b>	<b>Registration No.</b>	<b>Registration Date</b>	<b>Goods and Services</b>
TOP	2,739,466	July 22, 2003	Smoking tobacco
TOP	2,831,105	April 13, 2004	Cigarette rolling papers
TOP	3,407,400	April 1, 2008	Cigarette rolling paper booklets; roll-your-own smoking tobacco; cigarette rolling machines; cigarette tubes; injector machines for filling cigarette tubes for personal use; filter tips for cigarettes
TOP	3,918,139	February 8, 2011	Pocket machines for rolling cigarettes for personal use
TOP	7,339,824	March 26, 2024	Smokers' rolling trays

3. Upon information and belief, Steve Remington (“Registrant”) is a U.S. individual with a residence at #3, 13100 Beech Avenue, Desert Hot Springs, California 92240. Registrant’s counsel of record is Nyall Engfield of Calstrat Counsel, whose email address of record is [orders@trademarkkraft.com](mailto:orders@trademarkkraft.com).

4. Registrant is the owner of record of U.S. Registration No. 5,916,968 (the “Registration”) for the mark VAPETOPZ (“Registrant’s Mark”), which is registered for the following goods in International Class 34: “Electronic cigarette accessory in the nature of a cap that slides on to cover and protect the mouthpiece, cartridge, and atomizer of an electronic cigarette.”

5. On information and belief, Registrant has not used Registrant’s Mark in interstate commerce with the goods identified in the Registration for more than three (3) years and has no intent to resume use of Registrant’s Mark in interstate commerce with the goods identified in the

Registration in the future. As such, Registrant's Mark has been abandoned pursuant to 15 U.S.C. §1064 and 15 U.S.C. §1127. Accordingly, the Registration should be cancelled

6. Petitioner is being and will continue to be damaged in that the continuing presence of Registrant's Mark on the register will hinder Petitioner's ability to use and enforce its rights in the TOP Marks.

WHEREFORE, Petitioner requests that this Petition for Cancellation be granted and that the Registration be cancelled.

Date: October 31, 2024

Respectfully submitted,

By: /Antony J. McShane/  
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