

ESTTA Tracking number: **ESTTA687437**

Filing date: **08/04/2015**

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 requests to cancel indicated registration.

Petitioner Information

Name	Michelle Luevano		
Entity	Individual	Citizenship	United States
Address	740 4th Street Suite 114 Santa Rosa, CA 95404 UNITED STATES		

Correspondence information	Michelle Luevano Accountant Nerdy Girl Enterprises Inc 740 4th Street Suite 114 Santa Rosa, CA 95404 UNITED STATES nerdygirlinc@icloud.com Phone:7075234100
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Registration Subject to Cancellation

Registration No	3323087	Registration date	10/30/2007
Registrant	Phillips Erb, Kelly A 20 South Valley Road, #100 Paoli, PA 19301 UNITED STATES		

Goods/Services Subject to Cancellation

Class 035. First Use: 2000/04/20 First Use In Commerce: 2000/04/20 All goods and services in the class are cancelled, namely: Tax consultation and tax advisory services regarding tax news, tax policy, and tax information

Grounds for Cancellation

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Abandonment	Trademark Act section 14

Related Proceedings	Petition for Cancellation. Tracking No: ESTTA686188
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Attachments	taxgirl petition for cancellation.pdf(1963347 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Michelle Luevano/
Name	Michelle Luevano
Date	08/04/2015

1 MICHELLE LUEVANO

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5 SANTA ROSA, CA 95404

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12 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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14 BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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18 MICHELLE LUEVANO, NERDY GIRL

19 ENTERPRISES INC

20 Plaintiff,

21 vs.

22 KELLY A PHILLIPS ERB,

23 Defendant

24 Case No.:

25 PETITION FOR CANCELLATION OF TRADEMARK
26 REGISTRATION 3323087

27 Petitioners, Michelle Luevano, is the CEO of Tax Girls Incorporated & Nerdy
28 Girl Enterprises Inc dba Tax Girls with address at 740 4th Street Suite 114,
Santa Rosa, CA, 95404. Michael Morgan and Morgan, Daggett and Wotman LLP was

1 the rightful registered owner of the domain name TaxGirls.com with addresses
2 at 290 Maple Court, Suite 240 Ventura, California 93003. (Hereinafter
3 referred to collectively as "Petitioners").

4 To the best of Petitioners' knowledge, the name and address of the current
5 owner of U.S. Registration No. 3,323,087 for the TAXGIRL and U.S.

6 Registration No. 3,754,414 for ASK THE TAXGIRL (the "Registrations") is the
7 20 South Valley Road, #100 Paoli PENNSYLVANIA 19301 ("Registrant"). EXHIBIT

8 **1TRADEMARK REGISTRATION OF TAXGIRL 3,323,087**

9 **Petitioners Are Being and Will Continue To Be Damaged By the Registrations:**

10 On July 25th 2015, the social networking website Facebook informed
11 Petitioner. Nerdy Girl Enterprises Inc that Facebook had received
12 correspondence from Registrant demanding that Facebook take down ALL portions
13 of Plaintiff's Facebook business page named "Nerdy Girl Enterprises Inc dba
14 Tax Girls" for infringing on the Owner's trademark of again the
15 misrepresented mark of "Tax Girl".

16 On July 27th 2015, the social networking website YouTube informed Petitioner.
17 Nerdy Girl Enterprises Inc that Google had received correspondence from
18 Registrant demanding that Google/YouTube take down ALL portions of
19 Plaintiff's Youtube business page and Content named "Nerdy Girl Enterprises
20 Inc dba Tax Girls" for infringing on the Owner's trademark of again the
21 misrepresented mark of "Tax Girl". **Exhibit 3 - YouTube & Google Complaint**

22 **Notification**

23 "Tax" and "Girl" are two of the most used words in the English Dictionary.

24 The mark does not exist for such term as it is highly descriptive and
25 generic. Such as the term "Super Man". Being that the mark was registered
26 with deception and intent to commit fraud, Petitioner moves for a cancelation
27 of the misrepresented mark "TAXGIRL" and "ASK THE TAXGIRL"

28 Since the register of the trademark in fact is not using the trademark in

1 business or commerce and has not since the inception of the trademark,
2 Petitioner and other parties are not aware that the descriptive terms of Tax
3 Girls and Tax Girl are protected marks. However, plaintiff would like to
4 bring note that the actual mark being protected is in fact TAXGIRL. Plaintiff
5 and other parties and using the term to describe an aspect of service being
6 provided. Such as "Bookkeeping Girls."

7 Registrant's use of the falsely and deceptively gained Registrations to
8 demand the removal of online materials directly interferes with Petitioners'
9 ability to promote their businesses and the services in which they provide,
10 and continue to discuss, provide, and service small businesses with
11 accounting, bookkeeping and taxation services.

12 **15 U.S. Code § 1120** - States that's any person who shall procure registration
13 in the Patent and Trademark Office of a mark by a false or fraudulent
14 declaration or representation, oral or in writing, or by any false means,
15 shall be liable in a civil action by any person injured thereby for any
16 damages sustained in consequence thereof.

17 "[W]hen the owner of a trade mark applies for an injunction to restrain the
18 defendant from injuring his property by making false representations to the
19 public, it is essential that the plaintiff should not in his trade mark, or
20 in his advertisements and business, be himself guilty of any false or
21 misleading representation ... [I]f the plaintiff makes any material false
22 statement in connection with the property which he seeks to protect, he loses
23 his right to claim the assistance of a court of equity..." **CLINTON E. WORDEN**
24 **& CO. V. CALIFORNIA FIG SYRUP CO.**

25 The courts should discourage as much as possible the wrongful use of the
26 legal machinery to achieve an unwholesome objective which wastes the time and
27 resources of both the society and the defendant who is compelled to defend a
28 baseless action. The internet domain name disputes provides a good example of

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