

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

SMALL BUSINESS IN TRANSPORTATION  
COALITION, INC.,  
a Florida not for profit corporation,

Petitioner,

v.

Unified Carrier Registration Plan,  
the organization of State, Federal, and  
industry representatives responsible for  
developing, implementing, and  
administering the unified carrier  
registration agreement,

Registrant.

In re Registration No.: 5397410



Mark:

**[UCR UNIFIED CARRIER  
REGISTRATION PLAN and  
Design]**

Cancellation No.: \_\_\_\_\_

Hon. Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

Attn.: Trademark Trial and Appeal Board

Sir:

Pursuant to 37 C.F.R. § 2.111 *et seq.*, Petitioner SMALL BUSINESS IN TRANSPORTATION COALITION, INC., respectfully requests that the Trademark Trial and Appeal Board accept the attached Petition for Cancellation of Registration No. 5397410 for the mark UCR UNIFIED CARRIER REGISTRATION PLAN and Design. To the extent any additional fees are due in connection with the filing of this Petition for Cancellation, please charge our Deposit Account No. 02-2555 for any such additional fees.

Respectfully submitted,

SMALL BUSINESS IN TRANSPORTATION  
COALITION, INC.

Date: November 20, 2023

By: /Blake D. Fink/  
Blake D. Fink  
Its Attorney

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**PETITION FOR CANCELLATION**

Petitioner SMALL BUSINESS IN TRANSPORTATION COALITION, INC. (“Petitioner”), a Florida not for profit corporation with an address of PO Box 480370, Fort Lauderdale, FL 33348-0370, believes that it is being and will continue to be damaged by the continued registration of Registration No. 5397410 for the mark UCR UNIFIED CARRIER REGISTRATION PLAN and Design (the “Registered Mark”), and hereby petitions to cancel the same pursuant to Section 14 of the Lanham Act of July 5, 1946, as amended, 15 U.S.C. § 1064.

Upon information and belief, the current record owner of the Registered Mark is Unified Carrier Registration Plan (“Registrant”), the organization of State, Federal, and industry

representatives responsible for developing, implementing, and administering the unified carrier registration agreement, with an address of P.O. Box 1946, Montgomery, Alabama 36012.

As grounds for its Petition, Petitioner alleges:

1. Petitioner is a 501(c)(6) non-profit trade group that promotes and protects the interests of its nearly 20,000 members, comprised of small businesses and individuals in the transportation industry, including truckers, carriers, brokers, forwarders, shippers, and industry suppliers.

2. Registrant is the organization of State, Federal, and industry representatives responsible for developing, implementing, and administering the unified carrier registration agreement.

3. Registrant was created by the Unified Carrier Registration Act of 2005, codified at 49 U.S.C. § 14504a, to facilitate carrier registration and renewal and to govern the collection and maintenance of carrier registration information.

4. The Registered Mark was filed October 13, 2016, pursuant to Section 1(b) of the Lanham Act, 15 U.S.C. § 1051(b), based on alleged *bona fide* intention to use the mark in U.S. commerce in connection with the applied-for services.

5. The Registered Mark is registered in connection with the following services:

*Class 35: maintaining a registry of motor carriers, motor private carriers, brokers, freight forwarders, and leasing companies engaged in interstate transportation*

6. In its application for the Registered Mark, Applicant indicated that it was a United States “congressionally chartered nonprofit organization.”

7. In its Response to Office Action for the Registered Mark filed July 26, 2017, Applicant indicated that it was a “Congressionally established unincorporated nonprofit association.”

8. The Registered Mark is comprised of, in part, the wording “UCR UNIFIED CARRIER REGISTRATION PLAN.”

9. Registrant disclaimed the exclusive right to use “UNIFIED CARRIER REGISTRATION PLAN” apart from the mark as shown in the registration.

10. “UCR” in the Registered Mark is shorthand for “Unified Carrier Registration.”

11. “Unified Carrier Registration” is referred to as “UCR” in the relevant statute codified at 49 U.S. Code § 14504a.

12. “UCR” is ubiquitously understood by relevant persons as “Unified Carrier Registration.”

13. Registrant did not disclaim “UCR” in the Registered Mark.

## COUNT I

### **“UCR” in Registered Mark Is Generic**

14. Petitioner repeats, realleges, and incorporates by reference the allegations contained in Paragraphs 1 through 13 above as if fully set forth herein.

15. The “UCR” portion of the Registered Mark is generic.

16. Registrant failed to disclaim exclusive rights to the generic “UCR” in the Registered Mark.

17. In the minds of the relevant consuming public, “UCR” is a common and generic designation for unified carrier registration services.

18. Upon information and belief, Registrant has not made substantially exclusive use of “UCR” in commerce.

19. Upon information and belief, Registrant cannot credibly allege substantially exclusive use of “UCR” in commerce.

20. Registrant has not used “UCR” in a manner that would acquire distinctiveness or secondary meaning; nor could “UCR” acquire distinctiveness or secondary meaning, as “UCR” is generic.

21. Given the clear meaning of “UCR,” members of the relevant consuming public perceive “UCR” as a generic term for unified carrier registration services.

22. Given the clear meaning of “UCR,” members of the relevant consuming public do not and cannot associate “UCR” with a single source.

23. Registrant is therefore not entitled to claim trademark rights or any other exclusive rights in the non-source designating, generic wording “UCR” for the services in the Registered Mark.

24. “UCR” in the Registered Mark had not (and could not have) obtained at the time of the filing of the application sufficient secondary meaning to qualify for registration and has not (and could not have) acquired secondary meaning at this time to qualify for registration.

25. As “UCR” is generic, the Registered Mark without disclaimer of “UCR” should not stand as an obstacle to third-party use of “UCR,” including that of Petitioner and its members.

26. Based upon the foregoing, “UCR” is generic, and the Registered Mark should therefore be cancelled.

## **COUNT II**

### **Registration of the Registered Mark Barred Under Section 2(b) of the Lanham Act**

27. Petitioner repeats, realleges, and incorporates by reference the allegations contained in Paragraphs 1 through 26 above as if fully set forth herein.

28. Section 2(b) of the Lanham Act, 15 U.S.C. § 1052(b), prohibits registration of a mark that “[c]onsists of or comprises the flag or coat of arms or other insignia of the United States, or of any State or municipality, or of any foreign nation, or any simulation thereof.”

29. Having been created by the federal government pursuant to federal statute (49 U.S.C. § 14504a), Registrant is comprised in part of the federal government and of the governments of participating states.

30. As such, the Registered Mark consists of and/or comprises insignia of both the United States and of the participating states.

31. Consequently, registration of Registrant’s Mark was prohibited under Section 2(b) of the Lanham Act, rendering the Registered Mark invalid and subject to cancellation.

32. The Registered Mark should therefore be cancelled.

### COUNT III

#### **Registrant Committed Fraud During the Prosecution of the Registered Mark**

33. Petitioner repeats, realleges, and incorporates by reference the allegations contained in Paragraphs 1 through 32 above as if fully set forth herein.

34. Upon information and belief, contrary to Registrant’s representations in its application and Response to Office Action filed July 26, 2017, that it is a nonprofit entity, Registrant is in fact an “organization of State, Federal, and industry representatives responsible for developing, implementing, and administering the unified carrier registration agreement.”

35. Upon information and belief, Registrant falsely represented to the USPTO that it is a nonprofit entity when Registrant filed its application for the Registered Mark and its Response to Office Action on July 26, 2017.

36. Upon information and belief, at the time of filing its application for the Registered Mark and its Response to Office Action on July 26, 2017, Registrant had knowledge that its representation that it is a nonprofit entity was false.

37. Upon information and belief, at the time of filing its application for the Registered Mark and its Response to Office Action on July 26, 2017, Registrant intended to induce the USPTO into conferring registration upon Registrant for the Registered Mark.

38. Based upon the foregoing, and upon information and belief, Registrant knowingly committed fraud on the USPTO by making false, material representations in its application for the Registered Mark and its Response to Office Action on July 26, 2017, that Registrant knew were false with intent to deceive the USPTO.

39. Based on the foregoing, and upon information and belief, the Registered Mark, resulting from the USPTO's reliance on Registrant's false representations, was procured fraudulently, rendering the Registered Mark invalid and subject to cancellation.

40. The Registered Mark should therefore be cancelled.

\* \* \*

For the reasons set forth in the foregoing paragraphs, Petitioner believes that it and its members are being damaged and will continue to be damaged by the continued registration of the Registered Mark. Petitioner therefore has a real interest and a direct and personal stake in the outcome of this cancellation proceeding. The Registered Mark should therefore be cancelled.

WHEREFORE, Petitioner requests that this Petition for Cancellation be sustained and that the Registered Mark be cancelled.

Respectfully submitted,

SMALL BUSINESS IN TRANSPORTATION  
COALITION, INC.

Date: November 20, 2023 By: /Blake D. Fink/  
Blake D. Fink  
Its Attorney

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CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this correspondence is addressed to the Trademark Trial and Appeal Board, Hon. Commissioner for Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451, and is being deposited via the Electronic System for Trademark Trials and Appeals (ESTTA) on November 20, 2023.

/Blake D. Fink/  
Blake D. Fink