

Twombly at the TTAB – Abandonment Allegations Found Sufficient

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by Kaleb McNeely

The U.S. Supreme Court's blockbuster rulings in *Bell Atlantic Corp. v. Twombly* and *Ashcroft v. Iqbal* represented a major shift in federal pleading standards. Resolution of motions to dismiss frequently turns on whether a complaint meets *Twombly*'s so-called "plausibility" standard. In the context of a motion to dismiss a petition for cancellation of a trademark registration, however, not much appears to have changed since *Twombly* and *Iqbal*, at least in the context of a claim of abandonment. Late last year, in *Lewis Silkin LLP v. Firebrand LLC*, the Trademark Trial and Appeal Board denied a motion to dismiss, holding that an allegation that a trademark owner is not using a mark with its goods and services, and has no intent to resume use, is legally sufficient to plead an abandonment claim. Notably, the Board reiterated its position that the "the same pleading standard for abandonment claims has been in effect since the 1989 implementation of the [Trademark Law Revision Act of 1988]."

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