

ESTTA Tracking number: **ESTTA1021472**

Filing date: **12/10/2019**

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	Penta 5 USA, LLC		
Entity	LIMITED LIABILITY COM-PANY	Citizenship	FLORIDA
Address	1712 NORTHGATE BOULEVARD SARASOTA, FL 34234 UNITED STATES		

Correspondence information	Thomas E. Anderson Attorney of Record Dinsmore & Shohl LLP 900 Wilshire Drive Ste. 300 Troy, MI 48084 UNITED STATES MichiganPatTm@Dinsmore.com, Victoria.Ascroft@DINSMORE.COM 248-647-6000 x 7607
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Registration Subject to Cancellation

Registration No.	4511826	Registration date	04/08/2014
Registrant	Bioceutica LLC 42A Cherry Hill Drive Danvers, MA 01923 UNITED STATES Email: candacek@bioceutica.com		

Goods/Services Subject to Cancellation

Class 003. First Use: 2012/11/01 First Use In Commerce: 2013/01/01 All goods and services in the class are subject to cancellation, namely: Cosmetics, namely, creams, lotions, suncare products, cleansers, serums, gels, masks, scrubs, balms, and powders for the face, body, hands, and feet

Grounds for Cancellation

Abandonment	Trademark Act Section 14(3)
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Attachments	2019-12-10 Cancellation Petition PPI LLC v. Bioceutica LLC .pdf(447821 bytes)
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Signature	/TEA/
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Name	Thomas E. Anderson
Date	12/10/2019

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

Application Serial No.: 88/372,008
Application Filing Date: April 4, 2019
Mark: IN2ITIVE
Class: 03

PENTA 5 USA, LLC

Petitioner,

v.

BIOCEUTICA LLC

Respondent.

PETITION FOR CANCELLATION

Cancellation No. _____

Petitioner, PENTA 5 USA, LLC, a limited liability company of the State of FLORIDA, having a place of business at 1712 Northgate Boulevard, Sarasota, Florida 34234, believes that it is or will be damaged by Registration No. 4,511,826 and hereby petitions to cancel same.

As grounds for this Petition, Petitioner alleges:

1. On information and belief, Respondent, BIOCEUTICA LLC was a limited liability company of the State of Delaware, having an address at 42A Cherry Hill Drive, Danvers, Massachusetts 01923.
2. Respondent is the owner of record of Registration No. 4,511,826, for the mark INTUITIV, issued on April 8, 2014, in connection with "Cosmetics, namely, creams, lotions, sun care products, cleansers, serums, gels, masks, scrubs, balms, and powders for the face, body, hands, and feet".

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3. Petitioner is the owner of U.S. Trademark Application Serial No. 88/372008, filed April 4, 2019, for the mark IN2ITIVE, in connection with “Body cream; Face creams; Face and body lotions; Hand cream; Hand lotions; Lip balm; Lotions for face and body care; Sunscreen creams; Cosmetic sunscreen preparations”.

4. Petitioner’s Application is based on Petitioners intent to use the mark in commerce in connection with the goods identified in the Petitioner’s Application. Petitioner has begun use of the mark.

5. On June 14, 2019, the U.S. Trademark Office issued a Final Office Action in response to Petitioner’s Application, refusing registration of Petitioner’s mark under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d) on the grounds that the Petitioner’s mark is confusingly similar to the mark in the Respondent’s Registration.

6. The Respondent was a limited liability company (“LLC”) of the state of Delaware. A voluntary dissolution of the LLC was filed by the Respondent on December 21, 2018. The dissolution was accepted prior to the filing date of Petitioner’s Application.

7. Petitioner conducted an investigation into the usage of the mark INTUITIV by Respondent including using an internet search engine. No use of the mark INTUITIV was uncovered.

8. Upon information and belief, Respondent’s mark INTUITIV has been abandoned by Respondent through non-use of the mark. Accordingly, Respondent’s Registration should be cancelled pursuant to 15 U.S.C. § 1064 (1) (c).

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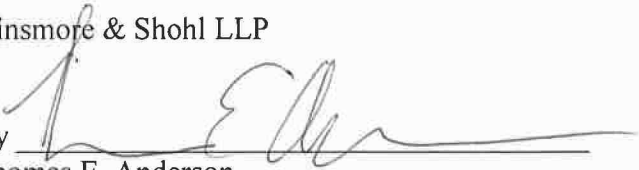
9. Petitioner is likely to be damaged by the continued registration of the Respondent's Registration because Petitioner's use of, and ability to register its mark will be impaired by the continued registration of the Respondent's Registration.

WHEREFORE, Petitioner prays that Registration No. 4,511,826 be cancelled and that this Petition for Cancellation be granted in favor of Petitioner.

Respectfully submitted,

Dinsmore & Shohl LLP

By


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Attorney for Petitioner

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Petition for Cancellation was served upon Respondent by first class mail, postage pre-paid, addressed to:

Bioceutica LLC
42A Cherry Hill Drive
Danvers, MA 01923

A handwritten signature in cursive script, appearing to read "Thomas E. Anderson", written over a horizontal line.

Thomas E. Anderson