



11-26-2001

U.S. Patent & TMO/TM Mail Rcpt Dt. #22

TTAB

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

In the matter of Service Mark Registration No. 2,356,582
Registered: June 13, 2000
Mark: OXYGEN

-----X	:	
OXYGEN MEDIA, INC.,	:	
	:	
Petitioner,	:	
	:	
v.	:	Cancellation No.
	:	
PROJECT OXYGEN, LTD.,	:	
	:	
Registrant	:	
-----X	:	

01 DEC -9 11 5:22

Assistant Commissioner for Trademarks
Box TTAB - Fee
2900 Crystal Drive
Arlington, VA 22202-3513

PETITION FOR CANCELLATION

Petitioner Oxygen Media, Inc. ("Oxygen Media") is a Delaware Corporation with its principal place of business at 75 Ninth Avenue, 6th Floor, New York, New York 10011. Registrant is Project Oxygen, Ltd. ("Project Oxygen"), located at Penboss Building, No. 1 Parliament Street, Hamilton, Bermuda. Oxygen Media believes that it is being damaged by Project Oxygen's Registration No. 2,356,582 and hereby petitions to cancel the same based on the following grounds.

11/30/2001 KGIBBONS 00000049 501003 2356582

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1. An intent-to-use application for the OXYGEN mark, SN 75/468766 was filed by Registrant on April 16, 1998. According to the Statement of Use, the mark was first used by Registrant in connection with the services described in the application on December 22, 1998.
2. Registration for OXYGEN was issued to Registrant on June 13, 2000 in Class 38 for "international and domestic carriage of telecommunications services, namely, electronic transmission of voice, data and images over fiber optic cables; providing telecommunications connections through an integrated network of fiber optic cables allowing global telecommunications", Registration No. 2,356,582.
3. Oxygen Media, a media company providing entertainment and information to women via its Internet site and cable television network, has filed intent-to-use applications to register the OXYGEN mark in, inter alia, Classes 9, 41 and 42, Serial Numbers 75/518512; 75/519969 and 75/518508 (the "Oxygen Media Applications").
4. Office actions issued in connection with the Oxygen Media Applications have been refused registration based on a likelihood of confusion with Registrant's OXYGEN mark.
5. On information and belief, Registrant is not using the mark OXYGEN in connection with any services and, if Registrant ever did use the mark in connection with any services, use has been discontinued with intent not to resume such use. In support, please see the attached e-mail from the Chairman and CEO of Project Oxygen, Ltd.
6. On information and belief, because of Registrant's failure to use the OXYGEN mark, the OXYGEN mark that is the subject of Registration No. 2,356,582 has become abandoned pursuant to Section 45 of the Trademark Act.
7. Oxygen Media will be damaged if Registrant is permitted to retain the registration sought to be cancelled (because, for example, of the office actions referenced above).

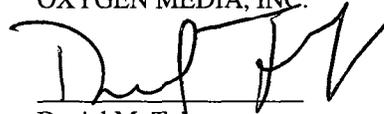
RELIEF REQUESTED

8. Oxygen Media petitions for cancellation of Registration No. 2,356,582 as it related to services in Class 38. Please deduct the fee of \$300 for a Petition to Cancel (one class) from Deposit Account No. 50-1083.

Dated: New York, New York
November 26, 2001

Respectfully submitted,

OXYGEN MEDIA, INC.



Daniel M. Taitz
General Counsel

Katherine E. Koster

From: Katherine E. Koster
Sent: Monday, November 19, 2001 2:59 PM
To: Katherine E. Koster
Subject: FW: oxygen.org and projectoxygen.com

From: "Neil Tagare" <neiltagare@hotmail.com>
Reply-To: neil@tagare.com
Date: Tue, 17 Oct 2000 00:01:34 GMT
To: glaybourne@oxygen.com, geraldine@oxygen.com
Subject: oxygen.org and projectoxygen.com

Ms. Laybourne:

Would your company be interested in buying web domains oxygen.org and/or projectoxygen.com? I am closing down my companies. I also have trademarks around the world for the oxygen brand name.

Neil Tagare
Chairman & CEO
Project Oxygen Ltd.

Get Your Private, Free E-mail from MSN Hotmail at <http://www.hotmail.com>.

Share information about yourself, create your own public profile at <http://profiles.msn.com>.



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U.S. Patent & TM Office/TM Mail Rcpt Dt. #22

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November 26, 2001

Assistant Commissioner for Trademarks
Box TTAB - Fee
2900 Crystal Drive
Arlington, VA 22202-3513

Re: Mark: OXYGEN, Registration No. 2,356,582
Petitioner: Oxygen Media, Inc.
Petition for Cancellation

Dear Sir/Madam:

Enclosed for filing is Oxygen Media's Petition for Cancellation in connection with the above-referenced trademark registration, along with a self-addressed post card. Please deduct the filing fee of \$300 from Deposit Account No. 50-1083.

Please return the post card stamped with date of receipt.

If you have any questions, or need additional information, I can be reached at (212) 651-5423.

Thank you.

Very truly yours,

Karen M. Pasquale
Intellectual Property Manager

/kmp
Enclosures

CERTIFICATE OF MAILING BY EXPRESS MAIL

Express Mail Label No. ET826724374US

I hereby certify that this document is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 and is addressed to the Assistant Commissioner for Trademarks, Box TTAB-Fee, 2900 Crystal Drive, Arlington, VA 22202-3513 on November 26, 2001.

KAREN M. PASQUALE

Name

Signature

November 26, 2001

Date