



2. Petitioner began using the mark BIO-PLUS as a brand name for a line of paperboard cartons at least as early as June 1993, and has continuously used the mark since that time.

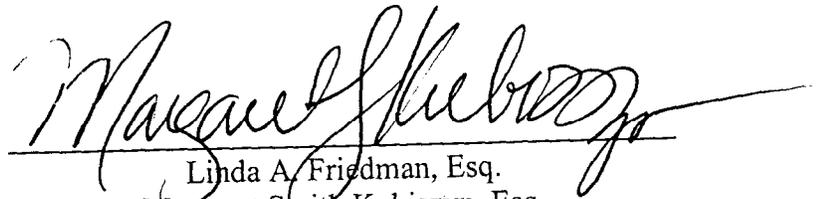
3. Petitioner filed an application for registration on the Principal Register of the United States Patent and Trademark Office for the BIO-PLUS mark on March 15, 2000 in International Class 16 for "paperboard cartons". Petitioner's application was denied based on likelihood of confusion with Registrant's BIOPLUS mark.

4. When Petitioner became aware of Registrant's registration for the BIOPLUS mark, Petitioner investigated the status of Registrant's use of the BIOPLUS mark. Petitioner found that Registrant had been acquired by Tharco Container Co. in 1999, and that the entire BIOPLUS line of packaging was discontinued in 1996 or 1997, and the mark was abandoned by Registrant.

5. Registrant's abandoned mark is so similar to Petitioner's mark as to be likely to cause confusion, as evidenced by the trademark examiner's 2(d) rejection to Petitioner's BIO-PLUS application. As Petitioner's application is rejected in light of Registrant's BIOPLUS registration, Petitioner has been and will be damaged by the registration. Petitioner seeks to have the above-mentioned registration canceled pursuant to Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

6. This Petition for Cancellation is filed in a timely manner pursuant to 15 U.S.C.A. § 1064(3).

WHEREFORE, Petitioner requests that Registration No. 1,711,694 for BIOPLUS be canceled on the grounds of abandonment and that this cancellation be sustained.



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Margaret Smith Kubiszyn, Esq.  
Attorneys for Petitioner  
GSD Packaging, L.L.C.

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January 22, 2002

**VIA U.S. EXPRESS MAIL NO. EL919025975US**

Box TTAB  
FEE  
Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202

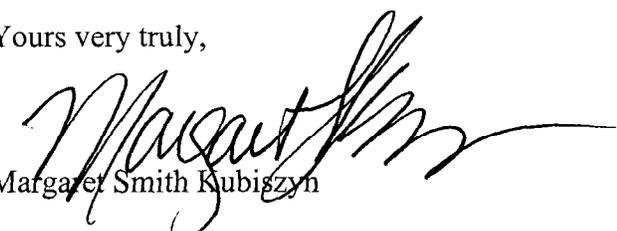
  
01-22-2002  
U.S. Patent & TMOtc/TM Mail Rcpt Dt. #74

**Re: Petition to Cancel Registration No. 1,711,694 for BIOPLUS**

Dear Sir:

With this letter I have enclosed an original and one copy of a Petition to Cancel Registration No. 1,711,694 for BIOPLUS. Also enclosed is a check in the amount of \$300 made payable to the Commissioner of Patents and Trademarks for the filing fees.

Yours very truly,

  
Margaret Smith Kubiszyn

MSK/bhs

Enclosures

cc: Linda Friedman, Esq. (w/encls.)  
Lakeysucha Adams (w/encls.)

January 22, 2002

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**CERTIFICATE OF EXPRESS MAILING**

I hereby certify that the enclosed cover letter, along with the original and one copy of the Petition to Cancel Registration No. 1,711,694 for BIOPLUS, and a check in the amount of \$300.00, are being deposited with the United States Postal Service as Express Mail, No. EL919025975US, Post Office to Addressee, in an envelope addressed to:

Box TTAB  
FEE  
Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202

on January 22, 2002.

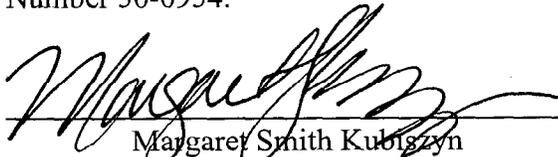


Margaret Smith Kubiszyn  
Registration No. 41,916

Date: 1/22/02

**AUTHORIZATION TO CHARGE  
DEPOSIT ACCOUNT**

If, after processing the enclosed check in the amount of \$300.00, any charges, fees, or sums due remain unpaid in connection with this correspondence, I hereby authorize the Commissioner of Patents and Trademarks to charge all such remaining fees, charges, and other sums due to Deposit Account Number 50-0954.



Margaret Smith Kubiszyn  
Authorized User of Deposit Account 50-0954