

TTAB

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

In the matter of trademark Registration No. 2466830  
For the mark **SNORE STOP 2000** Class IC 010  
Date registered July 10, 2001

Eden 3000, Inc. - petitioner  
v.  
Hersh/Helman, Inc. - registrant



11-07-2002

U.S. Patent & TMO/TM Mail Rcpt DT 1/30

PETITION TO CANCEL

Jean V. Rittmann - Atty. of Record  
Eden 3000, Inc.  
2014 Broadway Ave.  
Everett, WA 98201  
(just moved)

(previous address was: 4700 176th St. S.W. #303, Lynnwood, WA 98037)

02 NOV 26 AM 9:50  
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FILED

To the best of petitioner's knowledge, the name and address of the current owner of the registration are Hersh/Helman, Inc., 1701 Pacific Avenue, Suite 160 Oxnard, California 93033. ☒

2 The above-identified petitioner believes that it will be damaged by the above identified registration, and hereby petitions to cancel the same.

The grounds for cancellation are as follows:

3 Hersh/Helman, Inc. has not used the **SNORE STOP 2000** mark since 1998. Back in the year 2000, I, Jean V. Rittmann, called Hersh/Helman to inquire about their **Snore Stop 2000** (before it became registered). Wendy there said they have not sold the nasal insert item **Snore Stop 2000** since 1998 because their dilator conflicted with someone else's patent and they were unable to get a patent on theirs. I, Jean Rittmann, also spoke to Atty. of Record Marvin E. Jacobs who did not deny this information.

∴ Trademark **Snore Stop 2000** has not been in use for about 5 years.

4 Petitioner Eden 300, Inc. will be damaged by Hersh/Helman's **SNORE STOP 2000** mark because said mark is the only reason for Refusal for Registration\* of our mark **SNORE STOPPER** (which has been in use since 1998\*\*).

By Jean V. Rittmann  
Jean V. Rittmann - Eden 3000, Inc. Atty of Record  
& President

Date: 11/04/02  
Nov 4, 2002

\*K

# UNITED STATES PATENT AND TRADEMARK OFFICE

<b>SERIAL NO.</b> 75/918506 Eden 3000, Inc.		<b>APPLICANT</b>		<b>PAPER NO.</b>	
<b>MARK</b> SNORE STOPPER (STYLIZED)				<b>ADDRESS:</b> Commissioner for Trademarks 2900 Crystal Drive Arlington, VA 22202-3513 www.uspto.gov	
<b>ADDRESS</b> JEAN V. RITTMANN EDEN 3000, INC. 4700-176 ST. S.W. #303 LYNNWOOD WA 98037		<b>ACTION NO.</b> 03		If no fees are enclosed, the address should include the words "Box Responses - No Fee."  Please provide in all correspondence:  Mailing Date, serial number, mark and applicant's name. Mailing date of this Office action. Examining Attorney's name and law Office number. Our telephone number and ZIP code.	
		<b>MAILING DATE</b> 05/14/02			
		<b>REF. NO.</b>			
<b>FORM PTO-1525 (5-90)</b>		<b>U.S. DEPT. OF COMM. PAT. &amp; TM OFFICE</b>			
TRADEMARK LAW OFFICE 15 Serial Number: 75/918506 Mark: SNORE STOPPER (STYLIZED) **Please Place on Upper Right Corner** **of Response to Office Action ONLY **					

**A PROPER RESPONSE TO THIS OFFICE ACTION MUST BE RECEIVED WITHIN 6 MONTHS FROM THE DATE OF THIS ACTION IN ORDER TO AVOID ABANDONMENT.**  
*For your convenience and to ensure proper handling of your response, a label has been enclosed. Please attach it to the upper right corner of your response. If the label is not enclosed, print or type the Trademark Law Office No., Serial No., and Mark in the upper right corner of your response.*

RE: Serial Number: 75/918506

This letter responds to the applicant's communication filed on August 13, 2001.

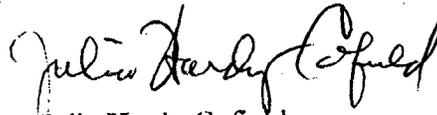
Serial Number 75255727 has matured to registration. Therefore, the examining attorney refuses registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d), because the applicant's mark, when used on or in connection with the identified goods, so resembles the mark in U.S. Registration No. 2466830 as to be likely to cause confusion, to cause mistake, or to deceive. TMEP §§1207.01 *et seq.* See the enclosed registration.

The examining attorney must analyze each case in two steps to determine whether there is a likelihood of confusion. First, the examining attorney must look at the marks themselves for similarities in appearance, sound, connotation and commercial impression. *In re E. I. DuPont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973). Second, the examining attorney must compare the goods or services to determine if they are related or if the activities surrounding their marketing are such that confusion as to origin is likely. *In re August Storck KG*, 218 USPQ 823 (TTAB 1983); *In re International Telephone and Telegraph Corp.*, 197 USPQ 910 (TTAB 1978); *Guardian Products Co., v. Scott Paper Co.*, 200 USPQ 738 (TTAB 1978). TMEP §§1207.01 *et seq.*

In this case, the applicant's mark, SNORE STOPPER, is similar in overall commercial impression to the registrant's mark SNORE STOP 2000. Moreover, the applicant's goods are identified as an internal nasal dilator, presumably used to stop snoring; the registrant's goods are identified as an anti snoring device. The respective goods appear to be related and appear to travel in the same trade channels.

Although the examining attorney has refused registration, the applicant may respond to the refusal to register by submitting evidence and arguments in support of registration.

The refusal of registration, based upon descriptiveness under Section 2(e)(1) of the Trademark Act, is continued.



Julia Hardy Cofield  
Examining Attorney  
Law Office 115  
308-9115 ext. 145

[Typed Drawing]



Mark

SNORE STOP 2000

Goods and Services

IC 010. US 026 039 044. G & S: anti snoring device. FIRST USE:  
19950607. FIRST USE IN COMMERCE: 19950607

Mark Drawing Code

(1) TYPED DRAWING

Serial Number

75255727

Filing Date

March 11, 1997

Publication for Opposition Date

April 17, 2001

Registration Number

2466830

Registration Date

July 10, 2001

Owner Name and Address

(REGISTRANT) Hersh/Helman, Inc. CORPORATION CALIFORNIA 1701 Pacific  
Avenue, Suite 160 Oxnard CALIFORNIA 93033

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "SNORE STOP" APART FROM  
THE MARK AS SHOWN

Type of Mark

TRADEMARK

Register

PRINCIPAL

Live Dead Indicator

LIVE

Attorney of Record

MARVIN E JACOBS



# UNITED STATES PATENT AND TRADEMARK OFFICE

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**Word Mark** SNORE STOPPER  
**Goods and Services** IC 010. US 026 039 044. G & S: internal nasal dilator. FIRST USE: 19981112. FIRST USE IN COMMERCE: 20000201  
**Mark Drawing Code** (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM  
**Serial Number** 75918506  
**Filing Date** February 14, 2000  
**Owner** (APPLICANT) Eden 3000, Inc. CORPORATION WASHINGTON 4700-176th St. S.W. #303 Lynnwood WASHINGTON 98037  
**Attorney of Record** Jean V. Rittmann  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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