

TTAB

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Our Ref: 42-102-999

May 22, 2008

#79028038

Trademark Trial and Appeal Board  
U.S. Patent and Trademark Office  
PO Box 1451  
Alexandria, VA 22313-1451

**Re: United States – ImClone Systems Incorporated v. Louhann (Cancellation of Trademark Reg. No. 3402003 LOUHANN of Louhann)**

Dear Sir/Madam:

We enclose herewith for filing the original of ImClone Systems Incorporated's **NOTICE OF CANCELLATION**.

The filing fee (in the amount stated therein) is paid by the enclosed check No. 20009. Please charge any deficiency or refund any excess to Deposit Account No. 501404 of R. Kunstadt, P.C. (authorized signatory: Robert M. Kunstadt).

Also enclosed is a self-addressed stamped postcard for acknowledging receipt.

Respectfully submitted,



Robert M. Kunstadt

enc.

cc (w/ enc.): Richard Y. Kim, Esq.



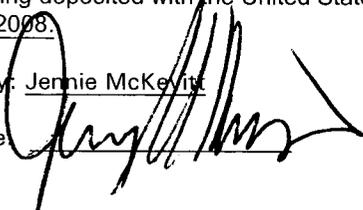
05-22-2008

Event: U. TMOfc/TM Mail Rept. 01 #72

"Express Mail" Label No. EM 258945472 US. I hereby certify that this correspondence is addressed to the Trademark Trial and Appeal Board, U.S. Patent and Trademark Office, PO Box 1451, Alexandria, VA 22313-1451, and is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service on May 22, 2008.

Mailed by: Jennie McKe...

Signature



Date of Signature:

5/22/08

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

In the matter of Registration No. 3,402,003  
Mark: LOUHANN

IMCLONE SYSTEMS INCORPORATED,

Petitioner,

v.

LOUHANN,

Respondent.

Cancellation No. \_\_\_\_\_

Attorney Docket No. 42-102-999

**PETITION FOR CANCELLATION**

TO THE TRADEMARK TRIAL AND APPEAL BOARD:

IMCLONE SYSTEMS INCORPORATED, a Delaware corporation with its principal place of business at 180 Varick Street, New York, NY 10014, believes that it is being damaged by the continued registration on the Principal Register of Registration No. 3,402,003, dated March 25, 2008, of the stylized designation LOUHANN in International Classes 3 and 44, and hereby petitions to cancel the same.

As grounds for cancellation, it is alleged:

1. Petitioner has been active in the United States and internationally for more than 20 years, inter alia, in connection with pharmaceutical products.

05/28/2008 HPHAM1 00000118 3402003

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600.00 OP

2. Petitioner is the owner of the stylized trademark LORHAN, Registration No. 3,218,485, filed based on intent to use on September 23, 2005 and issued March 13, 2007, with first use at least as early as October 2005 on services in International Class 44: PROVIDING AN ONLINE DATABASE IN THE FIELD OF CANCER CARE.
3. Petitioner's registration is valid, subsisting, and in full force and effect. As such, this registration serves as evidence of Petitioner's exclusive rights to use the mark in connection with the services recited in the registration, and goods and services related thereto or likely to be confused therewith. A true copy of the said registration is attached hereto as Exhibit A.
4. Respondent applied, by application Serial No. 79/028,038, to register the designation LOUHANN and said designation LOUHANN was registered by Respondent in the United States Patent and Trademark Office, under Reg. No. 3,402,003, on March 25, 2008.
5. The designation LOUHANN, registered by Respondent, is similar in sound, appearance, meaning and commercial impression to Petitioner's registered mark LORHAN.
6. The public is likely to associate the goods and services sold by Respondent under the designation LOUHANN with Petitioner's registered mark LORHAN and with Petitioner's goods and services, and to think that Respondent's goods and services are sponsored, endorsed or licensed by Petitioner, or that there is a relationship between Respondent and Petitioner. Use of the designation LOUHANN by Respondent is likely to

cause confusion, cause mistake and deceive the trade and public, and to cause the trade and public to think that the goods and services sold under the designation LOUHANN emanate from or are otherwise sponsored or endorsed by Petitioner, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d). See, e.g., attached Ex. B (an article by the FDA about "Cosmetic Help for Cancer Patients").

7. Petitioner is being damaged by the designation LOUHANN, registered by Respondent, because such registration supports and assists Respondent in the confusing and misleading use of Respondent's designation, and gives color of exclusive statutory rights in Respondent, in violation and derogation of the prior superior rights of Petitioner.
8. To the best of Petitioner's knowledge, the name and address of the current owner of record of Reg. No. 3,402,003 LOUHANN is:

Name: Louhann

Address: 91, Rue du Faubourg Saint-Honore F-75008, Paris,  
France.

To the best of petitioner's knowledge, Respondent has a domestic representative, who is:

Name: Richard Y. Kim, Esq.

Address: McDermott, Will & Emory LLP

600 13<sup>TH</sup> Street, NW

Washington, D.C. 20005-3096

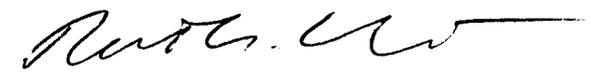
WHEREFORE, Petitioner believes that it is being and will continue to be damaged by Registration No. 3,402,003 of the designation LOUHANN and prays that said registration be cancelled.

Please recognize as attorneys for Petitioner in this proceeding Robert M. Kunststadt and Ilaria Maggioni (members of the Bar of the State of New York), and the law firm R. KUNSTADT, P.C., 875 Sixth Avenue, Suite 1800, New York, New York 10001. Please address all communications to Robert M. Kunststadt, Esq., at the said address.

DATED this 22nd day of May, 2008.

Respectfully submitted,

By:



Robert M. Kunststadt  
Ilaria Maggioni  
R. KUNSTADT, P.C.  
875 Sixth Avenue, Suite 1800  
New York, New York 10001  
(212) 398-8881

Attorneys for Petitioner

**CERTIFICATE OF SERVICE**

I hereby certify that on the 22nd day of May, 2008, I caused a true copy of this:

Petition For Cancellation

to be served by Express Mail, postage prepaid, upon Respondent's Attorney of Record  
(and Domestic Representative):

Richard Y. Kim, Esq.  
MCDERMOTT WILL & EMERY LLP  
600 13<sup>th</sup> Street, NW  
Washington DC 20005-3096



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Int. Cl.: 44

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 3,218,485

Registered Mar. 13, 2007

SERVICE MARK  
PRINCIPAL REGISTER

 **LORHAN**

IMCLONE SYSTEMS INCORPORATED (DELA-  
WARE CORPORATION)

180 VARICK STREET, 6TH FLOOR

NEW YORK, NY 10014

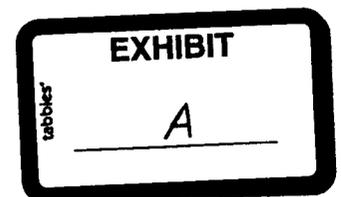
FOR: PROVIDING AN ONLINE DATABASE IN  
THE FIELD OF CANCER CARE, IN CLASS 44 (U.S.  
CLS. 100 AND 101).

FIRST USE 10-0-2005; IN COMMERCE 10-0-2005.

THE MARK CONSISTS OF THE WORD ELE-  
MENT LORHAN, IN WHICH A STYLIZED DESIGN  
OF A COMPASS IS PRESENTED FOR THE LETTER  
O. THE MARK IS NOT PRESENTED IN ANY  
PARTICULAR COLOR.

SN 76-647,352, FILED 9-23-2005.

JOHN SCHUYLER YARD, EXAMINING ATTOR-  
NEY



This article was published in *FDA Consumer* magazine several years ago. It is no longer being maintained and may contain information that is out of date. You may find more current information on this topic in more recent issues of *FDA Consumer* or elsewhere on the FDA Website, by checking the site [index](#) or [home page](#), or by [searching](#) the site.

## **COSMETIC HELP FOR CANCER PATIENTS**

by **Cheryl Platzman Weinstock**

Sometimes the 36-year-old cancer patient lets herself remember when she had the energy to "run around with her kids like a maniac" and stay up until the early hours of the morning. That was before a recurrence of Hodgkin's disease forced her to begin the chemotherapy treatment that left her nauseated, fatigued, somewhat dispirited, and bald.

Before chemotherapy, Sharon (who asked that her last name not be used) had beautiful jet-black hair. Now she keeps a strawberry blond wig handy for those times she says she "needs a good laugh" to help her "escape" from the side effects of chemotherapy, as well as the reality of having cancer.

"The wig has bangs coming down. I never used to wear bangs." she says "Sometimes I put on long, dangling earrings with the wig and some cosmetics that they gave me when the hospital made me up. It's pretty funny because I'm not the kind of person that used to use all this stuff."

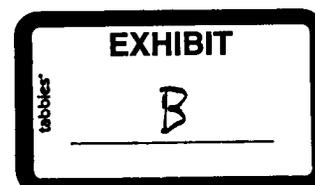
Her mother, Dorothy (who asked that her last name not be used) helped coax Sharon from her hospital room to the "Look Good....Feel Better" workshop at North Shore University Hospital, Manhasset, N.Y., where she was receiving her treatment. Dorothy says her daughter was quite skeptical and felt she didn't want to be bothered with having anyone teach her individualized skin care and makeup techniques, or how to work with wigs, turbans and scarves.

But once they started working on her, "Sharon got such a kick out of it and laughed for hours afterwards. The thing a mother looks for is her child's happiness." says Dorothy. "While having your child having cancer is not happy thing, for those moments, Sharon's smile was my smile, too."

The notion that it's hard to weather going through an arduous course of radiation or chemotherapy treatment without looking good and feeling good about oneself has gained scientific respect, according to Julia Rowland, Ph.D, director of psycho- oncology research, Georgetown University Medical Center, Washington, D.C.

"Looking good despite what we may be going through can help one take control again and can be a critical component to the healing process by providing powerful psychological benefits," says Rowland.

**COURSE AVAILABLE**



The "Look Good....Feel Better" course, available to Sharon and others around the country, was developed jointly for national use by the Cosmetic, Toiletry, and Fragrance Association (CTFA) Foundation, the National Cosmetology Association, and the American Cancer Society nearly three years ago. It's an attempt to help patients learn to minimize the side effects of cancer drugs and radiation treatment, which can cause changes in hair, complexion, and nails.

"Look Good...Feel Better" teaches hands-on beauty techniques in group or one-on-one makeover workshops conducted by specially trained, volunteer cosmetologists in hospitals, community centers, and salons.

According to Carolyn Deaver, vice president, CTFA Foundation, the program is also operating in Australia and will be launched in Canada this year. Though the current program is geared for women, a similar program for men undergoing cancer treatment is expected to be developed.

If a patient is unable to attend a makeover workshop, there is a video and brochure available free of charge, which can be used at home.

Here are some of the problems that these programs and pamphlets tackle.

## **HAIR LOSS HARD TO TAKE**

Drugs capable of killing cancer cells can also attack normal cells. This accounts for many of chemotherapy's unpleasant side effects.

Hair loss, although temporary, and not always a side effect of chemotherapy, is often cited by patients who experience it as the most devastating cosmetic side effect of chemotherapy.

"Every time I pass a mirror and look at my bald head," says 43-year old Corrine Wenze of South Farmingdale, N.Y., "it's a constant reminder of my disease. Even when I look at babies I cringe because they remind me I have only about six loyal strands of my own hair."

Wenze says that when she first found out she had breast cancer she "wallowed very well by playing video games for nearly a month. I wanted to fall into a hole and disappear. I didn't believe I could have cancer."

She continues, "You know the surgeon sent me home without my breast and then sent me through cancer treatment. It wasn't until I went to the "Look Good....Feel Better" program that I picked up. They made me feel more cared for by caring for me and then showing me how to care for myself."

Rowland says losing one's hair is often the first overwhelming confrontation patients have with their illness. Until that point, they might have easily hidden their disease from everyone, including themselves.

According to cosmetologists, the best time to start looking for a wig is before the first chemotherapy treatment. Synthetic wigs are the easiest to maintain because they don't need to be set and are not affected by humidity like natural hair. They're also less costly than natural hair wigs.

Bijan Safai, M.D., chief of Memorial Sloan-Kettering Cancer Center's dermatology service in New York City, says that in most cases patients' hair begins to grow back within a few weeks after their chemotherapy treatment ends. But if a wig does not fit right and exerts excessive pressure at certain points, the hair follicles at those points will die and hair will never grow back. So he recommends wigs that don't need to be glued or taped down and don't require elastic bands that hold them tightly against the scalp.

Frequently, the cost of a wig is reimbursable by third-party payers if it is prescribed as a "cranial prosthesis" by a physician. Other options cancer patients can consider are brightly colored scarves, turbans, or hats.

William Cahan, M.D., senior attending surgeon at Memorial Sloan-Kettering, says many of his male patients choose to wear hairpieces close to their natural hair color and style while undergoing cancer treatment. However, some prefer to have fun wearing hats such as French berets and beanies with propellers. Like Sharon choosing to wear a strawberry blond wig, these men seem to get through their treatment by self-kidding.

## **CHEMOTHERAPY DRIES SKIN**

Chemotherapy is easier on the skin than on the hair. Even so, whatever a person's skin type, chemotherapy will make skin drier because the drugs interfere with oil and sweat glands. Keeping skin as moist as possible during treatment is important to keep it looking young and healthy. Moisture can also prevent cracking and chapping, which can lead to infection in the cancer patient, whose immune system is suppressed.

Cancer patients are advised never to pull, tug or scrub the face too hard. Overzealous cleansing can strip away the remaining natural oils. Soap-free face cleansers that gently cleanse makeup and oil without drying skin are preferable. Safai recommends using an antimicrobial soap, however, to effectively clean areas like the armpits and genitals, which are prone to infection.

Moisturizing day and night can slow down the skin's loss of moisture by leaving behind a filmy deposit of oil. The oil not only helps retard the moisture evaporation, but it also makes the surface of the skin softer and more pliable. This may be especially important for hands and soles of the feet, which may become sore and blistered. Rubber gloves should be used when doing household chores.

Cancer patients are advised to moisturize with products containing sunscreens with a sun protection factor (SPF) of at least 15 because people undergoing chemotherapy may be more sensitive to harmful ultraviolet rays. (For more on sunscreens, see "[Cool Tips for Summer Safety](#)" in the June 1992 FDA Consumer.)

Dry, chapped lips can be helped with nonpigmented lip balms or petrolatum-based products, according to Harley Haynes, M.D., a dermatologist with Brigham and Women's Hospital and Harvard Medical School. He recommends using lipsticks only when lips are in good condition. Chemotherapy may also affect nails, retarding their growth and, in many cases, causing them to become thin and brittle and develop horizontal grooves.

It's not a good idea to cover the nails with acrylics or other types of wraps, says Haynes, since these materials can trap bacteria that may cause infection. Instead, the nails can be clipped short and moisturized with lotions. A light-color nail polish will camouflage any nail imperfections. But to prevent nails from drying out, only non-acetone-based nail polish remover should be used.

Cancer patients who have professional manicures should bring their own implements to guard against infection. Cuticles should be pushed back rather than cut.

## **SKIN REACTIONS TO RADIATION**

Radiation treatment, unlike chemotherapy, affects only the skin that is irradiated or close to the point of

irradiation. Its most common effect is brief, intense sunburn-like reaction that causes blistering, says Alan Lorincz, M.D., professor of dermatology, University of Chicago, Pritzker School of Medicine.

Sometimes, however, a chronic skin condition may occur in which the treated skin thins and loses elasticity and may become lighter or darker. This skin needs to be treated especially gently with emollients and sunscreen products with a high sun protection factor. It can be expected to be more susceptible than the rest of the person's skin to chronic irritation and breakdown.

During chemotherapy and radiation treatment skin will, in general, become more sensitive to allergens or irritants. So cancer patients are advised not to share any of their hygiene products with anyone else and not to use old products that have changed in appearance, odor, or texture.

## **NOT A TIME TO EXPERIMENT**

In general, it's not a good time to experiment with new brands of products, unless products usually used become irritating. Some cancer patients, however, want to experiment with cosmetics to try to camouflage certain facial effects of cancer treatment, such as skin discolorations, blotchiness, dark circles under eyes, or loss of eyebrows and lashes. Experts advise trying out only one product at a time for several days before starting a second new product.

After taking the necessary precautions (see next section), cancer patients will find that cosmetics can be important tools, says Rita Davies, a volunteer cosmetologist with the American Cancer Society.

Foundation and concealer are good for evening out skin tone. Eye crayons applied in a feathery motion can give the appearance of lashes, and brow powders can create natural-looking eyebrows. Mascara that has a wand with a little comb can help give body to the remaining eyelashes.

Cosmetics can give a lift not only to the face, but to a cancer patient's outlook on life. As Rowland says, "I think we underestimate the impact of outward appearances. If we put on a costume we feel differently about ourselves. Similarly, cosmetics are a way to fortify the self during chemotherapy or radiation."

## **SHOPPING FOR COSMETICS**

Though cosmetics generally have a lengthy safety record, this does not mean that a consumer should assume the products they're using are absolutely free from risk, says John Bailey, Ph.D., of FDA's division of colors and cosmetics technology. He reminds shoppers that the law does not require pre-market approval of cosmetics products by the agency, although "untested" products must be labeled as such.

Individual cosmetics companies are responsible for ensuring that their products are safe for use by the consumer and have a great deal of freedom in how they formulate their products. (See "Cosmetic Safety: More Complex Than at First Blush" in the November 1991 issue of FDA Consumer.)

When purchasing cosmetics, he says, it is very important to read the label for a description of the product, including its ingredients, and any warning statements about the use of the product. Besides reading the product label, Bailey advises consumers to exercise good judgment in purchasing and using cosmetics products. For example, old products, or products that are inadequately preserved, may become contaminated with microorganisms. Never purchase a product that doesn't look or smell right and don't share cosmetics with other people or "wet" products with saliva.

Persons undergoing medical treatment, such as chemotherapy, should consult their physicians if they have

experienced allergic reactions to cosmetics in the past, or if they notice any unusual reaction after use.

*Cheryl Platzman Weinstock is a freelance writer in Long Island, N.Y.*

**For help locating a "Look Good . . . Feel Better" program, call the local chapter of the American Cancer Society or (800) 395-LOOK.**

U. S. Food and Drug Administration  
FDA CONSUMER, July/August 1992

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