

ESTTA Tracking number: **ESTTA247784**

Filing date: **11/10/2008**

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 requests to cancel indicated registration.

### Petitioner Information

Name	Aveda Corporation		
Entity	Corporation	Citizenship	Delaware
Address	4000 Pheasant Ridge Drive Minneapolis, MN 55449 UNITED STATES		

Correspondence information	Donna M. Ruggiero Associate Counsel Aveda Corporation 767 Fifth Avenue Legal Dept. New York, NY 10153 UNITED STATES uspto@estee.com Phone:212-277-2323
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### Registration Subject to Cancellation

Registration No	3483102	Registration date	08/12/2008
Registrant	Matthew James Landis 686 Wall Street Salt Lake City, UT 84103 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 044. First Use: 2005/10/01 First Use In Commerce: 2005/11/10  
All goods and services in the class are cancelled, namely: Beauty salons; Hairdressing salons

### Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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### Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	3369143	Application Date	08/09/2007
Registration Date	01/15/2008	Foreign Priority Date	NONE
Word Mark	AVEDA LIFESTYLE SALON		

Design Mark	<b>AVEDA LIFESTYLE SALON</b>
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Description of Mark	NONE
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Goods/Services	<p>Class 035. First use: First Use: 1999/05/31 First Use In Commerce: 1999/05/31 Retail store services in the field of personal care products, cosmetics, perfumery, toiletries, bath and body products, skin care products, hair care products, beauty treatments</p> <p>Class 044. First use: First Use: 1999/05/31 First Use In Commerce: 1999/05/31 Providing information about beauty regarding the selection and use of personal care products, cosmetics, perfumery, toiletries, bath and body products, skin care products, hair care products, beauty treatments, color analysis, lifestyle and personal appearance; beauty consultation services in the field of selection and use of personal care products, cosmetics, perfumery, toiletries, bath and body products, skin care products, hair care products, beauty treatments, color analysis, lifestyle and personal appearance; beauty salon and spa services, namely hair care and styling services, hair cutting services, hair coloring services, facials, massage, manicure services, pedicure services</p>
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U.S. Registration No.	3369141	Application Date	08/09/2007
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Registration Date	01/15/2008	Foreign Priority Date	NONE
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Word Mark	AVEDA LIFESTYLE
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Design Mark	<b>AVEDA LIFESTYLE</b>
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Description of Mark	NONE
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Goods/Services	<p>Class 035. First use: First Use: 1994/12/31 First Use In Commerce: 1994/12/31 Retail store services in the field of personal care products, cosmetics, perfumery, toiletries, bath and body products, skin care products, hair care products, beauty treatments</p> <p>Class 044. First use: First Use: 1994/12/31 First Use In Commerce: 1994/12/31 Providing information about beauty regarding the selection and use of personal care products, cosmetics, perfumery, toiletries, bath and body products, skin</p>
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	care products, hair care products, beauty treatments, color analysis, lifestyle and personal appearance; beauty consultation services in the field of selection and use of personal care products, cosmetics, perfumery, toiletries, bath and body products, skin care products, hair care products, beauty treatments, color analysis, lifestyle and personal appearance; beauty salon and spa services, namely hair care and styling services, hair cutting services, hair coloring services, facials, massage, manicure services, pedicure services
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Attachments	77251356#TMSN.jpeg ( 1 page )( bytes ) 77251008#TMSN.jpeg ( 1 page )( bytes ) Pet to Cancel LANDIS LIFESTYLE SALON.pdf ( 3 pages )(96275 bytes )
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### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/dmr/
Name	Donna M. Ruggiero
Date	11/10/2008

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

In the Matter of Trademark Registration No. 3,483,102  
Mark: LANDIS LIFESTYLE SALON and Design  
Class: International Class 44  
Date Registered: August 12, 2008

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**AVEDA CORPORATION** :  
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Petitioner :  
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- against - : Cancellation No.: \_\_\_\_\_  
 :  
**Matthew James Landis** :  
 :  
Respondent. :  
 :  
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PETITION TO CANCEL

AVEDA CORPORATION, a corporation organized and existing under the laws of the State of Delaware, with principal offices at 4000 Pheasant Ridge Drive, Minneapolis, Minnesota, 55449 believes that it will be damaged by Registration No. 3,483,102 and hereby petitions to cancel the same. As grounds for cancellation, it is alleged that:

1. Petitioner has for many years been engaged in the manufacture, advertising and distribution of a variety of cosmetic, fragrance and toiletry products.
2. Petitioner has for many years provided beauty salon and spa services at its own retail establishments.
3. Petitioner is the owner of U.S. Registration No. 3369143 for the mark AVEDA LIFESTYLE SALON for retail store services in the field of personal care products, cosmetics, perfumery, toiletries, bath and body products, skin care products, hair care products, beauty treatments in Class 35 and

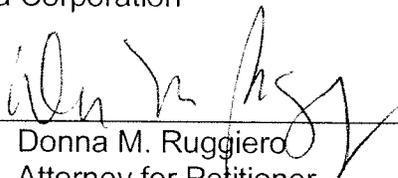
Providing information about beauty regarding the selection and use of personal care products, cosmetics, perfumery, toiletries, bath and body products, skin care products, hair care products, beauty treatments, color analysis, lifestyle and personal appearance; beauty consultation services in the field of selection and use of personal care products, cosmetics, perfumery, toiletries, bath and body products, skin care products, hair care products, beauty treatments, color analysis, lifestyle and personal appearance; beauty salon and spa services, namely hair care and styling services, hair cutting services, hair coloring services, facials, massage, manicure services, pedicure services in Class 44.

4. Petitioner is the owner of U.S. Registration No. 3369141 for the mark AVEDA LIFESTYLE for retail store services in the field of personal care products, cosmetics, perfumery, toiletries, bath and body products, skin care products, hair care products, beauty treatments in Class 35, and Providing information about beauty regarding the selection and use of personal care products, cosmetics, perfumery, toiletries, bath and body products, skin care products, hair care products, beauty treatments, color analysis, lifestyle and personal appearance; beauty consultation services in the field of selection and use of personal care products, cosmetics, perfumery, toiletries, bath and body products, skin care products, hair care products, beauty treatments, color analysis, lifestyle and personal appearance; beauty salon and spa services, namely hair care and styling services, hair cutting services, hair coloring services, facials, massage, manicure services, pedicure services in Class 44.

5. On August 12, 2008, Respondent obtained a registration, No. 3,483,102 on the Principal Register of the mark LANDIS LIFESTYLE SALON and Design for beauty salons and hairdressing salons in Class 44. The application was filed on April 4, 2007, alleging a date of first use of October 1, 2005.
6. Since long prior to the date of filing of Respondent's registration, namely, December 1994 for AVEDA LIFESTYLE and May 1999 for AVEDA LIFESTYLE SALON, Petitioner has used its marks in interstate commerce in connection with the services specified in the respective registrations.
7. Respondent's mark so resembles Petitioner's marks, and in fact, fully incorporates a portion of Petitioner's registered mark namely, LIFESTYLE SALON that continued use and registration thereof is likely to cause confusion, mistake, and/or deception as to the source or origin of Petitioner's services and will injure and damage Petitioner and the goodwill and reputation it has established in its marks, Trademark Act Section 2(d).
8. By reason of the foregoing, Petitioner will be damaged by the continuation of the registration of LANDIS LIFESTYLE SALON, Registration No. 3,483,102 and such registration should be canceled.

WHEREFORE, Petitioner respectfully prays that its Petition for Cancellation be sustained and that Registration No. 3,483,102 be cancelled.

Aveda Corporation

BY   
Donna M. Ruggiero  
Attorney for Petitioner

Dated: New York, New York  
November 10, 2008