

ESTTA Tracking number: **ESTTA269682**

Filing date: **03/03/2009**

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	Riowell		
Entity	LLC	Citizenship	Texas
Address	13105 Northwest Freeway Suite 1200 Houston, TX 77040 UNITED STATES		

Attorney information	Rakesh M. Amin AMIN HALLIHAN, LLC 444 N. Orleans St. Suite 400 Chicago, IL 60654 UNITED STATES rakesh@aminhallihan.com, ryan@aminhallihan.com, bianca@aminhallihan.com Phone:312-327-3328
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Registration Subject to Cancellation

Registration No	3228958	Registration date	04/17/2007
Registrant	LINDORA, INC. 3505 CADILLAC AVENUE SUITE N-2 COSTA MESA, CA 92626 UNITED STATES		

Goods/Services Subject to Cancellation

Class 005. First Use: 1994/00/00 First Use In Commerce: 1994/00/00 All goods and services in the class are cancelled, namely: Dietetic substances, namely, multi-vitamins, ketosis sticks for determining fat burning status; and meal replacement powder drink in various flavors to be used in connection with medical clinics oriented to weight management and weight loss
Class 029. First Use: 1994/00/00 First Use In Commerce: 1994/00/00 All goods and services in the class are cancelled, namely: Meal replacement, namely, chocolate drink in the nature of vegetable-based chocolate food beverages, snacks, namely, protein based nutrient-dense snack bars, soy nuts and soups
Class 030. First Use: 1994/00/00 First Use In Commerce: 1994/00/00 All goods and services in the class are cancelled, namely: Meal replacement, namely, puddings, hot chocolate and pudding mixes in various flavors to be used in connection with medical clinics oriented to weight management and weight loss

Grounds for Cancellation

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

U.S. Application No.	77679688	Application Date	02/27/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	LEANLIFE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1992/12/10 First Use In Commerce: 1992/12/10 Dietary supplements		

Attachments	Lean For Life Cancellation.pdf (4 pages)(27938 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	/Rakesh M. Amin/
Name	Rakesh M. Amin
Date	03/03/2009

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

In the Matter of Trademark Registration No.: 3,228,958
For the Mark: LEAN FOR LIFE
Date Registered: April 17, 2007

Riowell, LLC)	
)	
Petitioner,)	
)	
V.)	Cancellation No.
)	
Lindora, Inc.)	
)	
Registrant.)	
)	

PETITION FOR CANCELLATION

Petitioner Riowell, LLC, is a Limited Liability Corporation organized and existing under the laws of the state of Texas, with a principal place of business at 13105 Northwest Freeway, Suite 1200, Houston, TX 77040. To the best of the Petitioner’s knowledge, the current owner of the subject Registration (Serial No. 3,228,958) is Lindora, Inc. (“Registrant”), having an address of 3505 Cadillac Avenue, Suite N-2, Costa Mesa, California 92626. Petitioner believes it will be damaged by Registration No. 3,228,958 for the mark LEAN FOR LIFE and hereby petitions to cancel the same. The grounds for cancellation are as follows:

1. Petitioner is the owner of the pending application having serial number 77/679,688 (hereafter “Petitioner’s Application”) for the “LEANLIFE” mark (hereafter “Petitioner’s Mark”).
2. Petitioner’s Application was filed on February 27, 2009.

3. The goods identified in Petitioner's Application include "dietary supplements" in international class 005.
4. Petitioner and its predecessor-in-interest owned Federal Trademark Registration Number 1,827,182 for the "LEANLIFE" mark.
5. Petitioner filed its application for registration of the '182 mark on June 14, 1993. Registration was subsequently granted on March 22, 1994 based on a date of first use in commerce of December 10, 1992. Registration of the '182 mark was inadvertently cancelled on December 25, 2004.
6. On December 29, 2004, Petitioner filed a new application to re-register its LEANLIFE mark.
7. Petitioner's December 29, 2004 application was refused because the examiner determined that LEANLIFE was likely to cause confusion with Registrant's "LEAN FOR LIFE" mark, Registration No. 3,228,958 (hereafter "Registrant's Mark").
8. Registrant's filed an application for registration of Registrant's Mark on December 13, 2002, and obtained registration thereof on April 17, 2007. Registrant's claimed date of first use is listed as simply "1994".
9. Registrant's Mark, as applied to the goods identified in Registration No. 3,228,958, is likely to cause confusion and mistake and to deceive, and to mislead consumers and/or the trade into believing that such goods are in some way sponsored by, affiliated with and/or connected to Petitioner, with consequent injury to Petitioner and the consuming public, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d). Specifically, the goods identified in Registration No. 3,228,958, and complained of in this petition (hereafter "Registrant's Goods") are: "dietetic substances, namely, multi-vitamins,

ketosis sticks for determining fat burning status; and meal replacement powder drink in various flavors to be used in connection with medical clinics oriented to weight management and weight loss” in international class 005; “meal replacement, namely, puddings, hot chocolate and pudding mixes in various flavors to be used in connection with medical clinics oriented to weight management and weight loss” in international class 030; and “meal replacement, namely, chocolate drink in the nature of vegetable-based chocolate food beverages, snacks, namely, protein based nutrient-dense snack bars, soy nuts and soups” in international class 029.

10. Petitioner (through its predecessor(s)-in-interest) has continuously used Petitioner’s Mark in interstate commerce since at least as early as December 10, 1992.
11. Petitioner has priority based on prior continuous use in commerce of the substantially similar mark “LEANLIFE” in connection with dietary supplements as set forth in Petitioner’s Application.
12. Petitioner has spent a considerable amount of money marketing and promoting its products bearing Petitioner’s Mark. As a result of this investment, Petitioner has developed substantial goodwill and widespread recognition as the source of products sold under the “LEANLIFE” name. This goodwill and recognition has occurred since prior to Registrant’s December 13, 2002 filing date and claimed “1994” date of first use.
13. Petitioner will be damaged by Registration No. 3,228,958 because such registration will support and assist Registrant in misleading the public and will give the color of exclusive statutory rights to Registrant in violation and derogation of the prior and superior rights of Petitioner.

WHEREFORE, Petitioner believes that it will be damaged by Registration No. 3,228,958 and prays that this Petition for Cancellation of that Registration, in its entirety, be granted.

Please recognize as attorneys for Petitioner in this proceeding, Rakesh M. Amin, Ryan M. Kaiser and Bianca A. Thomae (Reg. No. 61606), members of the Bar of the State of Illinois, whose address is: Amin Hallihan, LLC, 444 N. Orleans St., Suite 400, Chicago, IL 60654. Please direct all correspondence to Ryan M Kaiser at the foregoing address.

Dated: March 3, 2009

Attorneys for Petitioner:

/Rakesh M. Amin/

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