

ESTTA Tracking number: **ESTTA283875**

Filing date: **05/13/2009**

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	Atlas Flowers, Inc. d/b/a Golden Flowers		
Entity	Corporation	Citizenship	Florida
Address	2600 NW 79th Avenue Miami, FL 33122 UNITED STATES		

Attorney information	Caroline G. Boehm Kalow & Springut LLP 488 Madison Avenue 19 FL New York, NY 10022 UNITED STATES cboehm@creativity-law.com, ms@creativity-law.com, tbenschar@creativity-law.com Phone:(212) 813-1600		
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Registration Subject to Cancellation

Registration No	3074073	Registration date	03/28/2006
Registrant	Golden Vision Flower Inc. 2809 West Kelly Park Road Apopka, FL 327125125 UNITED STATES		

Goods/Services Subject to Cancellation

Class 031. First Use: 2004/06/01 First Use In Commerce: 2004/12/01 All goods and services in the class are cancelled, namely: Cut flowers, dried flowers and live flowers; Flower bulbs; Flower seeds; Live flowering plants; Dried plants and live plants; Grass and grass seeds; Fresh herbs and raw herbs; Live orchids

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. Application No.	77571430	Application Date	09/16/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	GOLDEN FLOWERS		

Design Mark	GOLDEN FLOWERS
Description of Mark	NONE
Goods/Services	Class 031. First use: First Use: 1991/01/31 First Use In Commerce: 1991/01/31 fresh cut flowers

U.S. Application No.	77571417	Application Date	09/16/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	GOLDEN FLOWERS		
Design Mark			
Description of Mark	The mark consists of a flower drawing above the stylized words GOLDEN FLOWERS.		
Goods/Services	Class 031. First use: First Use: 2003/02/01 First Use In Commerce: 2003/02/01 fresh cut flowers		

Attachments	77571430#TMSN.jpeg (1 page)(bytes) 77571417#TMSN.jpeg (1 page)(bytes) Golden Flower Petition for Cancellation[1].pdf (4 pages)(107700 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	/Caroline G. Boehm/
Name	Caroline G. Boehm
Date	05/13/2009

198227.1

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

In re Registration No. 3,074,073

Mark:



-----X
ATLAS FLOWERS, INC. d/b/a GOLDEN FLOWERS, :
: :
: :
Petitioner, :
: :
- against - :
: :
GOLDEN VISION FLOWER, INC., :
: :
Registrant. :
-----X

PETITION FOR CANCELLATION

Petitioner Atlas Flowers, Inc., located at 2600 NW 79th Avenue, Miami, Florida 33122, believes that it will be damaged by the continued registration of the mark GOLDEN VISION FLOWER INC. and Design of Registration No. 3,074,073 owned by Golden Vision Flower, Inc. (“Registrant”), and hereby petitions to cancel the same pursuant to Section 14(3) of the Lanham Trademark Act of 1946, 15 U.S.C. § 1064(3).

As grounds therefore, Petitioner alleges as follows:

1. Petitioner is the owner of a Section 1(a) application for the mark GOLDEN FLOWERS, Serial No. 77/571,430, filed on September 16, 2008, for fresh cut flowers in International Class 31; and a Section 1(a) Application for the mark GOLDEN FLOWERS with Design, Serial No. 77/571,417, filed on September 16, 2008 for fresh cut flowers in International Class 31 (collectively the “Applications”).

2. In separate Office Actions, both dated December 17, 2008, Registrant’s GOLDEN FLOWER VISION INC. and Design Mark, Registration No. 3,074,073 (“Registrant’s Mark”), registered for various flowers and horticultural products in International Class 31, was cited under Section 2(d) of the Trademark Act as a basis for refusing registration of Petitioner’s respective marks in its Applications.

3. Upon information and belief, Petitioner’s rights are superior and long prior in time to those of Registrant, Petitioner having commenced use of its mark at least as early as December 31, 2000, prior to the time Registrant began use of its mark in commerce or applied for registration of same.

4. Further, given the similarity between the parties’ respective marks and the great similarity and closeness of the goods, there is a high likelihood of confusion if Registrant is permitted to continue use of its mark as registered for the goods listed therein.

5. Petitioner will be seriously injured if Registrant is permitted to have its certificate of registration remain of record, thereby obstructing the Applications for registration by Petitioner which already has been filed in the United States Patent and Trademark Office.

6. Registrant, if permitted to retain the registration herein sought to be cancelled and thereby retaining the prima facie exclusive right to the mark therein for the goods listed therein,

will be in a position to cause annoyance and to harass Petitioner in selling its said goods and raise doubts as to the right of Petitioner to use its own marks.

WHEREFORE, Petitioner requests that this cancellation be sustained and that Registration No. 3,074,073 be cancelled.

Dated: New York, New York
May 13, 2009

Respectfully submitted,

KALOW & SPRINGUT LLP

By: Milton Springut

Milton Springut

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Attorneys for Petitioner

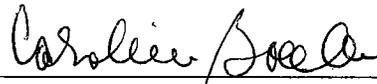
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing is being served by First Class mail upon the

Registrant at:

Golden Vision Flower, Inc.
2809 West Kelly Park Road
Apopka, FL 327125

this 13th day of May, 2009.



Caroline G. Boehm