

ESTTA Tracking number: **ESTTA346004**

Filing date: **05/06/2010**

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	DUCKBACK ACQUISITION CORP.		
Entity	Corporation	Citizenship	DELAWARE
Address	2644 HEGAN LANE CHICO, CA 95927 UNITED STATES		

Attorney information	JOHN R. POSTHUMUS SHERIDAN ROSS P.C. 1560 BROADWAY SUITE 1200 DENVER, CO 80202-5141 UNITED STATES jposthumus@sheridanross.com, lbrown@sheridanross.com Phone:303-863-9700		
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Registrations Subject to Cancellation

Registration No	1624325	Registration date	11/27/1990
Registrant	MASTERCHEM INDUSTRIES, LLC 3135 HWY., M IMPERIAL, MO 63052 UNITED STATES		

Goods/Services Subject to Cancellation

Class 002. First Use: 1987/10/08 First Use In Commerce: 1987/10/08 All goods and services in the class are cancelled, namely: CLEAR WATERPROOFING SEALER COATING FOR WOOD, CANVAS, MASONRY, BRICK, AND STUCCO
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Grounds for Cancellation

Abandonment	Trademark Act section 14		
Registration No	1685910	Registration date	05/12/1992
Registrant	MASTERCHEM INDUSTRIES, LLC 3135 HWY., M IMPERIAL, MO 63052 UNITED STATES		

Goods/Services Subject to Cancellation

Class 002. First Use: 1991/03/01 First Use In Commerce: 1991/03/01 All goods and services in the class are cancelled, namely: clear waterproofing sealer coating for concrete and masonry, brick, stone and stucco

Grounds for Cancellation

Abandonment		Trademark Act section 14	
Registration No	1790047	Registration date	08/31/1993
Registrant	MASTERCHEM INDUSTRIES LLC 3135 HIGHWAY M IMPERIAL, MO 63052 UNITED STATES		

Goods/Services Subject to Cancellation

Class 003. First Use: 1991/12/27 First Use In Commerce: 1991/12/27 All goods and services in the class are cancelled, namely: exterior wood cleaner and brightener

Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	PETITION TO CANCEL.pdf (4 pages)(42883 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	/JOHN R. POSTHUMUS/
Name	JOHN R. POSTHUMUS
Date	05/06/2010

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

In the matter of trademark Registration No. 1,624,325
For the mark DUCKSBACK
Date registered 11/27/1990

In the matter of trademark Registration No. 1,685,910
For the mark DUCKSBACK and Design
Date registered 5/12/1992

In the matter of trademark Registration No. 1,790,047
For the mark DUCKSBACK and Design
Date registered 8/31/1993

DUCKBACK ACQUISITION CORP.,

Petitioner,

v.

MASTERCHEM INDUSTRIES, LLC,

Registrant.

PETITION TO CANCEL

Petitioner, Duckback Acquisition Corp., is a Delaware corporation having a principal place of business at 2644 Hegan Lane, Chico, California 95927.

To the best of Petitioner's knowledge, the name and address of the current owner of the registrations is Masterchem Industries, LCC, having a business address of 3135 Highway M, Imperial, Missouri 63052.

Petitioner believes that it will be damaged by the above-identified registrations, and hereby petitions to cancel the same.

The grounds for cancellation are as follows:

1. Petitioner uses “DUCKBACK PRODUCTS” in connection with offering premium quality coatings for wood and concrete. *See e.g.*, www.superdeck.com.
2. Petitioner and Registrant are competitors.
3. Registrant owns Registration Nos. 1,624,325 for DUCKSBACK for “clear waterproofing sealer coating for wood, canvas, masonry, brick, and stucco”; 1,685,910 for DUCKSBACK and Design for “clear waterproofing sealer coating for concrete and masonry, brick, stone and stucco” and 1,790,047 for DUSCKSBACK and Design for “exterior wood cleaner and brightener” (collectively the “Registered Marks”).
4. Based on information and belief, Registrant discontinued use of the Registered Marks sometime on or before October 2000.
5. Further, based on information and belief, Registrant has not used the Registered Marks since discontinuing use sometime on or before October 2000.
6. Finally, Registrant is using trademarks other than the Registered Marks for its clear water proofing sealer coating product and its exterior wood cleaner and brightener products. Upon information and belief, Registrant is using the mark CURECOAT for chemical waterproofing preparations and paint sealers for use on concrete, masonry, and other porous surfaces; and the mark NATUREGUARD for chemical waterproofing preparations for use on wood, and wood stains and sealers.
7. Registrant has not used the Registered Marks for at least three years, and further has no intent to recommence use.
8. Registrant has abandoned the Registered Marks.

WHEREFORE, Petitioner Duckback Acquisition Corp. prays that Registration Nos. 1,624,325; 1,685,910 and 1,790,047 be canceled.

Respectfully submitted,

Dated: May 6, 2010

By: /John R. Posthumus/
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ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of May, 2010, a true and correct copy of the foregoing PETITION TO CANCEL was served by U.S. Mail, First-Class postage prepaid, upon Registrant and the attorney/domestic representative of record for the Registrant:

LEON E. REDMAN
MASCO CORPORATION
21001 VAN BORN RD
TAYLOR MI 48180-1340

MASTERCHEM INDUSTRIES, LLC
3135 HWY., M
IMPERIAL, MO 63052

s/ Lori R. Brown

Lori R. Brown

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