

ESTTA Tracking number: **ESTTA384742**

Filing date: **12/20/2010**

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	ProThera, Inc.		
Entity	Corporation	Citizenship	Nevada
Address	10439 Double R Blvd. Reno, NV 89521 UNITED STATES		

Attorney information	Brian Geoghegan GeoMark Suite 200 8201 164th Ave NE Redmond, WA 98052 UNITED STATES brian@geomarklaw.com Phone:425-296-9050		
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Registration Subject to Cancellation

Registration No	3783555	Registration date	05/04/2010
Registrant	WORLD NUTRITION, INC. 7001 NORTH SCOTTSDALE ROAD SUITE 2000 SCOTTSDALE, AZ 85253 UNITED STATES		

Goods/Services Subject to Cancellation

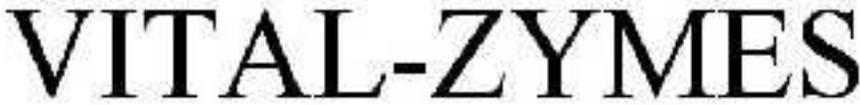
Class 005. First Use: 2002/03/01 First Use In Commerce: 2002/03/01
All goods and services in the class are cancelled, namely: Dietary and nutritional supplements;
Dietary supplements; Nutritional supplements

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.	77965325	Application Date	03/22/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	VITAL-ZYMES		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 005. First use: First Use: 1999/09/17 First Use In Commerce: 1999/09/17 Dietary and nutritional supplements; Enzyme food supplements

Attachments	77965325#TMSN.jpeg (1 page)(bytes) VITALZYM petition insert.pdf (1 page)(29453 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 Overnight Courier on this date.

Signature	/bg/
Name	Brian Geoghegan
Date	12/20/2010

Petitioner ProThera, Inc. alleges:

- 1 – that Petitioner has been using the mark VITAL-ZYMES in the United States since at least as early as September 17, 1999 for dietary and nutritional supplements and enzyme food supplements;
- 2 – that, according to the assertions set forth in its Registration No. 3783555, Registrant World Nutrition, Inc. has been using the mark VITÄLZYM for “dietary and nutritional supplements; dietary supplements; nutritional supplements” in the United States since March 1, 2002;
- 3 – that Petitioner’s date of first use precedes both Registrant’s date of first use and Registrant’s application April 17, 2009 filing date;
- 4 – that Petitioner therefore has superior rights; and
- 5 – that the use and registration of the mark VITÄLZYM by Registrant is likely to cause confusion in the marketplace as to the source, origin, affiliation or sponsorship of Registrant and its products by and with Petitioner.