

ESTTA Tracking number: **ESTTA387264**

Filing date: **01/07/2011**

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	Reading Venture One, L.L.C.		
Entity	limited liability company	Citizenship	Michigan
Address	19720 Gerald Street Northville, MI 48167 UNITED STATES		

Attorney information	Michelle L. Visser Rader, Fishman & Grauer PLLC 39533 Woodward Avenue, Suite 140 Bloomfield Hills, MI 48304 UNITED STATES interpartesparalegals@raderfishman.com Phone:248-594-0644
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Registration Subject to Cancellation

Registration No	3040764	Registration date	01/10/2006
Registrant	Emsbo Corp., Inc. P.O. Box 969 Block Island, RI 02807 UNITED STATES		

Goods/Services Subject to Cancellation

Class 016. First Use: 2004/06/30 First Use In Commerce: 2004/06/30 All goods and services in the class are cancelled, namely: EDUCATIONAL MATERIALS IN THE FIELD OF READING AND DYSLEXIA CONSISTING OF FLASH CARDS, PRINTED CHARTS AND MANUALS AND KITS CONTAINING THE SAME; BROCHURES AND PRINTED FLIERS IN THE FIELD OF READING AND DYSLEXIA

Grounds for Cancellation

Genericness	Trademark Act section 23
The mark is merely descriptive	Trademark Act section 2(e)(1)

Attachments	Petition for cancellation.pdf (3 pages)(200699 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	/Michelle L. Visser/
Name	Michelle L. Visser
Date	01/07/2011

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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READING VENTURE ONE, L.L.C.)	
)	
Petitioner,)	
)	Cancellation No. _____
v.)	Registration No. 3,040,764
)	Mark: ORTON-GILLINGHAM,
EMSBO CORP., INC.)	FROM THEORY TO PRACTICE
)	
Registrant.)	
_____	/	

PETITION FOR CANCELLATION

Petitioner, Reading Venture One, L.L.C, a Michigan limited liability company with an address of 19720 Gerald Street, Northville, Michigan 48167 (“Petitioner”), believes it will be damaged by the continued registration of the mark of Registration No. 3,040,764 by Emsbo Corp., Inc., Registrant herein, and hereby petitions to cancel the same on the grounds that (1) “ORTON-GILLINGHAM” is generic for the goods in the registration, and/or (2) if “ORTON-GILLINGHAM” is not generic for the goods in such registration, that such phrase is at least merely descriptive of the goods in Registration No. 3,040,764, and has not acquired distinctiveness.

As grounds for the petition, Petitioner states as follows:

1. Petitioner is extensively engaged in the business of providing a wide range of reading education products and services, particularly goods and services employing the Orton-Gillingham reading instruction method.

2. On information and belief, Registrant, Emsbo Corp., Inc., is a New Jersey corporation with an address of P.O. Box 969, Block Island, Rhode Island 02807.

3. The Office granted Registration No. 3,040,764 for the mark ORTON-GILLINGHAM, FROM THEORY TO PRACTICE on January 10, 2006 for “*educational materials in the field of reading*”

and dyslexia consisting of flash cards, printed charts and manuals and kits containing the same; brochures and printed fliers in the field of reading and dyslexia” in International Class 16.

4. On information and belief, Orton-Gillingham is a well-recognized and widely employed reading instruction method. Accordingly, “Orton-Gillingham” is generic for, and is incapable of distinguishing Registrant’s educational materials, which teach reading using the Orton-Gillingham method, from those of its competitors such as Petitioner.

5. Even if not generic for the goods in Registration No. 3,040,764, “ORTON-GILLINGHAM” is merely descriptive of such goods, and has not acquired distinctiveness.

6. Continued registration of ORTON-GILLINGHAM, FROM THEORY TO PRACTICE, on the Principal Register, is inconsistent with Petitioner’s and other’s rights to use “Orton-Gillingham” in a generic and descriptive manner.

7. Registration of the mark of Registration No. 3,040,764 affords Registrant statutory rights, including *prima facie* evidence of the validity of the mark, Registrant’s ownership of the mark and Registrant’s exclusive right to use the mark throughout the United States.

8. Therefore, Petitioner is likely to be damaged by the continued registration of the mark of Registration No. 3,040,764.

9. Alternatively, inasmuch as “ORTON-GILLINGHAM” is generic or at least merely descriptive of the goods of Registration No. 3,040,764, such registration should be restricted to enter a disclaimer of “ORTON-GILLINGHAM” apart from the mark as shown.

Wherefore, Petitioner prays that Registration No. 2,735,479 be cancelled or restricted as requested above, and that this Petition be sustained in favor of Petitioner.

A filing fee for the Petition for Cancellation in the amount of \$300 should be charged to Deposit Account No. 18-0013. Any additional fees required should be charged to the same account.

Respectfully submitted,

Dated: January 7, 2011

By: Michelle L. Visser
Michael D. Fishman
Michelle L. Visser
RADER FISHMAN & GRAUER PLLC
Attorneys for Petitioner
39533 Woodward Avenue, Suite 140
Bloomfield Hills, Michigan 48304
Telephone: (248) 594-0600
Facsimile: (248) 594-0610

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing *Petition for Cancellation* upon Registrant by causing a true and correct copy thereof to be sent on by first class mail, postage prepaid to:

Emsbo Corp., Inc.
P.O. Box 969
Block Island, RI 02807

Date: January 7, 2011

Michelle L. Visser
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