

ESTTA Tracking number: **ESTTA394793**

Filing date: **02/23/2011**

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	Garry Hojan		
Entity	Individual	Citizenship	Canada
Address	303 Juneberry Lane Priest River, ID 83856 UNITED STATES		

Attorney information	Matthew H. Swyers The Trademark Company, PLLC 344 Maple Avenue West, Suite 151 Vienna, VA 22180 UNITED STATES mswyers@thetrademarkcompany.com Phone:800-906-8626		
----------------------	---	--	--

Registration Subject to Cancellation

Registration No	3062333	Registration date	02/28/2006
Registrant	FUSTIER, ERIC 4, PLACE DE LA DEFENSE PARIS DEFENSE CEDEX, 92974 FRANCE		

Goods/Services Subject to Cancellation

<p>Class 003. First Use: 2003/07/00 First Use In Commerce: 2003/07/00 All goods and services in the class are cancelled, namely: COSMETICS; HAND CREAM, BODY LOTION, FOOT CREAM, FACE MOISTURIZER CREAM, NOURISHING FACE CREAM, EYE GEL, EYE CREAM, NECK CREAM, ANTI-WRINKLE CREAM, BLACK MUD BEAUTY MASK, MINERAL BEAUTY SERUM, AFTERSHAVE MOISTURE CREAM, BLACK MUD BODY WRAP, BLACK MUD SOAP, NATURAL SALT SOAP, BATH SALTS, SHAMPOO, BLACK MUD SHAMPOO, HAIR CONDITIONER, TONER, SKIN FRESHENER, CLEANSING MILK FOR FACE, BLACK MUD PEEL BEAUTY MASK, NON-MEDICATED MINERAL FACE PEEL, BASALT STONES FOR PERSONAL USE</p>

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

Mark Cited by Petitioner as Basis for Cancellation

U.S. Application No.	77587317	Application Date	10/07/2008
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	LANGÉ#
Design Mark	
Description of Mark	The mark consists of the stylized word LANGE, written in all capital letters, with an accent above the letter "E".
Goods/Services	Class 003. First use: First Use: 1976/01/08 First Use In Commerce: 1976/01/08 Nail care preparations ; Non-medicated hair care preparations ; Hair styling sprays and gels ; Skin and hair moisturizers

Attachments	77587317#TMSN.jpeg (1 page)(bytes) Petition to Cancel 2-23-11.pdf (5 pages)(18948 bytes)
-------------	--

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	/Matthew H. Swyers/
Name	Matthew H. Swyers
Date	02/23/2011

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
The Trademark Trial and Appeal Board

In the matter of U.S. Registration 3,062,333,
For the mark LANGE PARIS,
Registered on the Principal Register on February 28, 2006.

Garry Hojan,	:	
	:	
Petitioner,	:	
	:	
vs.	:	Petition No. _____
	:	
Eric Fustier,	:	
	:	
Registrant.	:	

PETITION TO CANCEL

Petitioner, Garry Hojan (hereinafter “Petitioner”), a U.S. Citizen located and operating the business Lange Laboratories, Inc. doing business at 303 Juneberry Lane, Priest River, Idaho, 83856, believes that he is and will continue to be damaged by the continued registration of U.S. Registration 3,062,333 for the mark LANGE PARIS and, accordingly, hereby petitions this honorable tribunal to cancel the same pursuant to 15 U.S.C. § 1064 and 37 C.F.R. § 2.111(b).

Grounds for Cancellation

As grounds for the instant Petition to Cancel, it is alleged that the continued registration of Registrant Fitness Cafe’s (hereinafter “Applicant”) mark LANGE PARIS as more fully displayed in U.S. Registration No. 3,062,333 would be likely to cause confusion with Petitioner’s mark LANGÉ which retains priority of use over Registrant’s mark LANGE PARIS by virtue of its prior use in commerce in the United States.

Statement of Facts

In support of the instant Petition to Cancel, it is alleged that:

1. Petitioner is the owner of the mark LANGÉ used on or in connection with nail care preparations; non-medicated hair care preparations; hair styling sprays and gels; skin and hair moisturizers.

2. Petitioner and/or related entities first used the mark LANGÉ in connection with the above-identified services in interstate commerce on or about January 8, 1976.

3. Petitioner and/or related entities' use of the mark LANGÉ in connection with the above-identified services has been in continuous use and/or periods of excusable non-use since on or about January 8, 1976.

4. Petitioner has invested significant sums of money in the promotion of the mark LANGÉ and the Petitioner's services in the United States.

5. As a result of the aforesaid, Petitioner has developed a valuable reputation and goodwill in its LANGÉ mark and has achieved a following among the relevant consuming public prior to the filing, registration and/or priority date of Registrant's application to register the mark LANGE PARIS identified more fully in U.S. Registration No. 3,062,333.

6. Based upon information and belief, Registrant is a French corporation located and doing business at 4, Place de la Defense, Paris Defense Cedex, France, 92974.

7. Registrant is using the mark LANGE PARIS in connection with cosmetics; hand cream; body lotion; foot cream; face moisturizer cream; nourishing face cream; eye gel; eye cream; neck cream; anti-wrinkle cream; black mud beauty mask; mineral beauty serum; aftershave moisture cream; black mud body wrap; black mud soap; natural salt soap; bath salts; shampoo; black mud shampoo; hair conditioner; toner; skin freshener; cleansing milk for face; black mud peel beauty mask; non-medicated mineral face peel; and basalt stones for personal use in International Class 3.

8. Registrant's registration identified more fully in U.S. Registration No. 3,062,333 was filed with the United States Patent and Trademark Office on July 7, 2004.

9. Upon information and belief, Registrant first used the mark LANGE PARIS in connection with the services covered by its registration in the United States in July of 2003.

10. As such, Petitioner's rights in the mark LANGÉ has priority of use over Registrant's rights in the mark LANGE PARIS, U.S. Registration No. 3,062,333, inasmuch as Petitioner commenced its use of the mark LANGÉ in connection with his services in interstate commerce prior to the filing, registration, and/or priority of use date of the Registrant's registration and use of the mark LANGE PARIS.

11. Petitioner believes that consumers confronted with the Registrant's mark LANGE PARIS will inevitably be confused and deceived into the mistaken belief that the Registrant's services have their origin or are in some manner connected with the Petitioner and/or Petitioner's services offered in connection with his LANGÉ mark.

12. The continued registration of Registrant's mark confers upon Registrant rights to which it is not entitled and is inconsistent with the prior established rights of Petitioner in his mark LANGÉ.

13. By reason of the foregoing, Registrant will be seriously damaged by the continued registration of Registrant's mark LANGE PARIS.

WHEREFORE Petitioner Garry Hojan, by counsel, prays that the instant petition be granted and U.S. Registration No. 3,062,333 be cancelled.

Petitioner hereby appoints Matthew H. Swyers, Esquire of The Swyers Law Firm, PLLC, 344 Maple Ave., West, Suite 389, Vienna, Virginia 22180, to act as his attorney for Opposer herein, with full power to prosecute said petition, to transact all relevant business with the United

States Patent and Trademark Office, and to receive all official communication in connection with this petition.

Respectfully submitted this 23th day of February, 2011.

The Trademark Company, PLLC

Matthew H. Swyers, Esquire
344 Maple Avenue West, Suite 151
Vienna, VA 22180
Tel. (703) 585-2077
Fax (270) 477-4574
mswyers@TheTrademarkCompany.com
Counsel for Petitioner Garry Hojan

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
The Trademark Trial and Appeal Board**

In the matter of U.S. Registration 3,062,333,
For the mark LANGE PARIS,
Registered on the Principal Register on February 28, 2006.

Garry Hojan,	:	
	:	
Petitioner,	:	
	:	
vs.	:	Petition No. _____
	:	
Eric Fustier,	:	
	:	
Registrant.	:	

Certificate of Service

I HEREBY CERTIFY that a true and accurate copy of the foregoing *Petition to Cancel* was served this 23rd day of February, 2011 upon the Registrant via first class mail at the address listed on the TARR database as reported this day as follows:

Eric Fustier
4, Place de la Defense
Paris Defense Cedex
Paris, France 92974

Christopher J. Day
Law Office of Christopher Day
9977 North 90th Street, Suite 155
Scottsdale, AZ 85258

/Matthew H. Swyers/
Matthew H. Swyers