

ESTTA Tracking number: **ESTTA403567**

Filing date: **04/13/2011**

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	Anastasia Beverly Hills, Inc.		
Entity	Corporation	Citizenship	California
Address	428 North Bedford Drive Beverly Hills, CA 90210 UNITED STATES		

Attorney information	John May Berliner & Associates 555 West Fifth Street 31st Floor Los Angeles, CA 90013 UNITED STATES John@May.us, lwerk@berliner-ip.com Phone:(626) 375 6025		
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Registration Subject to Cancellation

Registration No	3117475	Registration date	07/18/2006
Registrant	ANASTASIA MARIE LABORATORIES, INC. 6520 North Western Avenue - Suite 103 Oklahoma City, OK 73116 UNITED STATES		

Goods/Services Subject to Cancellation

Class 003. First Use: 2006/03/20 First Use In Commerce: 2006/03/20 All goods and services in the class are cancelled, namely: Cosmetics and skin care products; namely, lotions, and creams for the face and body
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Grounds for Cancellation

Abandonment	Trademark Act section 14
Priority and likelihood of confusion	Trademark Act section 2(d)

Related Proceedings	Opposition 91188736 Cancellation 92052119
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Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	2821892	Application Date	10/28/1999
Registration Date	03/16/2004	Foreign Priority Date	NONE
Word Mark	ANASTASIA BEVERLY HILLS		

Design Mark	ANASTASIA BEVERLY HILLS
Description of Mark	NONE
Goods/Services	<p>Class 003. First use: First Use: 2000/03/00 First Use In Commerce: 2000/09/00 [potpourri;] cosmetics, namely, foundation, concealer, pressed powder, [loose powder, eye shadow base,] blush, [bronzing products,] eye shadows, mascara, eyeliners, lip coverings, lipstick, lip gloss, lip liners, eyebrow color products, eyebrow pencils, eyebrow powder, eyebrow pomade, eyebrow gel, [nail polish, nail base coat, and nail top coat;] skin care products, namely, [facial cleansers, facial cleansing bars, facial toners, facial astringents,] facial moisturizers, eye creams, eye gels, eye-area moisturizers, eye-area gels, eye area creams, [facial masques,] facial serums, [facial exfoliators, body cream, body lotion, body powder, body moisturizers, body lotions, body toners, body astringents, and hand creams; body cleansing products, namely, creams, gels, and bar soaps; fragrance products, namely, perfume, eau de parfum, eau de toilette, eau de cologne, and fragranced creams, lotions, gels, bar body toners, and astringents; room fragrances]</p> <p>Class 004. First use: First Use: 2000/03/00 First Use In Commerce: 2000/09/00 [candles]</p> <p>Class 008. First use: First Use: 2000/03/00 First Use In Commerce: 2000/08/00 eyebrow tweezers and eyebrow grooming scissors</p> <p>Class 021. First use: First Use: 2000/03/00 First Use In Commerce: 2000/08/00 cosmetic brushes</p>

U.S. Registration No.	3342405	Application Date	02/25/2005
Registration Date	11/27/2007	Foreign Priority Date	NONE
Word Mark	ANASTASIA BEVERLY HILLS		
Design Mark	ANASTASIA BEVERLY HILLS		
Description of Mark	NONE		
Goods/Services	Class 044. First use: First Use: 1999/09/00 First Use In Commerce: 1999/09/00 Beauty salon services, namely hair removal, dressing and styling		

U.S. Registration No.	3679514	Application Date	02/24/2009
Registration Date	09/08/2009	Foreign Priority Date	NONE
Word Mark	ANASTASIA BEVERLY HILLS		

Design Mark	<p style="text-align: center;">ANASTASIA BEVERLY HILLS</p>
Description of Mark	NONE
Goods/Services	<p>Class 003. First use: First Use: 1999/09/30 First Use In Commerce: 2000/09/30 Cosmetic preparations; Cosmetics; Eyebrow colors; Eyebrow cosmetics; Non-medicated preparations all for the care of skin, hair and scalp</p> <p>Class 021. First use: First Use: 1999/12/31 First Use In Commerce: 2000/12/31 Stencils for applying make--up</p>

U.S. Registration No.	2798069	Application Date	10/27/1999
Registration Date	12/23/2003	Foreign Priority Date	NONE

Word Mark	A ANASTASIA BEVERLY HILLS
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Design Mark	
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Description of Mark	NONE
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Goods/Services	<p>Class 003. First use: First Use: 2000/03/00 First Use In Commerce: 2000/08/00 [Potpourri;] cosmetics, namely, foundation, concealer, pressed powder, loose powder, eye shadow base, blush, [bronzing liquid,] eye shadows, mascara, eyeliners, lip coverings, lipstick, lip gloss, lip liners, eyebrow color pencils, eyebrow pencils, eyebrow powder, eyebrow pomade, eyebrow gel, [nail polish, nail base coat, and nail top coat;] skin care products, namely, [facial cleansers, facial cleansing bars, facial toners, facial astringents,] facial moisturizers, eye creams, eye gels, eye-area moisturizers, eye-area gels, eye-area creams, [facial masques,] facial serums, [facial exfoliators, body cream, body lotion, body powder, body moisturizers, body lotions, body toners, body astringents, and hand creams; body cleansing products, namely, creams, gels, and bar soaps; fragrance products, namely, perfume, eau de parfum, eau de toilette, eau de cologne, and fragranced creams, lotions, gels, bar body toners, and astringents; room fragrances]</p> <p>Class 004. First use: First Use: 1999/09/00 First Use In Commerce: 1999/09/00 [candles]</p>
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	Class 008. First use: First Use: 1999/09/00 First Use In Commerce: 1999/09/00 eyebrow tweezers and eyebrow grooming scissors Class 021. First use: First Use: 2000/03/00 First Use In Commerce: 2000/10/00 cosmetic brushes
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U.S. Registration No.	3503367	Application Date	02/25/2005
Registration Date	09/23/2008	Foreign Priority Date	NONE
Word Mark	A ANASTASIA BEVERLY HILLS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 044. First use: First Use: 1999/09/00 First Use In Commerce: 1999/09/00 Beauty salon services, namely, hair removal, dressing and styling		

Attachments	75833810#TMSN.gif (1 page)(bytes) 76632130#TMSN.gif (1 page)(bytes) 77677638#TMSN.jpeg (1 page)(bytes) 75833290#TMSN.gif (1 page)(bytes) 76632127#TMSN.gif (1 page)(bytes) Grounds-APST.pdf (3 pages)(58294 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 May/
Name	John May
Date	04/13/2011

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

ANASTASIA BEVERLY HILLS, INC.)	
)	
Petitioner)	Petition for
)	Cancellation of
v.)	Registration No. 3117475
)	
ANASTASIA MARIE LABORATORIES, Inc.)	Date of Issue: July 18, 2006
)	
Respondent)	

As grounds of this Petition, it is alleged that:

1. Respondent Anastasia Marie Laboratories, Inc. is an Oklahoma corporation with an address at 6520 North Western Avenue, Suite No. 103, Oklahoma City, Oklahoma.
2. On information and belief, Respondent is the owner of Registration No. 3117475.
3. Registration No. 3117475 was filed on December 10, 2001, for the mark ANASTASIA PURE SKIN THERAPY, and registered on the Principal Register, in International Class 3 for “[c]osmetics and skin care products; namely, lotions, and creams for the face and body,” claiming first use in commerce on March 20, 2006.
4. Petitioner is the owner of several registrations which incorporate the word “ANASTASIA.” Specifically, Petitioner owns registrations for ANASTASIA BEVERLY HILLS in International Classes 3, 8, 21 and 44, (Reg.

Nos. 3679514, 3342405, and 2821892) and for A ANASTASIA BEVERLY HILLS & Design in International Classes 3, 8, 21 and 44 (Reg. Nos. 3503367 and 2798069). Petitioner's use of its marks has been valid and continuous since prior to both the filing date and the claimed date of first use of Respondent's Registration No. 3117475, and Petitioner's marks have not been abandoned. Said marks of Petitioner are symbolic of extensive good will and consumer recognition built up by Petitioner through substantial amounts of time and effort in advertising and promotion. In view of the similarity of the respective marks and the related nature of the goods and services of the respective parties, it is alleged that Respondent's registered mark so resembles Petitioner's marks previously used in the United States, and not abandoned, as to be likely to cause confusion, or to cause mistake or to deceive.

5. On information and belief, Petitioner alleges that Respondent has abandoned Registration No. 3117475 by discontinuing use of said mark for a period of over three years with no intent to resume said use.

6. On information and belief, Petitioner further alleges that Respondent does not use the mark ANASTASIA PURE SKIN THERAPY in the form set forth in the registration certificate, in the ordinary course of trade on any of the goods listed in Registration No. 3117475. Rather, for a period of over three years, Respondent has used the mark "ANASTASIA DIABETIC PURE SKIN THERAPY."

7. Petitioner is likely to be damaged by continuance of said registration in that, since prior to both the filing date and the claimed date of first

use of Respondent's Registration No. 3117475, Petitioner has continuously used its marks incorporating the name "ANASTASIA," and Petitioner's continued and legal use of said marks will be impaired by the continued registration of said abandoned mark of Respondent.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that Registration No. 3117475, registered on July 18, 2006, be cancelled.

Dated: 13 April 2011

/JMM/

John M May
Attorney for Petitioner
ANASTASIA BEVERLY HILLS, INC.