

ESTTA Tracking number: **ESTTA417482**

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

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	Medtronic, Inc.		
Entity	Corporation	Citizenship	Minnesota
Address	710 Medtronic Parkway Minneapolis, MN 55432-5604 UNITED STATES		

Attorney information	Dean R. Karau, Cynthia A. Moyer Fredrikson & Byron, P.A. Suite 4000 200 South Sixth Street Minneapolis, MN 55402-1425 UNITED STATES ip@fredlaw.com, dkarau@fredlaw.com, cmoyer@fredlaw.com Phone:6124927178
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Registration Subject to Cancellation

Registration No	3346658	Registration date	12/04/2007
Registrant	Snow/Wood LLC 4300 Easter Circle Williamsburg, VA 23185 UNITED STATES		

Goods/Services Subject to Cancellation

Class 035. First Use: 2001/11/30 First Use In Commerce: 2001/11/30 All goods and services in the class are cancelled, namely: Employment recruiting on behalf of others of one or more persons diagnosed with a disease or medical condition for the purpose of having the recruited person or persons conduct symposiums related to the disease or medical condition
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Grounds for Cancellation

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

Related Proceedings	Petition to Cancel Reg. No. 3346659, being filed simultaneously
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Attachments	PATIENT AMBASSADOR Petition to Cancel 3346658.pdf (4 pages)(19530 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	/Dean R. Karau/
Name	Dean R. Karau
Date	07/01/2011

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

In the Matter of

U.S. Reg. No.: 3,346,658

For the Mark: Patient Ambassador

Date Registered: December 4, 2007

Medtronic, Inc.,

Petitioner,

Cancellation No. _____

v.

Snow/Wood LLC,

Registrant.

PETITION TO CANCEL

Petitioner, Medtronic, Inc., believes that it is being or will be damaged by Registration No. 3,346,658, and hereby petitions to cancel the same. The grounds for cancellation are as follows:

1. Petitioner is a Minnesota corporation with its principal place of business located at 710 Medtronic Parkway, Minneapolis, Minnesota 55432-5604.
2. Petitioner is the global leader in medical technology, alleviating pain, restoring health, and extending life for millions of people around the world.
3. On information and belief, Registrant, Snow/Wood LLC, is a Virginia limited liability company with its principal place of business located at 4300 Easter Circle, Williamsburg, Virginia 23185.
4. On January 25, 2007, Registrant filed an application to register the term "Patient Ambassador," Application Serial No. 76671818, for services described as "employment recruiting on behalf of others of one or more persons diagnosed with a disease or medical

condition for the purpose of having the recruited person or persons conduct symposiums related to the disease or medical condition,” which subsequently matured into Registration No. 3,346,658, issued on December 4, 2007.

5. The term “patient ambassador” has been widely used in the medical industry by physicians, other care providers, clinics, hospitals, medical device manufacturers, and universities, among others, in connection with programs designed to connect persons diagnosed with a disease or medical condition with other persons with the same disease or condition who have first-hand experience in the treatment of the disease or condition.

6. Petitioner has also used the term “patient ambassador” for a number of years in connection with various programs designed to connect persons diagnosed with a disease or medical condition with other persons with the same disease or condition who have first-hand experience in the treatment of the disease or condition.

7. Petitioner owns U.S. Registration No. 3,554,655 for the mark REAL DIABETES CONTROL, used in connection with, among other services, services described as “medical consultation services, namely, *patient ambassador* program to communicate medical information with people with diabetes.” (Emphasis added.)

8. In a June 14, 2011, letter, Registrant demanded that Medtronic cease and desist any further use of the term “patient ambassador.”

9. Continued registration of the term “patient ambassador” is causing and/or will cause damage to Medtronic by, among other things, interfering with Medtronic’s right to use the term or variations of the term in connection with various programs designed to connect persons diagnosed with a disease or medical condition with other persons with the same disease or condition who have first-hand experience in the treatment of the disease or condition, including, but not limited to,

use of the term in connection with its mark REAL DIABETES CONTROL.

10. “Patient ambassador” is, or has become, a generic term in that the significance of the term to the relevant public is as the name for various programs designed to connect persons diagnosed with a disease or medical condition with other persons with the same disease or condition who have first-hand experience in the treatment of the disease or condition.

11. As a generic term, “patient ambassador” is incapable of serving a source-identifying function and was, or is now, ineligible for registration on either the Principal or Supplemental registers.

12. In the alternative, “patient ambassador” is merely a descriptive term when applied to and used in connection with the services in the registration, and “patient ambassador” has not acquired secondary meaning or become distinctive of the services identified in the involved registration.

WHEREFORE, Petitioner believes that it is being or will be damaged by the subject registration and prays that it be cancelled.

Please address all communications to Dean R. Karau and Cynthia A. Moyer, Fredrikson & Byron, P.A., 200 South Sixth Street, Suite 4000, Minneapolis, Minnesota 55402-1425.

Dated: July1, 2011



Dean R. Karau
Cynthia A. Moyer
FREDRIKSON & BYRON, P.A.
Suite 4000
200 South Sixth Street
Minneapolis, Minnesota 55402
Tel.: (612) 492-7178/7167
Fax: (612) 492-7077
E-mail: ip@fredlaw.com; dkarau@fredlaw.com;
cmoyer@fredlaw.com

Attorneys for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the Petition to Cancel was served on Registrant, by mailing it to Registrant's correspondent of record, Peter J. Van Bergen, 402 W. Duke of Gloucester St., Williamsburg, VA 23185-3660, by first-class mail, postage prepaid, this 1st day of July, 2011.



Dean R. Karau

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