

ESTTA Tracking number: **ESTTA445020**

Filing date: **12/07/2011**

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	Cytognos S.L.		
Entity	Corporation	Citizenship	Spain
Address	Plg. La Serna, Km 0 nave 9 Santa Maria de Tormes Salamanca, 37900 SPAIN		

Domestic Representative	Julie Seyler Abelman, Frayne & Schwab 666 Third Avenue New York, NY 10017 UNITED STATES jbseyler@lawabel.com, aallen@lawabel.com Phone:212-949-9022		
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Registration Subject to Cancellation

Registration No	3941554	Registration date	04/05/2011
Registrant	Infinicyte, LLC 1826 1/2 West 38th Place Los Angeles, CA 90062 UNITED STATES		

Goods/Services Subject to Cancellation

Class 009. First Use: 2009/09/00 First Use In Commerce: 2009/09/00 All goods and services in the class are cancelled, namely: computer software and downloadable software for use with database management and image processing in the field of science
Class 042. First Use: 2009/09/00 First Use In Commerce: 2009/09/00 All goods and services in the class are cancelled, namely: computer software consultation; computer software development

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.	77933856	Application Date	02/11/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	INFINICYT		

Design Mark	
Description of Mark	The mark consists of the word INFINICYT in stylized form in grey and two interlocking rings in orange and brown.
Goods/Services	Class 009. First use: First Use: 2008/11/12 First Use In Commerce: 2008/11/12 Software for analyzing data obtained from biological samples acquired by a Flow Cytometer

Attachments	77933856#TMSN.jpeg (1 page)(bytes) INFINICYTE - Petition for Cancellation against Reg. No. 3941554 for INFINICYTE.pdf (3 pages)(105558 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	/aimeemallen/
Name	Aimee M. Allen
Date	12/07/2011

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

In re Registration No. 3,941,554
Registered April 5, 2011

Cytognos S.L.	:		
	:		
	:		
	:	Petitioner,	
v.	:		Cancellation No
	:		
Infinicyte LLC	:		
	:		
	:	Registrant.	

PETITION FOR CANCELLATION

Cytognos S.L., a Spanish limited society with an address at Plg. La Serna, Km 0, nave 9 Santa Maria de Tormes Salamanca SPAIN 37900 (“Petitioner”), believes it will be damaged by Registration No. 3,941,554 and hereby petitions to cancel this registration.

Petitioner hereby requests that Registration No. 3,941,554 be cancelled under Section 14 of the Trademark Act on the ground that Petitioner has prior use. As grounds for cancellation, it is alleged that:

1. Registrant has obtained a registration for the trademark INFINICYTE for “computer software for use with database management and image processing in the field of science” in Class 9 and “computer software consultation; computer software consultation; computer software development” in Class 42.

2. Petitioner is the owner of all right, title and interest in and to the trademark INFINICYT for “software for analyzing data obtained from biological samples acquired by a Flow Cytometer”.

2. Petitioner is the owner of Application No. 77/933856 for INFINICYT.

3. Petitioner has priority.

4. Registrant's mark INFINICYTE is substantially similar to Petitioner's mark, INFINICYT.

5. The marks are identical but for one letter, and look and sound alike.

6. Registrant's goods and services are commercially related to Petitioner's goods.

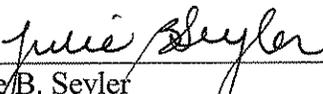
7. The goods are likely to travel in the same channels of trade, and/or be sold in the same type of retail outlets, and/or be purchased by the same class of consumers and/or be found in the same overlapping marketing environments.

8. In view of the substantial similarity between the respective marks, the commercial relationship between the goods, registration of Registrant's mark is likely to cause confusion, mistake or deception to purchasers as to the source of Registrant's goods, and therefore it is requested that registration to Registrant be refused under Section 2(d) of the Trademark Act.

WHEREFORE, Petitioner believes that it will be damaged by the continued registration of Registration No. 3,941,554 and respectfully requests that registration be cancelled and this cancellation sustained.

WHEREFORE, Petitioner believes that it will be damaged by the continued existence of Registration No. 2,625,720 and respectfully requests that the registration be cancelled.

Respectfully submitted,

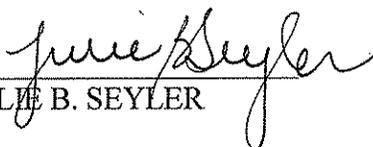

Julie B. Seyler
Attorney for Petitioner

ABELMAN, FRAYNE & SCHWAB
666 Third Avenue
New York, New York 10017
(212) 949-9022

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing PETITION TO CANCEL was served by first class mail, postage prepaid, this 8th day of December, 2011 upon the following:

Erik M. Pelton, Esq.
Erik M. Pelton & Associates PLLC
PO Box 100637
Arlington, VA 22210-3637



JULIE B. SEYLER