

ESTTA Tracking number: **ESTTA464945**

Filing date: **04/02/2012**

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	Run It Consulting, LLC		
Entity	Limited Liability Company	Citizenship	Nevada
Address	201 Greystone Drive Bastrop, TX 78602 UNITED STATES		

Attorney information	Matthew H. Swyers The Trademark Company 344 Maple Avenue West, Suite 151 Vienna, VA 22180 UNITED STATES mswyers@thetrademarkcompany.com
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Registration Subject to Cancellation

Registration No	1962898	Registration date	03/19/1996
Registrant	LODI, AUGUSTO 3012 NORTH GRANDEUR AVENUE ALTADENA, CA 91001 UNITED STATES		

Goods/Services Subject to Cancellation

Class 005. First Use: 1987/05/22 First Use In Commerce: 1987/05/28 All goods and services in the class are cancelled, namely: vitamin supplements
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Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	Petition to Cancel.pdf (8 pages)(37654 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	/Matthew H. Swyers/
Name	Matthew H. Swyers
Date	04/02/2012

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

In the matter of U.S. Registration 1,962,898,
For the mark AMERICAN MUSCLE,
Registered on the Principal Register on March 19, 1996.

Run It Consulting, LLC,	:	
	:	
Petitioner,	:	
	:	
vs.	:	Cancellation No. _____
	:	
Augusto Lodi,	:	
	:	
Registrant.	:	

PETITION TO CANCEL

Petitioner, Run It Consulting, LLC (hereinafter “Petitioner”), a Nevada Limited Liability Company, located and doing business at 201 Greystone Drive, Bastrop, Texas 78602, believes that it is and will continue to be damaged by the continued registration of U.S. Registration 1,962,898 for the mark AMERICAN MUSCLE 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:

1. The mark AMERICAN MUSCLE was abandoned without the intent to resume use; and

Statement of Facts

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

1. Registrant Augusto Lodi (hereinafter “Registrant”) contends that he is the owner of the mark AMERICAN MUSCLE used in connection with the following goods:

International Class 5: Vitamin supplements;

International Class 25: Sportswear, namely sweat pants, sweat shirts, shorts, T-shirts, tank tops, and jackets; and

International Class 28: Weightlifting gloves, belts and straps, knee and wrist wraps.

2. Registrant filed his application to register the mark AMERICAN MUSCLE on or about October 12, 1994 alleging a first date of use of May 28, 1987. The application received U.S. Serial No. 74/584,611.

3. Registrant's application for the mark AMERICAN MUSCLE registered on March 19, 1996 on the Principal Register.

4. Based upon information and belief, as of the date of this filing, no evidence can be located of Registrant's use of the mark AMERICAN MUSCLE in connection with the goods identified in U.S. Registration 1,962,898.

5. Moreover, Registrant does not retain intent to resume use of the mark AMERICAN MUSCLE in the future.

6. Petitioner has continuously used the mark and design AMERICAN MUSCLE SPORTS NUTRITION COMPANY in connection with the following goods since as early as 2011:

International Class 5: Dietary supplements, nutritional supplements, nutritional supplements for muscle growth, weight management supplements.

7. Petitioner filed its application to register the mark and design AMERICAN MUSCLE SPORTS NUTRITION COMPANY with the U.S. Patent and Trademark Office in connection with the above-referenced services on September 1, 2011

8. Petitioner's application received U.S. Serial No. 85/413,449.

9. Petitioner believes that it will be damaged by Registrant's continued registration insofar as Petitioner's mark will not be permitted to register while Registrant's registration remains in effect.

10. WHEREFORE in consideration that the mark AMERICAN MUSCLE is no longer in use, has been abandoned, and that Registrant does not retain intent to resume use of his mark, Petitioner requests and prays that U.S. Registration 1,962,898 be cancelled on the grounds and for the reasons set forth hereinabove.

Respectfully submitted this 2nd day of April, 2012.

The Trademark Company, PLLC

/Matthew H. Swyers/
Matthew H. Swyers, Esquire
344 Maple Avenue West, Suite 151
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mswyers@TheTrademarkCompany.com
Counsel for Petitioner

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Petitioner,	:	
	:	
vs.	:	Cancellation No. _____
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Augusto Lodi,	:	
	:	
Registrant.	:	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I caused a copy of the foregoing this 2nd day of April, 2012, to
be served, via first class mail, postage prepaid, upon:

August Lodi
3012 North Grandeur Ave.
Altadena, CA 91001

And a copy to:

Curtis L. Harrington, Esq.
6300 State University Drive
Suite 250
Long Beach, CA 90815

/Matthew H. Swyers/
Matthew H. Swyers

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