

ESTTA Tracking number: **ESTTA479713**

Filing date: **06/22/2012**

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	The Bunker Corporation dba Energy Suspension		
Entity	Corporation	Citizenship	California
Address	1131 Via Callejon San Clemente, CA 92673 UNITED STATES		

Correspondence information	Kit M. Stetina Stetina Brunda Garred & Brucker 75 Enterprise, Suite 250 Aliso Viejo, CA 92656 UNITED STATES opposition@stetinalaw.com		
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### Registration Subject to Cancellation

Registration No	4083019	Registration date	01/10/2012
Registrant	Poly Performance, Inc. 870 Industrial Way San Luis Obispo, CA 93401 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 012. First Use: 2010/11/01 First Use In Commerce: 2010/11/01 All goods and services in the class are cancelled, namely: Suspension systems for land vehicles
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### Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

### Mark Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	2227843	Application Date	11/10/1997
Registration Date	03/02/1999	Foreign Priority Date	NONE
Word Mark	ENERGY SUSPENSION		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 012. First use: First Use: 1983/04/25 First Use In Commerce: 1983/04/25 molded urethane parts for suspension and brake systems of automotive and truck vehicles, namely, bushings, grommets, body and cab mounts, leaf spring bushings, bump stops, strut rod bushings, stabilizer bar bushings, stabilizer bar end links, C bushings, shock bushings, dust boots, coil spring dampened donuts, thrust washers and sway bar bushings

Attachments	75387502#TMSN.gif ( 1 page )( bytes ) PetitionForCancellation.pdf ( 6 pages )(103515 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	/Kit M. Stetina/
Name	Kit M. Stetina
Date	06/22/2012

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

**In the Matter of Trademark Registration No. 4,083,019**

The Bunker Corporation dba Energy	)	Cancellation No.:
Suspension,	)	
	)	
Petitioner,	)	
	)	
vs.	)	
	)	
Poly Performance, Inc.,	)	
	)	
Respondent.	)	

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**PETITION FOR CANCELLATION**

In the matter of U.S. Trademark Registration No. 4,083,019, for the mark S SYNERGY SUSPENSION SYNERGYSUSPENSION.COM, registered January 10, 2012 to Poly Performance, Inc., of San Luis Obispo, California (hereinafter “Respondent”) for suspension systems for land vehicles in International Class 012, The Bunker Corporation dba Energy Suspension, a California corporation, with offices at 1131 Via Callejon, San Clemente, California 92673 (hereinafter “Petitioner”), believes that it will be damaged by the continued registration of this trademark and hereby petitions to cancel the same. As grounds for cancellation, it is alleged as follows:

1. Petitioner is and has been for many years engaged in the extensive development, advertising, and marketing of a variety of products and services regarding suspension and brake systems of automotive and truck vehicles and goods related thereto. In connection therewith, Petitioner has used in interstate commerce, the mark ENERGY SUSPENSION for the

aforementioned goods since long prior to Respondent's filing date and first use date of its registration no. 4,083,019 for the mark S SYNERGY SUSPENSION SYNERGYSUSPENSION.COM.

2. Since at least as early as April 1983, Petitioner has made use of its ENERGY SUSPENSION trademark throughout the United States in interstate commerce. Since adoption of its ENERGY SUSPENSION trademark, Petitioner has continuously used such marks in interstate commerce.

3. Petitioner has expended considerable sums in exerting every effort to maintain the highest standard of quality for its products, and has created valuable goodwill among the purchasing public under its ENERGY SUSPENSION trademark.

4. As a result of the continuous and extensive use of the ENERGY SUSPENSION trademark by Petitioner, these marks have become and continue to function as a valuable business and marketing assets of Petitioner, and serve to indicate to the trade and consuming public the products originating from Petitioner and its authorized representative.

5. Petitioner has obtained United States Trademark Registration No. 2,227,843, registered March 2, 1999, for the mark ENERGY SUSPENSION for the goods set forth in that registration. A copy of that registration is attached hereto as **Exhibit 1**.

6. Petitioner enjoys a valuable reputation with the trade and consuming public as a provider of various products including suspension and brake systems for automotive and truck vehicles.

7. Petitioner has also had numerous instances of confusion between the company of Petitioner and that of Respondent.

8. Respondent's use of the S SYNERGY SUSPENSION SYNERGYSUSPENSION.COM Mark interferes with Petitioner's use of its ENERGY

SUSPENSION trademark and continued registration of the S SYNERGY SUSPENSION SYNERGYSUSPENSION.COM Mark by Respondent will dilute the strength of Petitioner's ENERGY SUSPENSION trademark and will seriously damage Petitioner.

9. Accordingly, if Respondent's registration is not cancelled, Petitioner will continue to suffer irreparable harm and damage.

10. On the foregoing basis, Petitioner believes it has been damaged by and will continue to be damaged by, the continued existence of the United States Registration No. 4,083,019.

Wherefore, Petitioner's prays for cancellation of United States Registration No. 4,083,019.

Petitioner authorizes the filing fee for this Petition for Cancellation in the amount of \$300 to be charged to Petitioner's deposit account.

Respectfully submitted,

STETINA BRUNDA GARRED & BRUCKER

Dated: June 22, 2012

By:   
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Kit M. Stetina, Reg. No. 29,445  
Stephen Z. Vegh, Reg. No. 48,550  
75 Enterprise, Suite 250  
Aliso Viejo, CA 92656  
(949) 855-1246

Counsel for Petitioner

# EXHIBIT 1

Int. Cl.: 12

Prior U.S. Cls.: 19, 21, 23, 31, 35 and 44

Reg. No. 2,227,843

**United States Patent and Trademark Office**

Registered Mar. 2, 1999

**TRADEMARK  
PRINCIPAL REGISTER**

**ENERGY  
SUSPENSION**

BUNKER CORPORATION, THE (CALIFORNIA CORPORATION), DBA ENERGY SUSPENSION  
1131 VIA CALLEJON  
SAN CLEMENTE, CA 92673

FOR: MOLDED URETHANE PARTS FOR SUSPENSION AND BRAKE SYSTEMS OF AUTOMOTIVE AND TRUCK VEHICLES, NAMELY, BUSHINGS, GROMMETS, BODY AND CAB MOUNTS, LEAF SPRING BUSHINGS, BUMP STOPS, STRUT ROD BUSHINGS, STABILIZER BAR BUSHINGS, STABILIZER BAR END LINKS, C BUSHINGS, SHOCK BUSH-

INGS, DUST BOOTS, COIL SPRING DAMPENED DONUTS, THRUST WASHERS AND SWAY BAR BUSHINGS, IN CLASS 12 (U.S. CLS. 19, 21, 23, 31, 35 AND 44).

FIRST USE 4-25-1983; IN COMMERCE 4-25-1983.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "SUSPENSION", APART FROM THE MARK AS SHOWN.

SER. NO. 75-387,502, FILED 11-10-1997.

CHAD SMITH, EXAMINING ATTORNEY

**PROOF OF SERVICE**

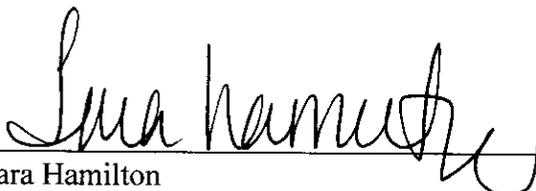
State of California    )  
                                  ) ss.  
County of Orange     )

I am over the age of 18 and not a party to the within action; my business address is 75 Enterprise, Suite 250, Aliso Viejo, California 92656. On **June 22, 2012**, the attached **PETITION FOR CANCELLATION** was served on all interested parties in this action by U.S. Mail, postage prepaid, at the address as follows:

Poly Performance, Inc.  
870 Industrial Way  
San Luis Obispo, CA 93401

Melissa McGann Babu  
Andre, Morris & Buttery  
1102 Laurel Ln.  
San Luis Obispo, CA 93401

Executed on **June 22, 2012** at Aliso Viejo, California. I declare under penalty of perjury that the above is true and correct. I declare that I am employed in the office of STETINA BRUNDA GARRED & BRUCKER at whose direction service was made.

  
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Tara Hamilton