

ESTTA Tracking number: **ESTTA495552**

Filing date: **09/20/2012**

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	Jeffrey Feulner, P.A.		
Entity	Corporation	Citizenship	Florida
Address	938 Lake Baldwin Lane Orlando, FL 32814 UNITED STATES		

Attorney information	Terry M. Sanks Beusse Wolter Sanks Mora & Maire, P.A. 390 North Orange Avenue Suite 2500 Orlando, FL 32801 UNITED STATES tsanks@iplawfl.com, adavis@iplawfl.com, bmahan@iplawfl.com Phone:(407) 926-7700		
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### Registration Subject to Cancellation

Registration No	4159345	Registration date	06/12/2012
Registrant	Cordell Practice Management Group, LLC 11737 Administration Drive #100 Saint Louis, MO 63146 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 045. First Use: 2011/06/02 First Use In Commerce: 2011/06/02 All goods and services in the class are cancelled, namely: Legal services
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### Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
The mark is merely descriptive	Trademark Act section 2(e)(1)

### Mark Cited by Petitioner as Basis for Cancellation

U.S. Application No.	85456862	Application Date	10/26/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	S MEN'S DIVORCE LAW FIRM		

Design Mark	 <b>MEN'S DIVORCE</b> L A W F I R M
Description of Mark	The mark consists of the terms MEN'S DIVORCE which is underlined and beneath the underline the terms LAW FIRM, to the left of the terms is a square, and inside the square there is a design of a triangle on the upper left-hand corner, and an "S" design connected to a triangle on the bottom right-hand corner.
Goods/Services	Class 045. First use: First Use: 2009/01/01 First Use In Commerce: 2009/01/01 Legal services, namely, providing customized documentation, information, counseling, advice and consultation services in all areas of divorce and family law

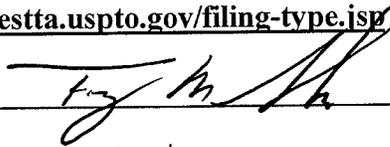
Attachments	85456862#TMSN.jpeg ( 1 page )( bytes ) Petition for Cancellation (082012).pdf ( 6 pages )(233217 bytes )
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### Certificate of Service

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	/Terry M. Sanks/
Name	Terry M. Sanks
Date	09/20/2012

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING TRANSMITTED ELECTRONICALLY TO THE COMMISSIONER FOR TRADEMARKS - <http://estta.uspto.gov/filing-type.jsp>

BY: 

DATE: 20 Sept 2012

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

In the Matter of Trademark Registration:

Reg. No.: 4159345  
Registrant: Cordell Practice Management Group, LLC  
Filed: June 30, 2011  
Issued: July 12, 2012  
Mark: **MEN'S DIVORCE**

_____		)
JEFFREY FEULNER, P.A.		)
		)
<i>Petitioner,</i>		)
		)
v.		)
		)
CORDELL PRACTICE MANAGEMENT	) Cancellation No.: _____	)
GROUP, LLC	) Registration No.: 4159345	)
		)
		)
<i>Registrant.</i>		)
_____		)

**PETITION FOR CANCELLATION**

Petitioner, JEFFREY FEULNER, P.A. ("Petitioner" or "FEULNER"), a Florida corporation having a business address located at 938 Lake Baldwin Lane, Orlando, Florida 32814, believing it

will be damaged by the continued registration of MEN'S DIVORCE as a trademark in International Class 045 for "legal services" as shown in Reg. No. 4159345, hereby petitions to cancel same under Count I as provided below, or in the alternative under Count II as provided below.

To the best of Petitioner's knowledge, the name and address of Registrant is as follows:

Cordell Practice Management Group, LLC  
11737 Administration Drive #100  
Saint Louis, Missouri 63146

As grounds in support of its petition for cancellation, Petitioner asserts as follows:

1. Registrant, CORDELL PRACTICE MANAGEMENT GROUP, LLC ("Registrant" or "CORDELL"), was awarded U.S. Registration No. 4159345 for MEN'S DIVORCE on July 12, 2012 ("the Cited Registration"). The services covered by the Cited Registration are "legal services" ("the Subject Services").
2. Registrant filed Application Serial No. 85360949 on June 30, 2011 which ultimately issued as the Cited Registration on July 12, 2012. In the application, which was filed under Section 1(a), Registrant, then Applicant, claimed that the MEN'S DIVORCE mark had been in use for the Subject Services since at least as early as June 2, 2011.
3. Petitioner filed its MEN'S DIVORCE LAW FIRM logo with the USPTO on October 26, 2011 (Application Serial No. 85456862) ("the pending Application") in International Class 045 for "legal services, namely, providing customized documentation, information, counseling, advice and consultation services in all areas of divorce and family law."
4. In the pending Application, Petitioner claimed that its MEN'S DIVORCE LAW FIRM logo has been in use for the serviced cited in the pending Application since at least as early as January 1, 2009 close to three (3) years before Registrant began using its MEN'S DIVORCE mark in June of 2011.

5. As a result of Registrant's application being filed prior to Petitioner's application, Petitioner's application is likely to be rejected under Section 2(d). Petitioner has recently filed an office action response and requested that the proceedings be suspended pending final resolution of the instant cancellation proceeding. The Trademark Attorney has represented an intent to suspend the proceedings pending receipt of the Cancellation number for this pending action.

6. Petitioner, as the party with priority to use the MEN'S DIVORCE LAW FIRM logo or anything likely to cause confusion therewith (i.e. MEN'S DIVORCE) and who is competing for the same clients as Registrant, has standing to file this Petition for Cancellation as Petitioner is being injured and will continue to be injured by the Cited Registration.

7. Based on the foregoing, Petitioner asserts the following grounds for its cancellation wherein each ground is pled together or in the alternative.

#### **COUNT I - LIKELIHOOD OF CONFUSION**

8. Petitioner incorporates by reference paragraphs 1-7 as if fully stated herein.

9. Since January 1, 2009, Petitioner has been using its MEN'S DIVORCE LAW FIRM logo in association with "legal services, namely, providing customized documentation, information, counseling, advice and consultation services in all areas of divorce and family law" and in fact has a website at [www.mensdivorcelaw.com](http://www.mensdivorcelaw.com).

10. As a result of the widespread use in interstate commerce by Petitioner of the MEN'S DIVORCE LAW FIRM logo, Petitioner has acquired extensive goodwill, has developed a high degree of distinctiveness and is well known and recognized as providing high quality legal services to its clients.

11. Petitioner filed its MEN'S DIVORCE LAW FIRM logo with the USPTO on October 26, 2011 (Application Serial No. 85456862) in International Class 045 for "legal services,

namely, providing customized documentation, information, counseling, advice and consultation services in all areas of divorce and family law” and the Application has been initially rejected based on the Cited Registration.

12. Petitioner’s use of the MEN’S DIVORCE LAW FIRM mark predates any valid use by Registrant of its MEN’S DIVORCE mark.

13. Registrant’s MEN’S DIVORCE mark is confusingly similar to Petitioner’s MEN’S DIVORCE LAW FIRM mark, thus creating a likelihood of confusion among consumers.

14. Registrant’s services (“legal services”) are identical or nearly identical to Petitioner’s services (“legal services, namely, providing customized documentation, information, counseling, advice and consultation services in all areas of divorce and family law”) such that they would travel and/or be promoted through the same channels of trade for sale to, and use by, the same class of consumers (i.e. men interested in filing for divorce).

15. Registrant’s use of the mark MEN’S DIVORCE in connection with its list of services is likely to cause confusion, mistake, or deception as to the source or origin of Registrant’s services in the public, the trade and others are likely to believe that Registrant’s services are: (a) the same services as that of Petitioner’s; or (b) provided by, sponsored by, approved by, licensed by, affiliated with or in some other way legitimately connected to Petitioner and/or its services.

16. If Registrant is permitted to maintain the Cited Registration for the Subject Services, confusion within the relevant trade and public is likely to result, which will result in damage to Petitioner’s business. Such belief of damages by Petitioner is reasonable under the circumstances.

17. Because Registrant has been granted a registration for the Cited Registration on the Supplemental Register, it has obtained a *prima facie* exclusive right to use the MEN’S DIVORCE mark which will damage the Petitioner’s business because Petitioner has been using the MEN’S

DIVORCE LAW FIRM logo in good faith in connection with its services for almost three (3) years prior to Registrant's claimed first use in commerce date.

18. Therefore, under Section 2(d), Registrant's use of the mark is likely to cause confusion with Petitioner's use of the MEN'S DIVORCE LAW FIRM logo and because Petitioner has prior use of the MEN'S DIVORCE LAW FIRM logo, the Cited Registration should be cancelled.

**COUNT II - MERELY DESCRIPTIVE**

19. Petitioner incorporates by reference paragraphs 1-7 as if fully stated herein.

20. At best, the term MEN'S DIVORCE is merely descriptive of legal services pertaining to divorce because it describes a characteristic, function, feature, purpose or use of the Subject Services.

21. Accordingly, the Cited Registration should not be on the Principal or the Supplemental Register as it is merely descriptive and therefore unable to function as a trademark and gain secondary meaning in the marketplace.

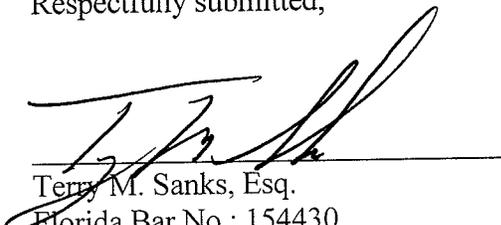
22. Based on the foregoing, the Cited Registration should be cancelled for being merely descriptive under Section 2(e) of the Lanham Act.

WHEREFORE, Petitioner requests that this Petition for Cancellation be sustained and that the Cited Registration (Registration No. 4159345) be cancelled in all respects.

Dated this 20<sup>th</sup> day of September, 2012.

Respectfully submitted,

By: \_\_\_\_\_

  
Terry M. Sanks, Esq.  
Florida Bar No.: 154430  
Amber N. Davis, Esq.

Florida Bar No.: 0026628  
Beusse Wolter Sanks  
Mora & Maire, P.A.  
390 N. Orange Ave., Suite 2500  
Orlando, Florida 32801  
Telephone: (407) 926-7700  
Facsimile: (407) 926-7720  
Email: [tsanks@iplawfl.com](mailto:tsanks@iplawfl.com)  
Email: [adavis@iplawfl.com](mailto:adavis@iplawfl.com)

**CERTIFICATE OF MAILING AND SERVICE**

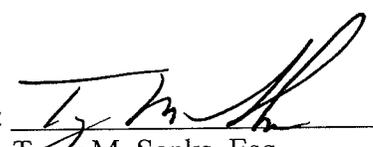
I certify that on September 20<sup>th</sup>, 2012, a copy of the foregoing PETITION TO CANCEL is being electronically transmitted to:

Trademark Trial and Appeal Board  
Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

I further certify that on September 20<sup>th</sup>, 2012, a copy of the foregoing PETITION TO CANCEL is being served via first class mail to:

Cordell Practice Management Group, LLC  
11737 Administration Drive #100  
Saint Louis, Missouri 63146

By: \_\_\_\_\_

  
Terry M. Sanks, Esq.  
Attorney for Petitioner