

ESTTA Tracking number: **ESTTA503743**

Filing date: **11/05/2012**

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	Moderna Therapeutics, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	161 First Street Cambridge, MA 02142 UNITED STATES		

Attorney information	Ann Lamport Hammitte Lando & Anastasi, LLP One Main Street Cambridge, MA 02142 UNITED STATES alhtrademarks@lalaw.com Phone:617-395-7019		
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Registration Subject to Cancellation

Registration No	3854112	Registration date	09/28/2010
Registrant	MDRNA, INC. 3830 MONTE VILLA PARKWAY BOTHELL, WA 980217266 UNITED STATES		

Goods/Services Subject to Cancellation

Class 042. First Use: 2008/08/01 First Use In Commerce: 2008/08/01 All goods and services in the class are cancelled, namely: Scientific research in the fields of pharmaceuticals and drug delivery; Pharmaceutical research and development in the fields of pharmaceuticals and drug delivery; pharmaceutical research services for others in the field of RNA drug delivery
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Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	(M2107-5000) Petition for Cancellation.pdf (13 pages)(434142 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	//alh//
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Name	Ann Lamport Hammitte
Date	11/05/2012

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

In the matter of Registration No. 3,854,112

Issued: September 28, 2010

_____)	
Moderna Therapeutics, Inc.)	
)	
Petitioner,)	PETITION FOR CANCELLATION
)	Cancellation No.
v.)	
)	
MDRNA, Inc.)	
)	
Registrant.)	
_____)	

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Sir:

Moderna Therapeutics, Inc, a corporation duly organized and existing under the laws of Delaware, having an address at 161 First Street, Cambridge Massachusetts 02142, is and will be damaged by the continued registration of the mark MDRNA, Registration No. 3,854,112, for “Scientific research in the fields of pharmaceuticals and drug delivery; Pharmaceutical research and development in the fields of pharmaceuticals and drug delivery; pharmaceutical research services for others in the field of RNA drug delivery” in Int’l Class 42, and hereby petitions for cancellation of the same. As grounds therefor, Petitioner alleges that:

1. Petitioner, Moderna Therapeutics, Inc. is the owner of pending trademark application Serial No. 85/494,315 for the mark MODRNA for goods and services in classes 01, 05 and 42.

2. As described in pending trademark application Serial No. 85/494,315, Petitioner intends to offer “biochemicals, namely, proteins and polypeptides for in vivo, ex vivo, on vivo or in vitro scientific research and medical research, and for use in the manufacture of cosmetics and food or nutritional supplement; biochemicals, namely, proteins and polypeptides for use in the manufacture of pharmaceuticals for treating cancers, neurological disorders, cardiovascular disorders, inflammatory disorders, immunoregulatory disorders, metabolic disorders, infectious disorders, and reproductive disorders; reagents for testing sterility of pharmaceuticals; diagnostic reagents for scientific or research use” in Int’l Class 01; “medical, biological, cosmeceutical and pharmaceutical preparations for scientific, research, medical, or pharmaceutical use, namely, preparations for treating cancers, neurological disorders, cardiovascular disorders, inflammatory disorders, immunoregulatory disorders, metabolic disorders, infectious disorders, and reproductive disorders; RNA-based therapeutics and therapeutic agents for in vitro preparation and in vivo, ex vivo, or on vivo delivery to cell sites; medical diagnostic reagents” in Int’l Class 05; and “custom design and development of medical, biological, cosmeceutical and pharmaceutical preparations for others; design, development, and testing of new products for others in the fields of RNA-based therapeutics, therapeutic agents, and medical diagnostic reagents; Consultation and research for others in the field of RNA-based therapeutics, therapeutic agents, and medical diagnostic reagents” in Int’l Class 42 under the mark MODRNA.

3. Upon information and belief, and according to the records of the U.S. Patent and Trademark Office (USPTO), the current owner of U.S. Registration Number 3,854,112 is MDRNA, Inc., a corporation of Delaware, having an address at 3830 Monte Villa Parkway, Bothell, Washington, 98021-7266. *See*, Exhibit A.

4. Registrant's mark MDRNA is registered for services, specifically, "Scientific research in the fields of pharmaceuticals and drug delivery; Pharmaceutical research and development in the fields of pharmaceuticals and drug delivery; pharmaceutical research services for others in the field of RNA drug delivery" in Int'l Class 42, on the basis of which the Examining Attorney in charge of Petitioner's pending application for the mark MODRNA has refused registration under Trademark Section 2(d).

5. The Examining Attorney in charge of Petitioner's application for the mark MODRNA has made final the refusal to register Petitioner's mark in light of Registrant's mark MDRNA.

6. As a result, Petitioner is and will be damaged by the continued registration of Registrant's mark MDRNA in that Petitioner will not be able to obtain a registration as a result of the Examining Attorney's continued rejection.

7. Upon information and belief, Registrant's mark is no longer used to offer the services identified in U.S. Registration Number 3,854,112.

8. According to a notice posted on the Marina Biotech website, copy attached as Exhibit B, "MDRNA has merged with Cequent Pharmaceuticals to become Marina Biotech - focused on accelerating RNAi-based therapeutics." Additionally, the company's former website

at <mdrnainc.com> now redirects to <marinabio.com>, the Marina Biotech site. See Exhibit C (highlighting added).

9. Upon information and belief, Registrant has no plans to provide services under the MDRNA mark in the future.

10. Upon information and belief, Registrant is not making *bona fide* use of MDRNA as a service mark in interstate commerce in the ordinary course of trade for “Scientific research in the fields of pharmaceuticals and drug delivery; Pharmaceutical research and development in the fields of pharmaceuticals and drug delivery; pharmaceutical research services for others in the field of RNA drug delivery” in Int’l Class 42, such that the mark has been abandoned pursuant to 15 U.S.C. §1127.

11. Continued registration of the mark MDRNA gives color of exclusive statutory rights to Registrant in violation of U.S.C. §1115, resulting in further injury to Petitioner.

WHEREFORE, Petitioner prays that this Petition for Cancellation be granted and that Registration No. 3,854,112 be cancelled in its entirety.

The Commissioner is authorized to charge the required fee to Deposit Account No. 50/2762 (Ref. No.: M2107-5000) of the undersigned attorneys.

Respectfully submitted, this 5th day of November, 2012.

LANDO & ANASTASI, LLP
By: 

/s/ Ann Lamport Hammitte
Ann Lamport Hammitte
Attorney for Petitioner
Riverfront Office Park
One Main Street, 11th Floor
Cambridge, MA 02142
Telephone: 617-395-7019
Facsimile: 617-395-7070

In the matter of Registration No. 3,854,112
Petition for Cancellation
Page 5 of 5

Certificate of Service

I hereby certify that a true and complete copy of the foregoing Petition for Cancellation has been served on the record owner of the Registration by mailing said copy on November 5, 2012, via First Class Mail, postage prepaid to:

MDRNA, INC.
3830 Monte Villa Parkway
Bothell, Washington 98021-7266

And

David Chen, Esq.
DWC Law Firm, P.S.
P.O. Box 3041
Seattle, WA 98114


/s/ Ann Lamport Hammitte
Ann Lamport Hammitte

1435028.1

EXHIBIT A



United States Patent and Trademark Office

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MDRNA

Word Mark	MDRNA
Goods and Services	IC 042. US 100 101. G & S: Scientific research in the fields of pharmaceuticals and drug delivery; Pharmaceutical research and development in the fields of pharmaceuticals and drug delivery; pharmaceutical research services for others in the field of RNA drug delivery. FIRST USE: 20080801. FIRST USE IN COMMERCE: 20080801
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Trademark Search Facility Classification Code	LETTER-3-OR-MORE MDRNA Combination of three or more letters as part of the mark
Serial Number	77167387
Filing Date	April 27, 2007
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	October 30, 2007
Registration Number	3854112
International Registration Number	0945605
Registration	

Date September 28, 2010
Owner (REGISTRANT) MDRNA, INC. CORPORATION DELAWARE 3830 MONTE VILLA PARKWAY
 BOTHELL WASHINGTON 980217266
Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record David Chen
Type of Mark SERVICE MARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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EXHIBIT B



SEARCH GO

SITE MAP CONTACT US

ABOUT MARINA BIOTECH

RESEARCH & DEVELOPMENT

ONCOLOGY PROGRAMS

PARTNERSHIPS

INVESTORS

CAREERS

Advancing RNAi-based therapeutics to transform the treatment of human diseases.



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At Marina Biotech we are focused on realizing the potential of RNAi-based therapeutics through the development of multiple broad-based, state-of-the-art drug discovery platforms built upon industry leading expertise in RNA chemistry, microbiology and oligonucleotide delivery. We bring optimal value to our partners, shareholders and ultimately to patients through the discovery and development of RNAi-based therapeutics to treat critical unmet medical needs.

Therapeutic Platform



We are using multiple RNAi drug discovery engines, tkRNAi and tauRNAi, to develop cutting-edge, first-in-class therapeutics for diverse and commercially valuable disease targets.

Learn More

Upcoming Clinical Trial



Marina Biotech's first therapeutic candidate, CEQ508 for the treatment of Familial

Latest News & Events



MDRNA has merged with Cequent Pharmaceuticals to become Marina Biotech - focused on accelerating RNAi-based therapeutics.

Learn More

10/11/12

Marina Biotech, Inc. Announces Full Year 2011 Financial Results



Adenomatous Polyposis (FAP), is now recruiting.

[Learn More](#)

08/22/12

[Marina Biotech Provides Update on Company Operations](#)

EXHIBIT C

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MDRNA Inc.

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About MDRNA Inc.

MDRNA is a biotechnology company focused on the development and commercialization of therapeutic products based on RNA interference (RNAi). We are building a broad, flexible and cutting-edge drug discovery platform based on the premise that no single RNAi technology or delivery approach can overcome the target specific and indication specific challenges of down regulating protein expression via a siRNA therapeutic. As a result, we have implemented a multi-faceted, multi-disciplinary and multi-technological approach to discovering novel and proprietary RNAi-based therapeutics we are confident will lead to clinical success.

Website

<http://www.mdrnainc.com>

Industry

Biotechnology

Type

Public Company

Company Size

11-50 employees

Founded

2008

HOW YOU'RE CONNECTED



10 Employees on LinkedIn

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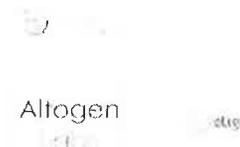
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