

ESTTA Tracking number: **ESTTA537988**

Filing date: **05/15/2013**

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	Uptown Wink, LLC		
Entity	limited liability company	Citizenship	Tennessee
Address	c/o H2 Management, 201 Santa Monica Blvd Santa Monica, CA 90401 UNITED STATES		

Attorney information	William J. Seiter Seiter Legal Studio 220 26th Street, Suite 202 Santa Monica, CA 90402 UNITED STATES williamjseiter@seiterlegalstudio.com		
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**Registration Subject to Cancellation**

Registration No	3635381	Registration date	06/09/2009
International Registration No.	NONE	International Registration Date	NONE
Registrant	Manzione, John Joseph 1026 Ocean Avenue Bay Shore, NY 117063511 UNITED STATES		

**Goods/Services Subject to Cancellation**

<p>Class 003. All goods and services in the class are cancelled, namely: Glue remover for use with artificial fingernails; nail treatments, namely, nail strengtheners, nail polish sealers, and nail polish protector; calcium nail strengthener, cuticle oil, cuticle removing preparations, nail polish top coat and nail polish base coat; nail polish kits containing polish for nails and/or paints for nail decoration and design; adhesive strengtheners and adhere artificial nails to the natural nail; adhere silk and fiber glass wraps to natural and artificial nails; adhere acrylic overlays and gel overlays, polish, fingernail art, namely sticker design, glitter, rhinestones, charms, dangles, paint or polish, or any printed matter that can be adhered to the nail to beautify the natural or artificial nail; acrylic fingernail sculpturing kits containing acrylic powders in various colors, acrylic liquid, dehydrator, primers, artificial nail form, adhesive, acrylic sculpting brush, sanding block and dish to hold acrylic components; decals for use in decorating fingernails; nail art, namely, water decals, sticker design, glitter, rhinestones, charms, dangles, paint or polish, cuticle removing preparations and fingernail charms, dried flowers, dried sea shells; gel overlays including cleanser and gels in various colors; artificial full cover fingernails, artificial fingernail tips, airbrushed and/or predecorated full cover fingernails, airbrushed and/or predecorated artificial fingernail tips, precolored artificial full cover fingernails and fingernail tips</p>
<p>Class 008. All goods and services in the class are cancelled, namely: Cuticle cutters, nail cutters, nail files, guillotine nail clippers, tweezers, manicure kits, pedicure kits, cuticle scissors, nail scissors</p>

Class 044. All goods and services in the class are cancelled, namely: Nail care salons
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## 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. Registration No.	2648569	Application Date	04/09/2001
Registration Date	11/12/2002	Foreign Priority Date	NONE
Word Mark	PRETTY WOMAN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1998/09/15 First Use In Commerce: 1998/09/15 Nail and manicure products, namely, artificial fingernails, [ nail glue remover; nail treatment preparations, namely, nail strengtheners, nail sealer for use over fingernail polish or bare nails, nail hardener and topcoat; ] nail enhancement kits comprised of [ adhesive strengthener for applying artificial nails and nail tips, nail polish, ] fingernail art and design products for use on fingernails, namely, [ foils, glitters, striping tape, water decals, ] stickers, [ charms, dangles, airbrush stencils; and paints and acrylic sculpturing kits comprised of liquid acrylic nails, acrylic nail powder, primer, nail glue and acrylic nail forms, lipsticks, lip liners and other related products ] Class 008. First use: First Use: 1998/09/15 First Use In Commerce: 1998/09/15 Manicure implements, namely, [ tweezers, artificial nail cutters, scissors for cutting nails, ] fingernail files and buffers, [ cuticle pushers, cuticle scissors, cuticle cutters, eyebrow curlers, eyelash curlers, ] artificial nail applicator sticks, pedicure files and buffers, [ toe nail clippers, sapphire file, slanted nail cutter, manicure and pedicure blocks, artificial nail removal applicator, nail polish remover applicator ] and adhesive applicator stick		

Attachments	Petition to Cancel (US TM Reg No 3635381).pdf(123137 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	/wjs/
Name	William J. Seiter
Date	05/15/2013

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

In the Matter of Trademark  
Registration No.: 3635381

For the mark:

PRETTY WOMAN SALON PERFECT MANICURE  
IN 5 MINUTES PROFESSIONAL NAIL CARE & Design

Date registered:

June 9, 2009

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Uptown Wink, LLC, )  
a Tennessee limited liability company )  
Petitioner, )  
v. ) Cancellation No. \_\_\_\_\_  
Manziona, John Joseph, )  
a New York individual )  
Registant. )  
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**PETITION TO CANCEL**

Petitioner:

Uptown Wink, LLC

c/o H2 Management

201 Santa Monica Blvd

Santa Monica, California 90401

To the best of petitioner's knowledge, the name and address of the current owner of the  
registration is:

Mr. John Joseph Manziona

1026 Ocean Avenue

Bay Shore, New York 117063511

Petitioner believes that it will be damaged by the registration, and hereby petitions to cancel the same as to all goods and services listed in the registration.

The grounds for the cancellation are as follows:

1. Petitioner is the owner of U.S. Trademark Registration No. 2648569, registered November 12, 2002, for the mark PRETTY WOMAN for “Nail and manicure products, namely, artificial fingernails; nail enhancement kits comprised of fingernail art and design products for use on fingernails, namely, stickers,” in International Class 3, and for “Manicure implements, namely, fingernail files and buffers, artificial nail applicator sticks, pedicure files and buffers, and adhesive applicator stick” in International Class 8, based on use in commerce under Section 1(a) of the Trademark Act, 15 U.S.C. Section 1051(a). The mark was applied for under U.S. Trademark Application Serial No. 76237553, with a filing date of April 9, 2001, and was first used for the applied for goods at least as early as September 15, 1998, and first used in United States commerce at least as early as September 15, 1998.

2. With a filing date of November 14, 2005, Registrant filed U.S. Trademark Application Serial No. 78753501 for the mark PRETTY WOMAN SALON PERFECT MANICURE IN 5 MINUTES PROFESSIONAL NAIL CARE & Design, which registered under U.S. Trademark Registration No. 3635381, on June 9, 2009, for the following goods and services: “Glue remover for use with artificial fingernails; nail treatments, namely, nail strengtheners, nail polish sealers, and nail polish protector; calcium nail strengthener, cuticle oil, cuticle removing preparations, nail polish top coat and nail polish base coat; nail polish kits containing polish for nails and/or paints for nail decoration and design; adhesive strengtheners and adhere artificial nails to the

natural nail; adhere silk and fiber glass wraps to natural and artificial nails; adhere acrylic overlays and gel overlays, polish, fingernail art, namely sticker design, glitter, rhinestones, charms, dangles, paint or polish, or any printed matter that can be adhered to the nail to beautify the natural or artificial nail; acrylic fingernail sculpturing kits containing acrylic powders in various colors, acrylic liquid, dehydrator, primers, artificial nail form, adhesive, acrylic sculpting brush, sanding block and dish to hold acrylic components; decals for use in decorating fingernails; nail art, namely, water decals, sticker design, glitter, rhinestones, charms, dangles, paint or polish, cuticle removing preparations and fingernail charms, dried flowers, dried sea shells; gel overlays including cleanser and gels in various colors; artificial full cover fingernails, artificial fingernail tips, airbrushed and/or predecorated full cover fingernails, airbrushed and/or predecorated artificial fingernail tips, precolored artificial full cover fingernails and fingernail tips,” in International Class 3; “Cuticle cutters, nail cutters, nail files, guillotine nail clippers, tweezers, manicure kits, pedicure kits, cuticle scissors, nail scissors,” in International Class 8; “Nail care salons,” in International Class 44; based solely on European Community Trademark No. 004499455 under Section 44(e) of the Trademark Act, 15 U.S.C. Section 1094(e).

3. Upon information and belief, Petitioner alleges that Registrant had made no bona fide use of the aforementioned mark in U.S. commerce on or in connection with any of the goods or services registered under Trademark Reg. No. 3635381 before Registrant’s application date of November 14, 2005.

4. Upon information and belief, Petitioner alleges that Registrant has made no bona fide use of the aforementioned mark in U.S. commerce at any time on or in connection with any of the goods or services registered under Trademark Reg. No. 3635381 on or before September

15, 1998, Petitioner's date of first use in U.S. commerce of its mark on or in connection with Petitioner's Class 3 and Class 8 goods registered under Trademark Reg. No. 2648569.

5. Upon information and belief, Petitioner alleges that Registrant has made no bona fide use of the aforementioned mark in U.S. commerce at any time on or in connection with any of the goods or services registered under U.S. Trademark Reg. No. 3635381 on or before April 9, 2001, the filing date of Petitioner's Application Serial No. 76237553.

6. The mark that Registrant has registered is similar in appearance, sound, connotation and commercial impression to Petitioner's mark, and could be used in connection with goods and services identical to and/or closely related to the goods of Petitioner. Based on the similarity of the two marks and the sameness, similarity and relatedness of the parties' respective goods and services, the public is likely to associate the goods and services of Registrant under its mark with Petitioner or with Petitioner's goods, or to believe that Registrant's goods and services are sponsored, endorsed or licensed by Petitioner, or that there exists some relationship between Registrant and Petitioner.

7. For the above reasons, any use of the mark under U.S. Trademark Reg. No. 3635381 by Registrant for the goods or services registered is likely to cause confusion, cause mistake or deceive the public, and cause the public to believe that the services offered under the mark by Registrant emanate from or are otherwise sponsored or endorsed by Petitioner, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

#### **Request For Relief**

8. Petitioner will be irreparably harmed and financially damaged by the continuing registration of Registrant's mark, because Petitioner is entitled to priority by virtue of its date of first use in U.S. commerce of September 15, 1998, as incontestably attested by Registrant's U.S.

Trademark Reg. No. 2648569, yet Registrant's continuing registration and use of its mark for the goods and services registered under U.S. Trademark Reg. No. 3635381 is likely to cause confusion, cause mistake or deceive the public, and cause the public to believe that the services offered under the mark by Registrant emanate from or are otherwise sponsored or endorsed by Petitioner, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

9. Therefore, Trademark Reg. No. 3635381 should be cancelled as to all goods and services listed therein.

10. For the foregoing reasons, Petitioner requests cancellation of Trademark Registration No. 3635381.

DATED: May 15, 2013

Respectfully submitted,  
SEITER LEGAL STUDIO

By: /s/ William J. Seiter  
William J. Seiter  
Attorneys for Petitioner  
220 26<sup>th</sup> Street, Suite 202  
Santa Monica, CA 90402  
Phone: (310) 395-6100

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Applicant's Petition to Cancel has been forwarded via First Class Mail, postage prepaid, to Registrant to its addresses of record, as follows:

Mr. John Joseph Manzione  
1026 Ocean Avenue  
Bay Shore, New York 117063511

on this 15<sup>th</sup> day of May, 2013.

\_\_\_\_\_  
/s/  
William J. Seiter