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

Proceeding	92057365
Party	Plaintiff Caprico USA LLC
Correspondence Address	FRANCISCO J FERREIRO MALLOY & MALLOY PL 2800 SW THIRD AVENUE MIAMI, FL 33129 UNITED STATES jcmalloy@malloylaw.com, fferreiro@malloylaw.com, litigation@malloylaw.com
Submission	Other Motions/Papers
Filer's Name	Francisco J. Ferreiro
Filer's e-mail	fferreiro@malloylaw.com, jcmalloy@malloylaw.com, litigation@malloylaw.com
Signature	/Francisco J. Ferreiro/
Date	08/28/2013
Attachments	Amended Petition to Cancel.pdf(22599 bytes )

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

In the matter of Registration No. 3,870,044  
For the mark "RADIANT GLOW"

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CAPRICO USA LLC,	)	
	)	
Petitioner,	)	
	)	
vs.	)	Cancellation No. 92057365
	)	
TRACIE MARTIN INTERNATIONAL, LLC	)	
	)	
Registrant.	)	

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**AMENDED PETITION TO CANCEL**

COMES NOW the Petitioner, Caprico USA, LLC ("Petitioner"), a Florida limited liability company having its principal place of business at 7950 NW 53<sup>rd</sup> Street, Suite 215, Miami, Florida 33166, and, pursuant to 15 U.S.C. §1064(3), hereby petitions to cancel U.S. Registration No. 3,870,044 for "RADIANT GLOW" owned by Tracie Martin International, LLC ("Registrant"), a New York company having an address of 101 Fifth Avenue New York, New York 10003. As set forth below, Petitioner believes that it is or will be damaged by Registration No. 3,870,044:

**CLAIM OF ABANDONMENT**

1. On December 15, 2011, Petitioner filed an application with the United States Patent and Trademark Office ("PTO"), namely, application Serial No. 85/496,452 for "RADIGLOW" for use on "dietary supplements" in International Class 005.

2. On October 9, 2012, the Examining Attorney assigned to Petitioner's Application issued an Office Action setting forth a final Section 2(d) refusal prefaced on Registration No. 3,870,044. Applicant's request for reconsideration was denied on April 24, 2013.

3. The alleged trademark sought to be cancelled is Registration No. 3,870,044 for the mark "RADIANT GLOW" for use on "nutritional supplements", in International Class 5. Registrant's application was filed on March 25, 2010 and registered on November 2, 2010.

4. Registrant claims March 19, 2010 as the date that the alleged "RADIANT GLOW" mark was first used in commerce on "nutritional supplements."

5. Upon information and belief, Registrant is not currently offering "nutritional supplements" under the alleged "RADIANT GLOW" mark.

6. Upon information and belief, Registrant does not intend to resume bona fide use of the alleged "RADIANT GLOW" mark in the ordinary course of trade.

7. Upon information and belief, Registrant has abandoned the alleged "RADIANT GLOW" mark.

WHEREFORE, Petitioner prays that this Amended Petition to Cancel be granted and that the aforesaid Registration No. 3,870,044 for the mark "RADIANT GLOW" be cancelled pursuant to 15 U.S.C.

§1064(3) and removed from the Federal Registry.

Dated: August 28, 2013

Respectfully submitted,

By: Francisco J. Ferreiro/  
John Cyril Malloy, III  
Florida Bar No. 964,220  
[jcmalloy@malloylaw.com](mailto:jcmalloy@malloylaw.com)  
Francisco J. Ferreiro  
Florida Bar No. 37,464  
[fferreiro@malloylaw.com](mailto:fferreiro@malloylaw.com)  
MALLOY & MALLOY, P.L.  
Attorneys for Petitioner  
2800 S.W. Third Avenue  
Miami, Florida 33129  
Telephone: (305) 858-8000  
Facsimile: (305) 858-0008

**CERTIFICATE OF FILING**

I HEREBY CERTIFY that the foregoing document was filed electronically via the ESTTA, at the United States Patent and Trademark Office, Trademark Trial and Appeal Board, web site, [www.uspto.gov](http://www.uspto.gov), this 28th day of August 2013.

By: Francisco J. Ferreiro/  
Francisco J. Ferreiro

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing Amended Petition to Cancel has been served on the following by mailing said copy on August 28, 2013, via First Class Mail, postage prepaid to:

Kathryn Jennison Shultz, Esq.  
JENNISON & SHULTZ, P.C.  
2001 Jefferson Davis Highway, Suite 1102  
Arlington, Virginia 22202

By: Francisco J. Ferreiro/  
Francisco J. Ferreiro