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Filing date: **07/19/2013**

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	Sid Tool Co., Inc. d/b/a MSC Industrial Supply Co.		
Entity	Corporation	Citizenship	New York
Address	75 Maxess Road Melville, NY 11747 UNITED STATES		

Attorney information	Michael R. Graif Curtis, Mallet-Prevost, Colt & Mosle LLP 101 Park Avenue New York, NY 10178 UNITED STATES trademark@curtis.com Phone:(212) 696-6140		
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Registration Subject to Cancellation

Registration No	4073384	Registration date	12/20/2011
Registrant	BioLargo, Inc. 16150 Heron Avenue La Mirada, CA 90638 UNITED STATES		

Goods/Services Subject to Cancellation

Class 001. First Use: 2009/06/19 First Use In Commerce: 2009/06/19 All goods and services in the class are cancelled, namely: chemicals for the treatment of water and wastewater; solutions for contaminated water, namely, iodine for industrial chemical purposes
Class 005. First Use: 2009/02/06 First Use In Commerce: 2009/02/06 All goods and services in the class are cancelled, namely: All purpose disinfectants

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. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	NATURES SOLUTION		
Goods/Services	Cleaners, deodorizers and air fresheners		

Attachments	NATURE'S BEST SOLUTION petition for cancellation.pdf(48883 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	/Michael R. Graif/
Name	Michael R. Graif
Date	07/19/2013

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

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SID TOOL CO., INC.	:		
(D/B/A MSC INDUSTRIAL SUPPLY CO.)	:		
	:		
Petitioner,	:		
	:		
against	:	Cancellation No. _____	
	:		
BIOLARGO. INC.,	:		
	:		
Respondent.	:		
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PETITION FOR CANCELLATION

Sid Tool Co., Inc. (d/b/a MSC Industrial Supply Co.), a corporation organized under the laws of the State of New York, located and doing business at 75 Maxess Road, Meville, New York 11747 (the "Petitioner"), believes that it is damaged by United States Trademark Registration No. 4,073,384 ("Registration No. 4,073.384") and hereby petitions to cancel the same under the provisions of 15 U.S.C. § 1064(1). As grounds for cancellation, Petitioner asserts that:

1. Petitioner is a public company that markets, distributes and sells a variety of tools, industrial products and maintenance, repair and operations supplies throughout the United States.
2. Petitioner has continuously made commercial use of NATURES SOLUTION as a trademark throughout the United States since at least 2007. Specifically, Petitioner has marketed and sold environmentally friendly chemical solutions under the trademark NATURES SOLUTION for use as cleaners, deodorizers and air fresheners.

3. Upon information and belief, Biolargo, Inc. is a corporation organized under the laws of the State of Delaware, located and doing business at 16333 Phoebe Avenue, La Mirada, CA 90638 (“Respondent”).

4. Upon information and belief, Respondent is the owner of record of Registration No. 4,073,384, dated December 20, 2011, for the mark NATURE’S BEST SOLUTION for “chemicals for the treatment of water and wastewater; solutions for contaminated water, namely iodine for industrial chemical purposes in Class 1” and for “all purpose disinfectants, in Class 5.” Registration No. 4,073,384 claims a date of first use in commerce of the NATURE’S BEST SOLUTION mark of February 6, 2009.

5. Upon information and belief, Respondent currently offers deodorizing cleaning solutions incorporating the term NATURE’S BEST SOLUTION. Respondent markets these products as “environmentally friendly.”

6. Petitioner’s commercial use of its NATURES SOLUTION trademark predates Respondent’s claimed date of first use of the virtually identical NATURE’S BEST SOLUTION registered trademark. Moreover, Petitioner and Respondent both use their respective trademarks for environmentally friendly deodorizing cleaning solutions. Accordingly, Petitioner owns trademark rights in its NATURES SOLUTION trademark that have priority and are superior to those of the Respondent in its registered trademark.

7. Respondent’s continued federal registration of the NATURE’S BEST SOLUTION trademark No. 4,073,384 is likely to cause consumer confusion or mistake, or to mislead or deceive consumers, as to the source of Petitioner’s and Respondent’s NATURES SOLUTION cleaning products.

8. Upon information and belief, Respondent uses trade channels to sell its NATURE'S BEST SOLUTION products that are the same as or similar to those used by Petitioner to sell its competing NATURES SOLUTION products.

9. If Registration No. 4,073,384 is not cancelled, Petitioner will be damaged and the public will likely be confused or deceived with respect to the source of Petitioner's and Respondent's goods.

WHEREFORE, Petitioner requests cancellation of United States Trademark Registration No. 4,073.384 under § 2(d) of the Lanham Act because the registration is likely to cause consumer confusion, and requests that Petitioner be granted all such further relief as the Trademark Trial and Appeal Board may deem necessary and just.

Respectfully submitted,

Sid Tool Co., Inc.
(d/b/a MSC Industrial Supply Co.)

Dated: New York, New York
July 18, 2013

By: 
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