

ESTTA Tracking number: **ESTTA560051**

Filing date: **09/18/2013**

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	Oji Life Lab, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	1 Ravine Way Kentfield, CA 94904 UNITED STATES		

Attorney information	Sally M. Abel and Emily M. Gische FENWICK & WEST LLP 801 California Street Mountain View, CA 94041 UNITED STATES trademarks@fenwick.com, egische@fenwick.com Phone: (650) 988-8500		
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Registration Subject to Cancellation

Registration No	3302086	Registration date	10/02/2007
Registrant	New York LifeLab, The 295 Lafayette Street, Suite 501 New York, NY 10012 UNITED STATES		

Goods/Services Subject to Cancellation

<p>Class 041. First Use: 2004/07/15 First Use In Commerce: 2005/02/15 All goods and services in the class are cancelled, namely: charitable services, namely, providing training in the field of creative writing and career development; conducting seminars in the field of oncology; conducting workshops and seminars in cancer survivorship, creative writing, career development, health, art, trauma healing; education services, namely, providing programs and mentorships in the field of creative writing, personal growth, health and trauma healing; educational and entertainment services, namely, providing motivational and educational speakers; educational demonstrations; educational services namely conducting programs in the field of writing; entertainment services, namely, providing a radio program in the field of cancer survivorship via a global computer network; workshops and seminars in the field of creative writing, cancer survivorship, art, career development, health and personal development</p>

Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	Cancellation Petition.pdf(27410 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	/Emily M. Gische/
Name	Emily M. Gische, Esq.
Date	09/18/2013

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

In the matter of
Trademark Registration No. 3302086
Registration Date: October 2, 2007
Mark: LIFELAB

_____)	
Oji Life Lab, Inc.)	
Petitioner,)	
)	Cancellation No. _____
vs.)	
)	
The New York LifeLab,)	
Registrant.)	
_____)	

PETITION FOR CANCELLATION

Petitioner, Oji Life Lab, Inc., a Delaware corporation having a principal place of business at 1 Ravine Way, Kentfield, California 94904 (hereinafter “Oji Life Lab” or “Petitioner”), believes it is and will continue to be harmed by U.S. Registration No. 3302086 for the mark LIFELAB and therefore petitions for cancellation of the Registration.

As grounds for cancellation, it is alleged that:

1. The United States Patent and Trademark Office issued Registration No. 3302086 on October 2, 2007 for the mark LIFELAB for “charitable services, namely, providing training in the field of creative writing and career development; conducting seminars in the field of oncology; conducting workshops and seminars in cancer survivorship, creative writing, career development, health, art, trauma healing; education services, namely, providing programs and mentorships in the field of creative writing, personal growth, health and trauma healing; educational and entertainment services, namely, providing motivational and educational speakers; educational demonstrations; educational services namely conducting programs in the field of writing; entertainment services, namely, providing a radio program in the field of cancer

survivorship via a global computer network; workshops and seminars in the field of creative writing, cancer survivorship, art, career development, health and personal development.” Said registration was originally filed on April 19, 2006, claiming a first use date of July 15, 2004 and first use in commerce date of February 15, 2005.

2. Petitioner filed a U.S. Trademark Application, Serial Number 85786185, for the mark OJI LIFE LAB on November 23, 2012. Petitioner filed in International Class 41 for “Education services, namely, providing tutoring and mentoring in the field of life skills; Education services, namely, providing courses and programs for development of life skills; Educational services, namely, providing courses of instruction, lectures, seminars, workshops and training that teaches adults and children between the ages of 13 and 18 how to develop social and life skills, emotional and psychological stability, self-confidence, a positive work ethic, leadership skills, community spirit and responsibility in bettering one's community, and how to mentor others; Educational services, namely, providing courses of instruction, lectures, seminars, and workshops that trains mentors to assist mentees in developing social and life skills, developing emotional and psychological stability, creating self-confidence, establishing a positive work ethic, developing financial management and leadership skills, instilling a community spirit and a responsibility in bettering one's community, and teaching how to mentor others; Education services, namely, providing programs, mentoring and training designed to promote the physical and mental development of others; Educational counseling services to assist students in connecting with mentors in preparing for further education; Education counseling; Providing advice and information relating to education; Providing an on-line computer database matching users to a mentor for educational purposes in the field of life skills development”; in International Class 42 for “Providing a website featuring technology that facilitates coaching, mentoring, and educational services between students and mentors by uploading and sharing videos, providing feedback, suggestions, and tips on student projects and assignments, sharing educational curriculum tools and materials, presenting information on

career trajectories and work environments, and creating, offering, implementing and curating projects; Providing a website featuring technology that enables users to create and foster mentor relationships by uploading, sharing, and viewing videos, providing feedback, suggestions, and tips on student projects and assignments, sharing educational curriculum tools and materials, presenting information on career trajectories and work environments, and creating, offering, implementing and curating projects; Application service provider (ASP) and software as a service (SaaS) services featuring software for use in mentor searching, matching, and management”; and in International Class 45 for “Online social networking services; Online social networking services in the field of education provided via a website; Online social networking services provided through a community website; Online social networking services in the field of matching students with tutors, mentors and teachers.”

3. In an Office Action dated March 19, 2013, the Examining Attorney assigned to the OJI LIFE LAB Application refused registration of Petitioner’s mark on the grounds that, in the Examining Attorney’s view, confusion is likely between Petitioner’s mark and Registrant’s LIFELAB mark. Petitioner is likely to be damaged by maintenance of the LIFELAB Registration because unless the registration is cancelled, it may prevent the OJI LIFE LAB Application from maturing to registration.

4. On information and belief, Registrant has abandoned any and all rights in the LIFELAB mark and specifically in Registration Number 3302086, by ceasing use of LIFELAB with intent not to resume use.

5. If U.S. Registration No. 3302086 is not cancelled, Registrant would continue to have at least a prima facie exclusive right to use a mark in connection with the goods for which it has abandoned the mark. Such continued registration is and would continue to be a source of damage and injury to Petitioner and to the purchasing public.

WHEREFORE, Petitioner prays that this Petition for Cancellation be sustained, that Registrant's U.S. Registration No. 3302086 be cancelled pursuant to Lanham Act §14, 15 U.S.C. §1064.

This Petition for Cancellation is being submitted along with our authorization to charge \$300.00 to our Deposit Account No. 50-0261 for the filing fee. Please charge any additional fees required to this same account.

Please direct all notices, pleadings and correspondence relating to this matter to:

Emily M. Gische, Esq.

FENWICK & WEST LLP

Silicon Valley Center

801 California Street

Mountain View, California 94041

Telephone: (650) 988-8500 / Facsimile: (650) 938-5200

Email: egische@fenwick.com

Respectfully submitted,

Date: September 18, 2013

/Emily M. Gische/

Sally M. Abel, Esq.

Emily M. Gische, Esq.

Attorneys for Petitioner

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801 California Street

Mountain View, CA 94041

650-988-8500

PROOF OF SERVICE BY MAIL

I declare that:

I am employed in the County of Santa Clara, California.

I am over the age of eighteen years and not a party to the within cause; my business address is Fenwick & West LLP, Silicon Valley Center, 801 California Street, Mountain View, CA 94041. On September 18, 2013, I served the within PETITION FOR CANCELLATION on the interested parties in said cause, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Mountain View, California, addressed as follows:

Law Offices of Jodi Sax
295 Lafayette Street, Suite 501
New York, New York 10012

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed at Mountain View, California, this 18th day of September 2013.

/Amy K. Roodzant/
Amy K. Roodzant