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

#85167081

PharmaFreak Holdings, Inc.)
)
 Petitioner,)
)
 v.)
)
 517255 B.C. Ltd.)
)
)
 Registrant.)

Cancellation No. _____
Reg. No. 4390263
FREAK'N MASSIVE
Reg. No. 4390264
FREAK'N PUMPED
Reg. No. 4390265
FREAK'N SHREDDED

Attorney's Reference: 124287-356666

ATTN: BOX TTAB – FEE

PETITION TO CANCEL REGISTRATIONS NOS. 4390263, 4390264 and 4390265

PharmaFreak Holdings, Inc. (hereinafter "Petitioner"), a Canadian corporation with an address at 542 Mount Pleasant Road, Suite 400, Toronto, Ontario, Canada, believes that it is and will be damaged by Registrations Nos. 4390263, 4390264 and 4390265 and hereby petitions to cancel the same.

As grounds for this Petition, it is alleged:

1. Petitioner, itself and through its related companies and predecessors in interest, is now and, for many years, has been engaged in the business of manufacturing and marketing dietary supplements and nutritional supplements.
2. Petitioner, itself and through its related companies and predecessors in interest, has used trademarks incorporating the term "FREAK" to identify its dietary supplements and nutritional supplements, in commerce in the U.S., since at least as early as June 2009, and continues to use those trademarks in commerce.



10-07-2013

3. Petitioner is the owner of U.S. Trademark Registration No. 4167688 issued July 3, 2012 for the mark PHRAMAFREAK covering “dietary and nutritional supplements.” Use of the mark since June 14, 2009 is alleged.
4. Petitioner is the owner of U.S. Trademark Registration No. 3942640 issued April 12, 2011 for the mark RIPPED FREAK covering “dietary supplements.” The application that matured into Registration No. 3942640 was filed July 13, 2009. Use of the mark since June 14, 2009 is alleged.
5. Petitioner is the owner of U.S. Trademark Registration No. 3932856 issued March 15, 2011 for the mark TEST FREAK covering “dietary supplements.” The application that matured into Registration No. 3932856 was filed May 27, 2010. Use of the mark since March 2010 is alleged.
6. Registrant has not alleged a date of first use in the U.S. for its marks FREAK’N MASSIVE, FREAK’N PUMPED and FREAK’N SHREDDDED.
7. Registrant did not use its FREAK’N MASSIVE trademark, for the goods listed in its registration, in commerce in the United States prior to October 26, 2010.
8. Registrant did not use its FREAK’N PUMPED trademark, for the goods listed in its registration, in commerce in the United States prior to October 26, 2010.
9. Registrant did not use its FREAK’N SHREDDDED trademark, for the goods listed in its registration, in commerce in the United States prior to October 26, 2010.
10. Registrant did not use its FREAK’N MASSIVE trademark, for the goods listed in its registration, in commerce in the United States prior to June 2009.
11. Registrant did not use its FREAK’N PUMPED trademark, for the goods listed in its registration, in commerce in the United States prior to June 2009.

12. Registrant did not use its FREAK'N SHREDDED trademark, for the goods listed in its registration, in commerce in the United States prior to June 2009.
13. The term FREAK'N in Registrant's marks is substantially identical to the term FREAK in Petitioner's marks.
14. Petitioner's marks incorporating the term FREAK have been in use in commerce in the U.S. since prior to any date of first use in the U.S. that can be alleged by Registrant for its marks incorporating the term FREAK'N.
15. Registrant's goods and Petitioner's goods each encompass dietary supplements.
16. Petitioner and Registrant are competitors.
17. The Registrant's marks FREAK'N MASSIVE, FREAK'N PUMPED and FREAK'N SHREDDED are so similar to Petitioner's various trademarks incorporating the term FREAK such that Registrant's use of its trademarks to identify its goods is likely to cause confusion and lead to deception as to the source of origin and/or the sponsorship of Registrant's goods and/or Petitioner's goods.
18. If the Registrant were permitted to use and maintain its registrations for its marks for its goods as specified in its registrations, confusion among consumers resulting in damage and injury to Petitioner would be caused by virtue of the similarity between Registrant's trademarks and Petitioner's trademarks, and the related nature of the goods covered by those trademarks. Any defect, objection or fault found with Registrant's goods would reflect upon, and seriously injure the reputation and value that Petitioner has established under its trademarks.

WHEREFORE, Petitioner prays that Registrations Nos. 4390263, 4390264 and 4390265 be cancelled, and that this cancellation proceeding be sustained in favor of the Petitioner.

This Petition for Cancellation is submitted in duplicate together with the statutory filing fee of \$900.00. Should any additional fee be required, please charge the same to our Account No. 22-0261, and notify us accordingly.

Petitioner appoints Mark B. Harrison, Jacqueline Patt, Rebecca Liebowitz, Halle Markus, Michael Hall, Scott Oslick and Jeremy Klass along with the law firm of Venable LLP, P.O. Box 34385, Washington, D.C. 20043-9998 to transact all business on its behalf in connection with this Petition for Cancellation.

Respectfully submitted,



Date: October 7, 2013

By: _____

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Petition for Cancellation was served by U.S. Mail, first class, postage prepaid, on this 7th day of October, 2013, on the Registrant at the address listed in the current U.S. Trademark Office Records as follows:

517255 B.C. Ltd.
11450 201A Street
Maple Ridge, B.C. V2X0Y4
CANADA

and

Michael A. Poznanski
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CANADA



Mark Harrison