

ESTTA Tracking number: **ESTTA584039**

Filing date: **01/27/2014**

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	Oribe Hair Care, LLC		
Entity	Limited Liability Company	Citizenship	New York
Address	665 Broadway Suite 502 New York, NY 10012 UNITED STATES		

Attorney information	David P. Gordon Gordon & Jacobson, P.C. 60 Long Ridge Road Suite 407 Stamford, CT 06902 UNITED STATES dgordon@gordonjacobson.com Phone:203-323-1800
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**Registration Subject to Cancellation**

Registration No	3624082	Registration date	05/19/2009
Registrant	Ward, Jr. James R. 27214 Wells Ln Conroe, TX 77385 USX		

**Goods/Services Subject to Cancellation**

Class 003. First Use: 2008/04/15 First Use In Commerce: 2009/03/05 All goods and services in the class are cancelled, namely: Hair fixers; Hair lacquers; Hair oils; Hair sprays; Hair straightening preparations
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**Grounds for Cancellation**

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Genericness	Trademark Act section 23
Abandonment	Trademark Act section 14
The mark is merely descriptive	Trademark Act section 2(e)(1)

Attachments	AR-M257_20140127_171459.pdf(76553 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	/David P. Gordon/
Name	David P. Gordon
Date	01/27/2014

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PETITION FOR CANCELLATION

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

Sir:

Oribe Hair Care, LLC, a limited liability company legally organized under the laws of New York, having an address of 665 Broadway, Suite 502, New York, NY 10012, believes that it will be damaged by the continued registration of Reg. #3,624,082 and hereby petitions its cancellation.

As grounds for cancellation, it is alleged that:

1. Petitioner is in the business of selling hair care products in the United States.
2. Petitioner wishes to use the descriptor "HEAT STYLING SHIELD" on its heat protectant balm hair care products.
3. The descriptor "HEAT STYLING SHIELD" incorporates the full trademark "HEAT SHIELD" of Reg. #3,624,082 and is confusingly similar therewith.
4. The term "heat shield" is known as a hair care product used as a protectant or shield on hair before it is flat ironed or otherwise heat treated in order to protect against heat damage.
5. The term "heat shield" for hair care products is a generic term.
6. The term "heat shield" for hair care products art is a merely descriptive term.

7. The Registrant of Reg. #3,624,082, James R. Ward, Jr. is not currently using the mark "HEAT SHIELD" on hair fixers.
8. The Registrant of Reg. #3,624,082, James R. Ward, Jr. is not currently using the mark "HEAT SHIELD" on hair lacquers.
9. The Registrant of Reg. #3,624,082, James R. Ward, Jr. is not currently using the mark "HEAT SHIELD" on hair oils.
10. The Registrant of Reg. #3,624,082, James R. Ward, Jr. is not currently using the mark "HEAT SHIELD" on hair sprays.
11. The Registrant of Reg. #3,624,082, James R. Ward, Jr. is not currently using the mark "HEAT SHIELD" on hair straightening preparations.
12. The Registrant of Reg. #3,624,082, James R. Ward, Jr. has not used the mark "HEAT SHIELD" on hair care product for at least three years.
13. The Registrant of Reg. #3,624,082, James R. Ward, Jr. has abandoned the mark "HEAT SHIELD" for hair care products.
14. The Registrant of Reg. #3,624,082, James R. Ward, Jr. did not use the mark HEAT SHIELD in commerce regulated by the U.S. Government at least as early as March 5, 2009.

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WHEREFORE, Petitioner respectfully requests that this Cancellation be sustained and that Reg. #3,624,082 issued May 19, 2009 be cancelled.

Respectfully submitted,

Dated: Jan. 27, 2013

By: *David P. Gordon*  
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