

ESTTA Tracking number: **ESTTA597706**

Filing date: **04/10/2014**

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	Advanced Uro-Solutions, LLC		
Entity	Limited Liability Company	Citizenship	Tennessee
Address	2521 Beechwood Dr. Elizabethton, TN 37643 UNITED STATES		

Attorney information	Wade R. Orr P.O. Box 1871 Knoxville, TN 37901 UNITED STATES worr@luedeka.com Phone:865-546-4305		
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Registration Subject to Cancellation

Registration No	3550311	Registration date	12/23/2008
International Registration No.	NONE	International Registration Date	NONE
Registrant	OSIM International Ltd OSIM Headquarters Singapore, SGX 408939 SGX		

Goods/Services Subject to Cancellation

<p>Class 010. First Use: 0 First Use In Commerce: 0 All goods and services in the class are cancelled, namely: Medical apparatus and instruments, namely blood pressure monitors and electronic nerve and muscle stimulator machines; furniture for medical and therapeutic purposes, namely massage and reflexology tables, beds and chairs; orthopedic solescomprised of magnets for magnetic therapy; reflexology machines for use in exercising or toning muscles for medical purposes; reflexology machines for use in relaxing the body; electric or non-electric massage apparatus; massage hairbrushes; hand-held massagers; eye massagers; massage chairs; kneading and massaging machines; foot massagers; apparatus for use in exercising and/or toning muscles, namely, electronic muscle stimulation machines for muscle toning and toning and exercise machines for therapeutic use; urine monitors; nebulizer for respiratory therapy; orthopedic footwear; abdominal belts and pads; orthopedic belts; air cushions, mattresses and pillows for medical purposes; pillows for orthopedic use;chemically or electrically activated heating cushions for medical purposes; hotair therapeutic apparatus, namely, hot air vibrators for stress relief; electromedical and electrotherapy devices for full body and localized slimming treatments; deep heat massage apparatus; gloves for massage; and parts and fittings for all the aforesaid goods</p>
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Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	6780799-topto-20140410-PetitionForCancellation.pdf(121503 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	/WadeROrr/
Name	Wade R. Orr
Date	04/10/2014

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

In the matter of trademark Registration No.: 3,550,311

For the mark: NORO

Date registered: 12/23/2008

ADVANCED URO-SOLUTIONS, LLC,)
)
Petitioner,)
v.)
)
OSIM INTERNATIONAL LTD,)
)
Respondent.)

PETITION FOR CANCELLATION

TRADEMARK TRIAL AND APPEAL BOARD
Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

Sir or Madam:

Your Petitioner herein, Advanced Uro-Solutions, LLC, believes it will be damaged by continued registration of the mark of U.S. Registration No. 3,550,311, and hereby requests cancellation of the same upon at least the following grounds:

1. Petitioner, Advanced Uro-Solutions, LLC, is a limited liability company of the State of Tennessee, and has a business address at 2521 Beechwood Dr., Elizabethton, Tennessee 37643.
2. The name and address of the current alleged owner of the above-mentioned U.S. Trademark Registration No. 3,550,311 (hereinafter “the ’311 Registration,”) for the mark NORO

is OSIM International Ltd, a limited liability company of Singapore having a mailing address at 65 Ubi Avenue 1, Singapore 408939, Singapore (hereinafter “Respondent”).

3. Petitioner is seeking to register its mark NURO and Design, shown below, of pending Application Serial No. 85/617,123, filed May 4, 2012, under 15 U.S.C. § 1051(b) (hereinafter the ‘123 Application) for “nerve stimulator apparatus” in International Class 010 (hereinafter “Petitioner’s Goods”). The ‘123 Application and the mark identified therein are owned by Petitioner.



4. The mark NURO and Design of Petitioner’s ‘123 Application has been refused registration on the Principal Register for Petitioner’s Goods under 15 U.S.C. §1052(d) on the asserted ground that Petitioner’s mark, when used for Petitioner’s Goods, so resembles the mark NORO of the ‘311 Registration for “Medical apparatus and instruments, namely blood pressure monitors and electronic nerve and muscle stimulator machines; furniture for medical and therapeutic purposes, namely massage and reflexology tables, beds and chairs; orthopedic soles comprised of magnets for magnetic therapy; reflexology machines for use in exercising or toning muscles for medical purposes; reflexology machines for use in relaxing the body; electric or non-electric massage apparatus; massage hairbrushes; hand-held massagers; eye massagers; massage chairs; kneading and massaging machines; foot massagers; apparatus for use in exercising and/or toning muscles, namely, electronic muscle stimulation machines for muscle toning and toning and exercise machines for therapeutic use; urine monitors; nebulizer for respiratory therapy; orthopedic footwear; abdominal belts and pads; orthopedic belts; air cushions, mattresses and pillows for medical purposes; pillows for orthopedic use; chemically or electrically activated heating cushions for medical purposes; hot air therapeutic apparatus, namely, hot air vibrators for stress relief; electromedical and electrotherapy devices for full body and localized slimming treatments; deep heat massage apparatus; gloves for massage; and parts and fittings for all the aforesaid goods” (hereinafter “Respondent’s Goods”), as to be likely to cause confusion.

5. Respondent filed his application for registration of the ‘311 Registration on September 8,

2006, under Section 1(b) of the Lanham Act, and later amended the application to file under Section 44(e), asserting an alleged *bona fide* intent to use the NORO mark on or in connection with Respondent's Goods in United States commerce.

6. Upon information and belief, Respondent lacked a *bona fide* intent to use the mark of the '311 Registration in United States commerce on or in connection with Respondent's Goods at the time the application for the mark of the '311 Registration was filed, as required for an application filed under either of Sections 1(b) or 44(e).

7. Upon information and belief, Respondent has not used the mark of the '311 Registration on or in connection with Respondent's Goods in United States commerce at any time since the September 8, 2006, filing date of the application which issued as the '311 Registration. Accordingly, any rights Respondent may have had in the mark of the '311 Registration for use on or in connection Respondent's Goods in United States commerce have been abandoned.

8. The '311 registration issued on December 23, 2008, and is therefore subject to cancellation herein under at least 15 U.S.C. § 1064(3), by any entity which believes it is or will be damaged by the continued existence of the registration.

9. To the extent the Examining Attorney is correct in his refusal to register Petitioner's marks under 15 U.S.C. § 1052(d) based on the alleged confusing similarity of the mark of the '311 Registration to Petitioner's mark of its '123 application, then Petitioner is being damaged by continued registration of the mark of the '311 Registration, and is entitled to have the Respondent's '311 Registration cancelled pursuant to at least 15 U.S.C. § 1064 on at least the grounds set forth herein.

WHEREFOR, Petitioner prays that this Honorable Board, upon consideration of the grounds set forth herein, determine that Petitioner has made out good and sufficient grounds to determine that Petitioner is being and will be damaged by continued registration of the mark of the '311 registration by Respondent, and issue an order that the same be cancelled.

Respectfully submitted,



Wade R. Orr, Reg. No. 59,390
LUEDEKA NEELY GROUP, P.C.
Attorneys for Petitioner
P.O. Box 1871
Knoxville, TN 37901
(865) 546-4305

CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of April, 2013, a copy of the Petitioner's Petition for Cancellation was served via United States first class mail, postage pre-paid, and properly addressed to the following:

OSIM International Ltd
65 Ubi Avenue 1
Singapore 408939
Singapore

Justin Welch, Esq.
Baker & McKenzie LLP
2300 Trammell Crow Center
2001 Ross Avenue
Dallas, TX 75201



Wade R. Orr, Reg. No. 59,390