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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	Charlie's Inventory, Inc.		
Entity	Corporation	Citizenship	Ohio
Address	3341 Centerpoint Drive, Unit C Grove City, OH 43123 UNITED STATES		

Attorney information	Mary R. True Dreitler True LLC 137 E. State St. Columbus, OH 43215 UNITED STATES mtrue@ustrademarklawyer.com, jdreitler@ustrademarklawyer.com, ttro- fino@ustrademarklawyer.com Phone:614-545-6355
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**Registration Subject to Cancellation**

Registration No	4102189	Registration date	02/21/2012
Registrant	MCR International, Inc. Suite B Antioch, CA 94531 UNITED STATES		

**Goods/Services Subject to Cancellation**

<p>Class 010. First Use: 2011/06/13 First Use In Commerce: 2011/06/13 All goods and services in the class are cancelled, namely: X-ray apparatus for dental imaging; X-ray appliances for dental and medical use; Surgical gowns; Surgical gloves; Surgical apparatus and instruments for medical, dental or veterinary use; Sprayers for cleaning gums and teeth used in dentists' offices during dental procedures; Polymerisation apparatus for dental purposes; Plastic material for producing, relining and repair of dental prostheses; Motorized equine dentistry tool and parts thereof; Mirrors for dentists; Milling apparatus for dental purposes; Medical and dental sterilizers; Medical and dental apparatus for dimensional measurement, namely, 3D scanner for human body; Latex medical gloves; Injection syringes; Injection instruments without needles; Injection instruments with needles; Flexible partial dentures; Face masks for use by dental care providers; Endodontic apparatus; Endodontic container for holding dental drill, dental burs and dental files; Endoprostheses; Endoscopic equipment; Endoscopy cameras; Drills for dental use; Drilling jigs for surgical and dental applications; Drills for dental applications; Disposable syringes; Disposable headrest covers for medical and dental examination chairs; Digital sensor used for taking digital dental radiographs; Dental and medical drill bits for cutting teeth or bone; Dental apparatus, namely, intra-oral light systems; Dental apparatus, namely, apex locator; Dental bite trays; Dental bridges; Dental broaches; Dental burs; Dental caps; Dental chairs; Dental clips for securing pre-existing dentures; Dental crowns; Dental dams; Dental device that expands the mouth to improve the field of view inside the mouth, and extracts saliva from the work area inside the mouth; Dental drill bits used in dental motors to enable dentists to cut or drill teeth; Dental drills; Dental examination chairs; Dental excavators; Dental fixtures, namely, prefabricated parts for crowns, bridges and pontics; Dental foundation supports; Dental gloves; Dental handpieces; Dental implants; Dental impression trays; Dental inlays; Dental in-</p>
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struments, namely, oral irrigators; Dental instruments, namely, disposable prophylaxis angles; Dental instruments, namely, reusable and recyclable prophylaxis angles; Dental instruments, namely, dental root files used in root canal therapy procedures; Dental instruments, namely, root canal therapy instruments used to shave the inside of a root canal; Dental instruments, namely, prophylaxis angles; Dental instruments, namely, hemostats that clamp blood vessels to diminish or halt blood flow; Dental instruments, namely, crown and bridge removers; Dental mirrors; Dental onlays; Dental operating lamps; Dental picks; Dental products, namely, plastic material for fabricating complete and partial denture liners/relines, and for fabricating gaskets for over dentures; Dental prostheses; Dental tray covers made of paper; Dentists' chairs; Dentures; Surgical masks; Cutting and grinding discs for dental applications; Cut-off and abrasive wheels for dental purposes; Ceramic alloy used in dental crowns; Bite trays; Bibs for dental use

## Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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## Marks Cited by Petitioner as Basis for Cancellation

U.S. Application No.	86135679	Application Date	12/05/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	MCR MEDICAL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 010. First use: First Use: 2009/01/31 First Use In Commerce: 2009/01/31 CPR masks, CPR valves, manual resuscitators, CPR training kits, filtered CPR barriers, elastic bandages, elastic bandage clips, triangular bandages, conforming gauze bandages, gauze pads, emergency blankets, emergency sleeping bags, first aid kits, first aid training kits		

U.S. Application No.	86135691	Application Date	12/05/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	MCR MEDICAL		

Design Mark	<b>MCR MEDICAL</b>
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2009/01/31 First Use In Commerce: 2009/01/31 Online wholesale store services featuring first aid and CPR supplies

U.S. Application No.	86135686	Application Date	12/05/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	M MCR MEDICAL		
Design Mark			
Description of Mark	The mark consists of the letter "M" in a circle, above the letters "MCR" and word "MEDICAL", which are separated by a vertical line.		
Goods/Services	Class 010. First use: First Use: 2009/01/31 First Use In Commerce: 2009/01/31 CPR masks, CPR valves, manual resuscitators, CPR training kits, filtered CPR barriers, elastic bandages, elastic bandage clips, triangular bandages, conforming gauze bandages, gauze pads, emergency blankets, emergency sleeping bags, first aid kits, first aid training kits		

U.S. Application No.	86135698	Application Date	12/05/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	M MCR MEDICAL		

Design Mark	
Description of Mark	The mark consists of the letter "M" in a circle, above the letters "MCR" and word "MEDICAL", which are separated by a vertical line.
Goods/Services	Class 035. First use: First Use: 2009/01/31 First Use In Commerce: 2009/01/31 Online wholesale store services featuring first aid and CPR supplies

Attachments	86135679#TMSN.jpeg( bytes ) 86135691#TMSN.jpeg( bytes ) 86135686#TMSN.jpeg( bytes ) 86135698#TMSN.jpeg( bytes ) MCR Petition to Cancel or Partially Cancel - final.pdf(44911 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	/Mary R. True/
Name	Mary R. True
Date	06/16/2014

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

**IN THE MATTER OF Trademark Registration No. 4102189**

**DATE OF REGISTRATION: February 21, 2012**

**Charlie's Inventory, Inc. DBA  
MCR Medical Supply, Inc.**

**Petitioner,**

**v.**

**MCR International, Inc.,**

**Registrant.**

**Cancellation No.:** \_\_\_\_\_

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**PETITION TO CANCEL UNDER SECTION 14 OR PARTIALLY CANCEL UNDER  
SECTION 18**

Charlie's Inventory, Inc. DBA MCR Medical Supply, Inc. (hereinafter referred to as "Petitioner"), an Ohio corporation having a principal place of business at 3341 Centerpoint Drive, Unit C, Grove City, Ohio 43123, believes that they will be damaged by continued registration of the trademark MCR & design (hereinafter "Registration"), Registration No. 4102189, in the name of MCR International, Inc., (hereinafter referred to as "Registrant") for:

X-ray apparatus for dental imaging; X-ray appliances for dental and medical use; Surgical gowns; Surgical gloves; Surgical apparatus and instruments for medical, dental or veterinary use; Sprayers for cleaning gums and teeth used in dentists' offices during dental procedures; Polymerisation apparatus for dental purposes; Plastic material for producing, relining and repair of dental prostheses; Motorized equine dentistry tool and parts thereof; Mirrors for dentists; Milling apparatus for dental purposes; Medical and dental sterilizers; Medical and dental apparatus for dimensional measurement, namely, 3D scanner for human body; Latex medical gloves; Injection syringes; Injection instruments without needles; Injection instruments with needles; Flexible partial dentures; Face masks for use by dental care providers; Endodontic apparatus; Endodontic container for holding dental drill, dental burs and dental files; Endoprostheses; Endoscopic equipment; Endoscopy cameras; Drills for dental use; Drilling jigs for surgical and dental

applications; Drills for dental applications; Disposable syringes; Disposable headrest covers for medical and dental examination chairs; Digital sensor used for taking digital dental radiographs; Dental and medical drill bits for cutting teeth or bone; Dental apparatus, namely, intra-oral light systems; Dental apparatus, namely, apex locator; Dental bite trays; Dental bridges; Dental broaches; Dental burrs; Dental caps; Dental chairs; Dental clips for securing pre-existing dentures; Dental crowns; Dental dams; Dental device that expands the mouth to improve the field of view inside the mouth, and extracts saliva from the work area inside the mouth; Dental drill bits used in dental motors to enable dentists to cut or drill teeth. Dental drills; Dental examination chairs; Dental excavators; Dental fixtures, namely, prefabricated parts for crowns, bridges and pontics; Dental foundation supports; Dental gloves; Dental handpieces; Dental implants; Dental impression trays; Dental inlays; Dental instruments, namely, oral irrigators; Dental instruments, namely, disposable prophy angles; Dental instruments, namely, reusable and recyclable prophy angles; Dental instruments, namely, dental root files used in root canal therapy procedures; Dental instruments, namely, root canal therapy instruments used to shave the inside of a root canal; Dental instruments, namely, prophy angles; Dental instruments, namely, hemostats that clamp blood vessels to diminish or halt blood flow; Dental instruments, namely, crown and bridge removers; Dental mirrors; Dental onlays; Dental operating lamps; Dental picks; Dental products, namely, plastic material for fabricating complete and partial denture liners/relines, and for fabricating gaskets for over dentures; Dental prostheses; Dental tray covers made of paper; Dentists' chairs; Dentures; Surgical masks; Cutting and grinding discs for dental applications; Cut-off and abrasive wheels for dental purposes; Ceramic alloy used in dental crowns; Bite trays; Bibs for dental use, in Intl. Class 10. (hereinafter referred to as "Registrant's Goods")

and hereby petitions to cancel same under 15 U.S.C. §1064 on the grounds of likelihood of confusion under Section 2(d) with Petitioner's prior rights in the term MCR for medical supplies in Class 10. In the alternative, Petitioner seeks partial cancellation under 15 U.S.C. §1068, on the grounds that the registration is for the laundry list of medical and dental apparatus and instruments that have never been sold by Registrant, never will be sold by Registrant and that Registrant did not have a bona fide intent to use the mark on the majority of the listed goods, and the registration is subject to partial cancellation under Section 18 of the Trademark Act to restrict the goods description to the goods actually sold by Registrant under the registered mark, namely, "all of the foregoing for use strictly in the dental field and not for use in the first aid or CPR field and not for sale to the general public".

As grounds therefor, it is alleged that:

1. Petitioner, since at least as early as January 31, 2009 and continuing to the present, and long prior to Registrant's claimed first use date of June 13, 2011 as set forth in Registration No. 4102189, has been engaged in the business of offering for sale and selling medical supplies, including first aid and CPR supplies, to the general public via its website [www.mcrmedical.com](http://www.mcrmedical.com).

2. Petitioner is the owner of the trademarks MCR Medical and M MCR Medical & design, the United States Trademark Applications thereof, and the goodwill symbolized by the trademark applications, as follows:

MCR MEDICAL, Serial No. 86135679, for "CPR masks, CPR valves, manual resuscitators, CPR training kits, filtered CPR barriers, elastic bandages, elastic bandage clips, triangular bandages, conforming gauze bandages, gauze pads, emergency blankets, emergency sleeping bags, first aid kits, first aid training kits", filing date of December 5, 2013, first use in interstate commerce January 31, 2009.

MCR MEDICAL, Serial No. 86135691, for "Online wholesale store services featuring first aid and CPR supplies", filing date of December 5, 2013, first use in interstate commerce January 31, 2009.



MCR MEDICAL, Serial No. 86135686, for "CPR masks, CPR valves, manual resuscitators, CPR training kits, filtered CPR barriers, elastic bandages, elastic bandage clips, triangular bandages, conforming gauze bandages, gauze pads, emergency blankets, emergency sleeping bags, first aid kits, first aid training kits", filing date of December 5, 2013, first use in interstate commerce January 31, 2009.



MCR MEDICAL, Serial No. 86135698, for “Online wholesale store services featuring first aid and CPR supplies”, filing date of December 5, 2013, first use in interstate commerce January 31, 2009.

3. Serial Nos. 86135679, 86135691, 86135686, and 86135698 have been refused by the Trademark Examiner under Section 2(d) on the basis of Registration No. 4102189.

4. Upon information and belief, many of the goods described in Registrant’s Registration are identical and/or related to products sold by Petitioner, and are offered, sold and distributed through the same channels of trade, to the same purchasers – namely, purchasers of medical supplies.

5. The designation MCR & design which the Registrant has registered is similar to Petitioner’s MCR Medical and M MCR Medical & design trademarks, in sound and appearance, such that consumers and potential customers of Registrant’s goods would reasonably expect them to emanate from Petitioner, and the contemporaneous use thereof is likely to cause confusion, mistake or deception in that the purchasing public is likely to believe that Registrant as a company and/or Registrant’s goods emanate from or are in some way associated or connected with, or sponsored, licensed or authorized by Petitioner, all to the damage of Petitioner, and the registration should be cancelled under Section 2(d) of the Lanham Act.

6. Registrant’s Registration No. 4102189 is less than five (5) years old, is not incontestable and is subject to cancellation on the grounds of Section 2(d) of the Lanham Act and on the grounds of lack of bona fide intent to use and/or abandonment.

7. For the reasons set forth in paragraphs 1 through 6, Petitioner believes, and in so believing asserts, that the Registrant's registration of the mark MCR & design in Intl. Class 10 should be cancelled under *Section 14 of the Trademark Act of 1946 (15 U.S.C. § 1063)*.

8. In the alternative, and upon information and belief, and based upon a prior review of Registrant's website [www.mcrdental.com](http://www.mcrdental.com) (which became inactive on May 18, 2014), Registrant's Goods are limited for use strictly in the dental field and not for use in the general medical, first aid or CPR fields and not for sale to the general public.

9. As currently and erroneously described in Registrant's registration, Petitioner and Registrant appear to be competitors in the marketplace for the sale of medical related apparatus and instruments since Registrant's unrestricted registration of MCR & design would cover apparatus and instruments sold outside the dental field and to the general public.

10. As currently and erroneously described in Registrant's registration, upon information and belief, there is no strict restriction in the goods descriptions of Registrant's registration, so that it must be presumed that Registrant's Goods are offered to and used by some of the same customers and consumers who would also be in the market for and use Petitioner's products; however, Petitioner believes that Registrant is not actually manufacturing and/or selling any such similar or related goods to the same customers and has never done so.

11. As currently and erroneously described in Registrant's registration, upon information and belief, Registrant's Goods are or could be advertised, marketed, promoted and provided through the same channels of trade, are or could be advertised in the same types of publications as Petitioner's MCR Medical trademarks and goods, and are or could be sold to the same classes of the purchasing public for use by the same consumers as Petitioner's products; however, Petitioner believes that Registrant is not actually doing so and has never done so.

12. The designation MCR & design which the Registrant has registered is similar to Petitioner's MCR Medical and M MCR Medical & design trademarks, in sound and appearance, and consumers and potential customers will believe that Registrant's Goods are connected with, affiliated with or endorsed by the owner of Petitioner's products and Petitioner's trademarks, or that Registrant's Goods are connected with Petitioner's first aid and CPR supplies; however, Petitioner believes that Registrant is not actually selling any products that are not strictly dental related, that are related to first aid or CPR supplies, and that Registrant is not actually selling any product outside the dental field or to the general public.

13. For the reasons set forth in paragraphs 8 through 12, Petitioner believes, and in so believing asserts, that the Registrant's registration of the mark MCR & design in Intl. Class 10 should be restricted to the goods Registrant is actually manufacturing and/or selling, i.e., "all of the foregoing for use strictly in the dental field and not for use in the first aid or CPR field and not for sale to the general public".

14. By reason of the foregoing, Registrant's registration of MCR & design for its current goods description in Intl. Class 10 is inaccurate and overly broad for the goods on which it is registered and the registration is subject to partial cancellation/restriction under *Section 18 of the Trademark Act of 1946 (15 U.S.C. § 1063)*.

WHEREFORE, Petitioner prays that this Cancellation be sustained and that Registration No. 4102189 for Registrant's trademark MCR & design be cancelled under Section 14, or in the alternative, restricted under Section 18 to reflect the goods actually being manufactured and sold by Registrant.

The fee of \$300.00 for this Cancellation, as provided by *Sections 13 and 31 of the Trademark Act of 1946* is paid by charging Petitioner's attorneys' credit card.

Please recognize Mary R. True and Joseph R. Dreitler, both members of the Bar of the State of Ohio, as its attorneys to prosecute this Petition to Cancel and to transact all business in the Patent and Trademark Office in connection herewith. Please address all communications to: Mary R. True, c/o Dreitler True, LLC, 137 E. State St., Columbus, OH 43215.

Dated: June 16, 2014

Respectfully submitted,

/Mary R. True/

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Mary R. True  
Joseph R. Dreitler  
DREITLER TRUE, LLC  
137 E. State St.  
Columbus, OH 43215  
Telephone: (614) 545-6355  
[mtrue@ustrademarklawyer.com](mailto:mtrue@ustrademarklawyer.com)  
[jdreitler@ustrademarklawyer.com](mailto:jdreitler@ustrademarklawyer.com)

Counsel for Petitioner  
CHARLIE'S INVENTORY, INC.

**CERTIFICATE OF FILING**

I hereby certify that this correspondence is being filed electronically through on-line TTAB filing systems, ESTTA, on June 16, 2014.

/Mary R. True/  
Mary R. True

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing was served via regular U.S. Mail this 16th day of June, 2014, upon the following owner of record, according to the TESS Website:

**Address of Record:**

MCR International, Inc.  
4847 Lone Tree Way, Suite B  
Antioch, CA 94531

Signed: /Mary R. True/  
Mary R. True \_\_\_\_\_