

ESTTA Tracking number: **ESTTA617930**

Filing date: **07/28/2014**

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	Rwachsberg Holdings Inc.		
Entity	Corporation	Citizenship	Canada
Address	1 Apollo Place Toronto, Ontario, M3J0H2 CANADA		

Attorney information	Stephen R. Baird Winthrop & Weinstine, P.A. 225 South Sixth Street, Suite 3500 Minneapolis, MN 55402 UNITED STATES trademark@winthrop.com, sbaird@winthrop.com, mengel@winthrop.com, jbriley@winthrop.com		
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Registration Subject to Cancellation

Registration No	3708742	Registration date	11/10/2009
Registrant	Liv The Experience, Inc. 10 East Walton Street Chicago, IL 60610 UNITED STATES		

Goods/Services Subject to Cancellation

Class 003. First Use: 2006/07/01 First Use In Commerce: 2006/07/01 All goods and services in the class are cancelled, namely: hair care products, namely, shampoo, conditioner, styling gel and mousse

Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	9331668_1.pdf(136779 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	/Martha J. Engel/
Name	Martha J. Engel

Date	07/28/2014
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Rwachsberg Holdings Inc.)	
)	
Petitioner,)	
)	
v.)	Cancellation No. _____
)	
Liv The Experience, Inc.)	
)	
Respondent.)	

PETITION TO CANCEL

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

Rwachsberg Holdings Inc. ("Petitioner") believes that it is and will continue to be damaged by registration of the mark LIV WELL, U.S. Registration No. 3,708,742, and hereby petitions to cancel the same pursuant to the provisions of 15 U.S.C. § 1064.

The grounds for cancellation are as follows:

1. Petitioner is the record owner of Application Serial No. 85/211,270 for registration of the mark WASH WELL. LIVE WELL. ("Petitioner's Mark") for "personal care products, namely, shampoos and hair conditioners; soaps for personal use; non-medicated skin care preparations; all purpose cleaners for household and industrial use; cleaning solvents, namely, multi-surface cleaners for household and industrial use" in International Class 3 ("Petitioner's Application").

2. Upon information and belief, Liv the Experience, Inc., an Illinois corporation having an address of 10 East Walton Street, Chicago, Illinois 60610 ("Respondent") is listed as

the record owner of U.S. Reg. No. 3,708,742 for the mark LIV WELL for “hair care products, namely, shampoo, conditioner, styling gel and mousse” in International Class 3 (“Registered Mark”).

3. On March 30, 2011, the U.S. Patent and Trademark Office refused registration of Petitioner’s Mark under Section 2(d) of the Lanham Act based on Respondent’s Registered Mark.

4. On February 3, 2014, the U.S. Patent and Trademark Office issued a final office action maintaining the refusal to register Petitioner’s Mark under Section 2(d) of the Lanham Act based on Respondent’s Registered Mark.

5. Petitioner has been and is likely to continue to be damaged by registration of Respondent’s Registered Mark for LIV WELL on the Principal Register because the Trademark Office has refused registration of Petitioner’s Mark WASH WELL. LIVE WELL. under Section 2(d) of the Lanham Act, relying on the Registered Mark.

6. No assignment of the Registered Mark to any third party has been made of record or otherwise recorded with the USPTO.

7. Upon information and belief, Respondent is no longer using and has not used the LIV WELL mark in connection with the goods covered by the subject registration in interstate commerce for a period of at least three consecutive years.

8. Upon information and belief, Respondent has abandoned the Registered Mark within the meaning of Section 45 of the Lanham Act, 15 U.S.C. § 1127, and therefore U.S. Reg. No. 3,708,742 should be cancelled.

WHEREFORE, pursuant to Section 14 of the Lanham Act, 15 U.S.C. § 1064, Petitioner respectfully requests that the Board grant its petition for cancellation and order the cancellation of U.S. Registration No. 3,708,742 and award Petitioner any further relief the Board deems equitable.

Respectfully Submitted,
WINTHROP & WEINSTINE, P.A.

Dated: July 28, 2014


Stephen R. Baird
Martha J. Engel

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ATTORNEYS FOR PETITIONER
RWACHSBERG HOLDINGS INC.

