

ESTTA Tracking number: **ESTTA625360**

Filing date: **09/04/2014**

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	M.I. Industries, Incorporated		
Entity	Corporation	Citizenship	Nebraska
Address	55 West Port Plaza Drive, Suite 200 St. Louis, MO 63146 UNITED STATES		

Attorney information	Michael J. Hickey Lewis, Rice & Fingersh, L.C. Box IP Department, 600 Washington Avenue, Suite 2500 St. Louis, MO 63101 UNITED STATES ipdept@lewisrice.com Phone:314-444-7600		
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Registration Subject to Cancellation

Registration No	4479531	Registration date	02/11/2014
Registrant	Petnology USA, LLC Unit A Ft. Lauderdale, FL 33304 UNITED STATES		

Goods/Services Subject to Cancellation

Class 031. First Use: 2011/03/01 First Use In Commerce: 2011/03/01 All goods and services in the class are cancelled, namely: Cat food

Grounds for Cancellation

Abandonment	Trademark Act section 14
Priority and likelihood of confusion	Trademark Act section 2(d)

Mark Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	3552082	Application Date	06/15/2006
Registration Date	12/23/2008	Foreign Priority Date	NONE
Word Mark	INSTINCT		

Design Mark	<h1>INSTINCT</h1>
Description of Mark	NONE
Goods/Services	Class 031. First use: First Use: 2006/06/09 First Use In Commerce: 2007/04/06 pet foods and pet treats

Attachments	78909282#TMSN.png(bytes) PetnologyPetForCancel.pdf(404151 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	/mjh/
Name	Michael J. Hickey
Date	09/04/2014

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

M.I. INDUSTRIES, INCORPORATED,)	
)	
Petitioner,)	
)	Cancellation No.
v.)	
)	
PETNOLOGY USA, LLC,)	
)	
Respondent.)	
)	

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

PETITION FOR CANCELLATION OF REGISTRATION NO. 4,479,531

COMES NOW Petitioner M.I. Industries, Incorporated, pursuant to 15 U.S.C. § 1064(3) et seq., and hereby petitions to cancel Registration No. 4,479,531 for the trademark NATURAL INSTINCT issued to Respondent Petnology USA, LLC.

As grounds for the Petition, it is alleged that:

1. Petitioner M.I. Industries, Incorporated (“Petitioner”) is a Nebraska corporation, with a place of business at 55 West Port Plaza Drive, Suite 200, Saint Louis, MO 63146.
2. On June 15, 2006, Petitioner filed an application on the Principal Register for its INSTINCT Mark for the following goods: pet food and pet treats in International Class 031. This application was assigned Serial Number 78/909,282.
3. Petitioner’s INSTINCT Mark registered on December 23, 2008. Petitioner’s Section 8 and 15 Declarations were acknowledged and accepted on July 12, 2014, wherein Petitioner’s INSTINCT Mark is now incontestable.

4. Respondent Petnology USA, LLC (“Respondent”) was a Florida limited liability company, with a last-known place of business at Unit A, 825 N.E. 2nd Ave., Ft. Lauderdale, FL 33304. The attorney of record for Respondent is JungJin Lee, Lee, Lee & Associates, P.C., 2531 Jackson Road, Suite 234, Ann Arbor, Michigan 48103

5. On March 9, 2011, Respondent filed an application on the Principal Register for its NATURAL INSTINCT Mark for the following goods: cat food in International Class 031. This application was assigned Serial Number 85/262,393.

6. Respondent’s claimed dates of first use and first use in commerce were March 1, 2011, nearly five years after the priority date for Petitioner’s INSTINCT Mark.

7. On information and belief, Respondent dissolved and discontinued its business in 2012, as shown in Exhibit 1 hereto, namely a true and accurate copy of Articles of Dissolution filed by Respondent with the Florida Secretary of State on September 19, 2012.

8. Respondent’s NATURAL INSTINCT Mark registered, despite Respondent’s prior dissolution, on February 11, 2014.

9. On information and belief, Respondent has discontinued use of the NATURAL INSTINCT Mark and Respondent does not intend to resume the use of the NATURAL INSTINCT Mark for Respondent’s goods.

10. On information and belief, Respondent has abandoned its NATURAL INSTINCT Mark.

11. Petitioner believes and alleges that continued existence of Registration No. 4,479,531 on the Principal Register will be a continued source of damage and injury to Petitioner in that the existence of said registration is likely to result in confusion among customers and in that Petitioner may be unable to obtain registrations for its other INSTINCT-based Marks based on the continued existence of Registration No. 4,479,531.

WHEREFORE, Petitioner M.I. Industries, Incorporated believes that it is being and will continue to be damaged by the continued existence of Registration No. 4,479,531, and prays that said Registration No. 4,479,531 be cancelled and that this Petition for Cancellation be sustained in favor of Petitioner.

Please recognize as attorneys for Petitioner in the proceeding Michael J. Hickey, Frank B. Janoski, Kirk A. Damman, Bridget G. Hoy, and Benjamin J. Siders (members of the Bar of the State of Missouri) and the firm of Lewis, Rice & Fingersh, L.C., Box IP Department, 600 Washington Avenue, Suite 2500, St. Louis, Missouri 63101.

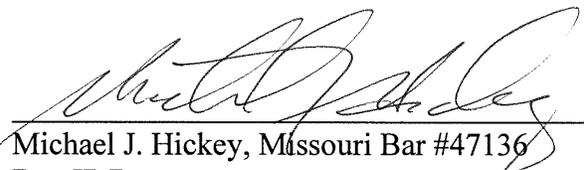
Please address all correspondence and telephonic communication concerning this Petition for Cancellation to:

Michael J. Hickey, Esq.
Lewis, Rice & Fingersh, L.C.
Box IP Department
600 Washington Avenue, Suite 2500
St. Louis, Missouri 63101

Dated: September 4, 2014

Respectfully submitted,

LEWIS, RICE & FINGERSH, L.C.

By: 
Michael J. Hickey, Missouri Bar #47136
Box IP Department
600 Washington Avenue, Suite 2500
St. Louis, Missouri 63101
(314) 444-7600

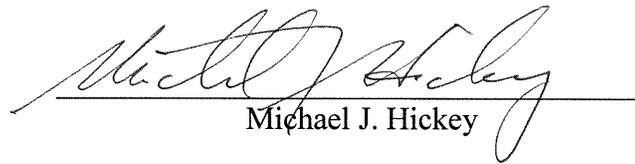
*Attorneys for the Petitioner M.I. Industries,
Incorporated*

CERTIFICATE OF SERVICE

I hereby certify that, on September 4, 2014, I caused a true copy of the foregoing PETITION FOR CANCELLATION to be sent via First Class Mail, postage prepaid, to:

Petnology USA, LLC
Unit A, 825 N.E. 2nd Ave.
Ft. Lauderdale, FL 33304

Attorney of Record for Respondent:
JungJin Lee
Lee, Lee & Associates, P.C.
2531 Jackson Road, Suite 234
Ann Arbor, Michigan 48103


Michael J. Hickey

L10000035877

(Requestor's Name)

(Address)

(Address)

(City/State/Zip/Phone #)

PICK-UP WAIT MAIL

(Business Entity Name)

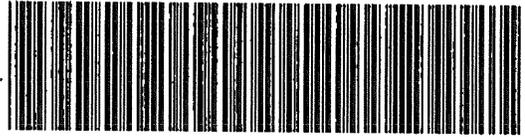
(Document Number)

Certified Copies _____ Certificates of Status _____

Special Instructions to Filing Officer:

Office Use Only

EXHIBIT 1



100239611461

09/19/12--01008--005 **30.00

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

12 SEP 19 PM 12:00

FILED

B. BOSTICK
SEP 20 2012
EXAMINER

COVER LETTER

TO: Registration Section
Division of Corporations

SUBJECT: PETNOLOGY USA, LLC
(Name of Limited Liability Company)

The enclosed Articles of Dissolution and fee(s) are submitted for filing.

Please return all correspondence concerning this matter to the following:

WILLIAM J TIMAR, EA
(Name of Person)

QUICKPRO CONSULTING, INC
(Firm/Company)

1369 E SAMPLE RD
(Address)

POMPANO BEACH, FL 33064
(City/State and Zip Code)

For further information concerning this matter, please call:

RICARDO SALGUERO at (305) 733-7823
(Name of Person) (Area Code & Daytime Telephone Number)

Enclosed is a check for the following amount:

\$25.00 Filing Fee

30.00 Filing Fee &
Certificate of Status

\$55.00 Filing Fee &
Certified Copy
(additional copy is enclosed)

\$60.00 Filing Fee,
Certificate of Status &
Certified Copy
(additional copy is enclosed)

MAILING ADDRESS:
Registration Section
Division of Corporations
P.O. Box 6327
Tallahassee, FL 32314

STREET/COURIER ADDRESS:
Registration Section
Division of Corporations
Clifton Building
2661 Executive Center Circle
Tallahassee, FL 32301

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

12 SEP 19 PM 12:00

FILED

**ARTICLES OF DISSOLUTION
FOR
A LIMITED LIABILITY COMPANY**

1. The name of a limited liability company is

PETNOLOGY USA, LLC

2. The Articles of Organization were filed on 04/02/2010

and assigned document number

L10000035877

3. The date the dissolution was approved: 8/28/2012

4. A description of occurrence that resulted in the limited liability company's dissolution pursuant to section 608.441, Florida Statutes, (copy 608.441 on back cover letter).

AFTER CONSIDERABLE INVESTMENT BY THE MANAGING PARTNER,
A SECURE WHOLESALE CUSTOMER COULD NOT BE ESTABLISHED.
A DECISION WAS MADE TO DISCONTINUE THE BUSINESS.

5. CHECK ONE:

- All debts, obligations and liabilities of the limited liability company have been paid or discharged.
-OR-
 Adequate provision has been made for the debts, obligations and liabilities pursuant to s. 608.4421.

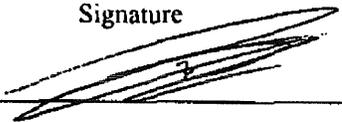
6. All remaining property and assets have been distributed among its members in accordance with their respective rights and interests.

7. CHECK ONE:

- There are no suits pending against the company in any court.
-OR-
 Adequate provision has been made for the satisfaction of any judgment, order or decree which may be entered against it in any pending suit.

Signatures of the members having the same percentage of membership interests necessary to approve the dissolution:

Signature


Jose Davila

Printed Name

PABLO R SALGUERO
JOE GABRIEL DAVILA JATIVA

FILING FEE: \$25.00

FILED
12 SEP 19 10:12:00
CLERK OF DISTRICT COURT
TALLAHASSEE, FLORIDA