



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

HEALTHY DIRECTIONS, LLC.)
)
Petitioner,)
)
v.)
)
CELEBRUS, LLC DBA ARIIX)
)
Registrant.)
_____)

Cancellation No. _____
Registration No. 4570100
OMEGA-Q

#85838 775

Attorney's Reference: 49864-374418

PETITION FOR CANCELLATION

In the matter of the Registration No. 4570100 for the trademark OMEGA-Q owned by Celebrus, LLC ("Registrant"), and issued on the Supplemental Register on July 15, 2014.

Healthy Directions, LLC. ("Petitioner"), a Delaware corporation with its address at 6710A Rockledge Drive, Bethesda, Maryland, 20817 believes that it is damaged by Registration No. 4570100 and hereby seeks cancellation of the same:

As grounds for cancellation it is alleged that:

1. Petitioner, itself and through its related companies and predecessors in interest, is now, and for many years has been, engaged in the business of providing dietary supplements and nutritional supplements.
2. Petitioner itself and through its predecessors in interest has used the trademark Omega Q Plus, among other marks incorporating the term OMEGA Q in connection with and to identify its goods as described in Paragraph 1.

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3. Petitioner, itself and through its predecessors in interest has used the trademark Omega Q Plus in connection with and to identify nutritional supplements since at least as early as March 2007.
4. Petitioner is the owner of U.S. Trademark Registration No. 3295413, filed December 30, 2005 and issued September 18, 2007 for the mark Omega Q Plus covering “nutritional supplements.” Said registration is subject to the incontestability provisions of the U.S. Trademark Act.
5. The filing date for Registration No. 3295413 predates the date of first use alleged by Registrant for its mark as stated in Registration No. 4570100.
6. The registration date for Registration No. 3295413 predates the date of first use alleged by Registrant for its mark as stated in Registration No. 4570100.
7. The date of first use alleged by Petitioner predates the date of first use alleged by Registrant for its mark as stated in Registration No. 4570100.
8. Registrant did not use the trademark OMEGA-Q in commerce in the United States for the goods described in its registration prior to July 4, 2011.
9. Registrant did not use the trademark OMEGA-Q in commerce in the United States for the goods described in its registration prior to December 30, 2005.
10. Registrant did not use the trademark OMEGA-Q in commerce in the United States for the goods described in its registration prior to March 2007.
11. Registrant did not use the trademark OMEGA-Q in commerce in the United States for the goods described in its registration prior to September 18, 2007.

12. Petitioner has used the term OMEGA Q as a trademark or as a part of a trademark in the United States since prior to any use of the mark OMEGA-Q in the United States that may be alleged or relied upon by Registrant.
13. The goods for which Registrant has registered the mark nutritional supplements and the goods listed in Petitioner's Registration No. 3295413 are nutritional supplements.
14. The trademark OMEGA-Q registered by the Registrant is substantially similar to Petitioner's trademark Omega Q Plus.
15. Consumers are likely to be confused and to mistakenly believe that Registrant's goods offered under its OMEGA-Q mark either emanate from or are licensed by, sponsored by, or associated with Petitioner, or that they incorporate Petitioner's products or that the Petitioner's goods either emanate from the Registrant or are licensed by, sponsored by, or associated with Registrant, or that they incorporate Registrant's products.
16. Registrant was aware of Petitioner and Petitioner's use of Omega Q Plus at the time Registrant adopted the trademark OMEGA-Q.
17. If the Registrant were permitted to maintain this registration for its mark and goods, confusion among consumers resulting in damage and injury to Petitioner would be caused by virtue of the similarity between Registrant's trademark and Petitioner's trademark and the related nature of the goods covered by those marks. Any defect, objection or fault found with Registrant's goods would reflect upon, seriously injure the reputation and value that Petitioner has established under its trademark.

WHEREFORE, Petitioner prays that Registration No. 4570100 be cancelled, and that this Petition for cancellation be sustained in favor of the Petitioner.

This Petition for Cancellation is submitted together with the statutory filing fee of \$300.00 (Class 5). Should any additional fee be required, please charge the same to our Account No. 22-0261 and notify the undersigned accordingly.

Petitioner appoints Mark B. Harrison, Rebecca Liebowitz, Jeremy Klass and Halle Markus along with the law firm of Venable LLP, P.O. Box 34385, Washington, D.C. 20043-9998 to transact all business on its behalf in connection with this Petition for cancellation.

Respectfully submitted,



Date: November 4, 2014

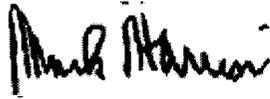
By: _____

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Petition for Cancellation was served by U.S. Mail, first class, postage prepaid, on this 4th day of November, 2014 on the Registrant at the address listed in the current U.S. Trademark Office Records as follows:

Celebrus, LLC, DBA ARIIX
563 West 500 South, Suite 340
Bountiful, UTAH 84010



Mark Harrison