

ESTTA Tracking number: **ESTTA650906**

Filing date: **01/20/2015**

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	Performance Brands, Inc.		
Entity	Corporation	Citizenship	Florida
Address	905 Shotgun Road Sunrise, FL 33326 UNITED STATES		

Attorney information	Robert M. Schwartz Robert M. Schwartz, P.A. PO Box 221470 Hollywood, FL 33022 UNITED STATES litigation@patentmiami.com Phone:954-924-0707		
----------------------	--	--	--

**Registration Subject to Cancellation**

Registration No	3880692	Registration date	11/23/2010
Registrant	The Procter & Gamble Company One Procter & Gamble Plaza Cincinnati, OH 45202 UNITED STATES		

**Goods/Services Subject to Cancellation**

Class 003. First Use: 2010/01/00 First Use In Commerce: 2010/01/00 All goods and services in the class are cancelled, namely: hair shampoos and conditioners
---

**Grounds for Cancellation**

Abandonment	Trademark Act section 14
-------------	--------------------------

Attachments	Petition to Cancel PHYSIQUE.pdf(11273 bytes )
-------------	---

**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	/robert m schwartz/
Name	Robert M. Schwartz
Date	01/20/2015

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

In re Registration No. 3,880,692  
For the Mark: PHYSIQUE  
Registered on November 23, 2010

Performance Brands, Inc. :  
Petitioner, : Cancellation No. \_\_\_\_\_  
v. : Petition to Cancel  
The Procter & Gamble Company :  
Registrants. :

PETITION TO CANCEL

Performance Brands, Inc., a Florida corporation, located and doing business at 905 Shotgun Road, Sunrise, Florida 33326, believes that it is being damaged and will be damaged by the above-identified registration, and hereby petitions to cancel the same pursuant to 15 U.S.C. § 1064 and 37 C.F.R. § 2.111.

The grounds for cancellation are as follows:

1. To the best of petitioner's knowledge, the name and address of the current owner of U.S. Registration No. 3,880,692 for PHYSIQUE is The Procter & Gamble Company, One Procter & Gamble Plaza, Cincinnati, Ohio 45202.

2. Registrant's certificate of registration was issued on November 23, 2010 in International Class 3 for "hair shampoos and conditioners."

3. Petitioner is the applicant in U.S. Trademark Application Serial No. 86/318,422, filed on June 24, 2014 for the mark PHYSIQUE BRONZE for "self-tanning preparations" in International Class 3.

4. In an Office Action dated July 18, 2014, the U.S. Patent and Trademark Office refused registration of Petitioner's above-referenced application for the mark PHYSIQUE BRONZE on the grounds of likelihood of confusion with Registrant's mark.

5. Upon information and belief, Registrant has abandoned the registered mark PHYSIQUE in that it has discontinued use of the mark with intent not to resume such use.

6. For the reasons set forth above, Petitioner is being damaged by U.S. Registration No. 3,880,692 for the mark PHYSIQUE.

WHEREFORE, Petitioner prays that this petition be granted and that U.S. Registration No. 3,880,692 be cancelled.

Date: January 20, 2015

Respectfully submitted,

s/robert m. schwartz/  
Robert M. Schwartz, Esq.  
Robert M. Schwartz, P.A.  
Attorney for Petitioner  
2445 Hollywood Boulevard  
Hollywood, FL 33020  
Telephone: (954) 924-0707  
Facsimile: (954) 924-0717  
Email: litigation@patentmiami.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by first class mail on Registrant The Procter & Gamble Company, One Procter & Gamble Plaza, Cincinnati, Ohio 45202 on this 20th day of January, 2015.

s/robert m. schwartz/  
Robert M. Schwartz, Esq.