

ESTTA Tracking number: **ESTTA653935**

Filing date: **02/04/2015**

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	Avion Pharmaceuticals, LLC		
Entity	Limited Liability Company	Citizenship	Delaware
Address	8505 Dunwoody Place Atlanta, GA 30350 UNITED STATES		

Attorney information	Neil C. Jones Nelson Mullins Riley & Scarborough LLP 100 North Tryon Street, 42nd Floor Charlotte, NC 28202 UNITED STATES ip@nelsonmullins.com Phone:803.799.2000		
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Registration Subject to Cancellation

Registration No	3893420	Registration date	12/21/2010
Registrant	SHIONOGI INC. 300 CAMPUS DRIVE, SUITE 300 FLORHAM PARK, NJ 07932 UNITED STATES		

Goods/Services Subject to Cancellation

Class 005. First Use: 1967/11/22 First Use In Commerce: 1967/11/22 All goods and services in the class are cancelled, namely: cough-cold preparations, namely, cough drops, cough syrups, cough treatment preparations and preparations for treating colds and coughs
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Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	RONDEC Cancellation Petition_1_.pdf(103603 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	/Neil C. Jones/
Name	Neil C. Jones
Date	02/04/2015

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

In the Matter of trademark Registration No. 3,893,420
For the mark: RONDEC
Date registered: December 21, 2010

Avion Pharmaceuticals, LLC)	
	Petitioner,)
)	
v.)	Cancellation No.: _____
)	
Shionogi Inc.)	
)	
	Registrant.)
)	
_____)	

PETITION TO CANCEL

Avion Pharmaceuticals, LLC (“Avion”), a limited liability company organized and existing under the laws of the State of Delaware, having a principal place of business at 8505 Dunwoody Place, Atlanta, Georgia 30350, hereby petitions to cancel the registration of Shionogi Inc. (“Shionogi”) for the mark RONDEC registered for “cough-cold preparations, namely, cough drops, cough syrups, cough treatment preparations and preparations for treating colds and coughs” in International Class 005, U.S. Trademark Registration No. 3,893,420, registered on December 21, 2010 (“420 Registration for RONDEC”).

Petitioner states the following grounds in support of cancellation:

1. Petitioner is actively engaged in the field of pharmaceutical sales, marketing, manufacturing, and distribution management and has an interest in maintaining the quality and integrity of its products, including without limitation, the trademarks used in connection with those products.

2. Petitioner is the owner of U.S. Trademark Application Serial No. 86340387 for the trademark RONDEC, filed on July 17, 2014, and alleges a bona fide intention to use the mark in commerce under Section 1(b) of the Lanham Act.

3. The U.S. Patent and Trademark Office has rejected Petitioner's application to register the trademark RONDEC based on a likelihood of confusion with the '420 Registration for RONDEC, and thus, Petitioner is being damaged by Shionogi's continued registration of the mark RONDEC.

4. Upon information and belief, Registrant has ceased use of the mark RONDEC in connection with the goods identified in U.S. Trademark Registration No. 3,893,420 and intends not to resume such use.

5. As a result of its non-use of the mark RONDEC in connection with the goods identified in U.S. Trademark Registration No. 3,893,420 with an intention not to resume use, Registrant has abandoned the mark RONDEC with respect to those goods within the meaning of 15 U.S.C. §1127.

WHEREFORE, Petitioner prays that the registration for U.S. Reg. No. 3,893,420 be cancelled in its entirety, and for such other and further relief as the Trademark Trial and Appeal Board may deem just and proper.

The filing fees required by 37 C.F.R. 2.6(a)(16) for cancellation of U.S. Reg. No. 3,893,420 for all goods in International Class 005 are enclosed herewith.

NELSON MULLINS RILEY & SCARBOROUGH, L.L.P.

Dated: February 4, 2015

By: /Neil C. Jones/

Neil C. Jones
100 North Tryon Street, 42nd Floor
Charlotte, NC 28202
Tel. (803) 799-2000
Fax (803) 255-9831

Attorney for Petitioner Avion Pharmaceuticals, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing PETITION TO CANCEL has been served on Shionogi Inc., by mailing said copy on February 4, 2015, via First Class Mail, postage prepaid to the current correspondence address as listed in the Trademark Applications and Registrations Retrieval (TARR) system for Registration No. 3,893,420, which current correspondence address is listed as:

Edward T. White
LeClair Ryan
951 East Byrd Street
Riverfront Plaza, East Tower
Richmond, VA 23219

with a copy mailed by First Class Mail, postage prepaid on February 4, 2015 to:

Shionogi Inc.
300 Campus Drive, Suite 300
Florham Park, NJ 07932

Dated: February 4, 2015

/Deborah Anne Weiner/