

ESTTA Tracking number: **ESTTA662440**

Filing date: **03/23/2015**

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	HIMG SERAMIK VE MEDIKAL KOMPOZIT SAN TIC LTD STI		
Entity	Corporation	Citizenship	Turkey
Address	Degirmenyolu Caddesi, Yuksel Ucuncu Is Merkezi 23/7 Icerenkoy Ataseh#r Istanbul, 34752 TURKEY		

Domestic Representative	Gokalp Bayramoglu Bayramoglu Law Offices LLC 8275 S Eastern Ave Suite 200-611 Las Vegas, NV 89123 UNITED STATES gokalp@bayramoglu-legal.com
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Registration Subject to Cancellation

Registration No	4573180	Registration date	07/22/2014
Registrants	HIMG, INC 1778 LANTANA DR MINDEN, NV 89423 UNITED STATES EBI, Ltd 1751 Robin Hood Rd Vista Vista, CA 92084 UNITED STATES		

Goods/Services Subject to Cancellation

Class 017. First Use: 2014/04/22 First Use In Commerce: 2014/04/22 All goods and services in the class are cancelled, namely: light and self-curing repair materials, namely, nano-acrylic and micro acrylic based and polyurethane materials sold in syringes and other containers, for repairing granite, stone, acrylic, and sanitary ceramics such as toilets and sinks
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Grounds for Cancellation

The registration is being used by, or with the permission of, the registrant so as to misrepresent the source of the goods or services on or in connection with which the mark is used.	Trademark Act section 14
Priority and likelihood of confusion	Trademark Act section 2(d)

Related Proceedings	Lawsuit in Southern District of California , Case No. 3:14-cv-02274-JAH- RBB
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Mark Cited by Petitioner as Basis for Cancellation

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	HIMG, HIMG SERAMIK		
Goods/Services	light and self-curing repair materials, namely, nano-acrylic and micro acrylic based and polyurethane materials sold in syringes and other containers, for repairing granite, stone, acrylic, and sanitary ceramics such as toilets and sinks		

Attachments	HIMG Cancellation Petition.pdf(77076 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	/Gokalp Bayramoglu/
Name	Gokalp Bayramoglu
Date	03/23/2015

1
2 **IN THE UNITED STATES**
3 **PATENT AND TRADEMARK OFFICE BEFORE THE**
4 **TRADEMARK TRIAL AND APPEAL BOARD**
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6 In the matter of trademark Registration No 4573180

7 For the mark HIMG

8 Date registered July 22, 2014

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10 HIMG SERAMIK VE MEDIKAL KOMPOZIT SAN TIC LTD STI

11 v.

12 EBI, Ltd CORPORATION CALIFORNIA 1751 Robin Hood Rd Vista
13 Vista CALIFORNIA 92084,

14 HIMG, INC CORPORATION NEVADA 1778 LANTANA DR
15 MINDEN NEVADA 89423

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17
18 **PETITION TO CANCEL**
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20 HIMG SERAMIK VE MEDIKAL KOMPOZIT SAN TIC LTD
21 STI, a corporation orginized and existing under the laws of
22 Turkey, located at Degirmenyolu Caddesi, Yuksel Ucuncu Is
23 Merkezi 23/7 , Icerenkoy, Atasehir, 34752, Istanbul / Turkey,
24 believes that it will be damaged by the continued registration of

1 U.S. Registration No. 4573180, issued on July 22, 2014 to EBI,
2 Ltd Corporation and HIMG Inc Corporation and hereby
3 petitions to cancel the same pursuant to Section 14(3) of the
4 Lanham Trademark Act of 1946, 15 U.S.C. § 1064(3).

5
6 1. Since at least as early as December 2012, and prior
7 to any date upon which Petitioner can rely, Petitioner has
8 used the mark “HIMG” and variants thereof, including HIMG,
9 HIMG SERAMIK on different products in the United States.
10 Petitioner invested a substantial amount of time, effort and
11 money in promoting the Petitioner’s HIMG marks. As a
12 result, the term HIMG has become distinctive of Petitioner’s
13 goods and has come to represent enormous goodwill for
14 Petitioner.

15 2. On January 25, 2013 Registrant HIMG, INC
16 CORPORATION filed an application to register the mark
17 HIMG for light and self-curing repair materials, namely,
18 nano-acrylic and micro acrylic based and polyurethane
19 materials sold in syringes and other containers, for repairing
20 granite, stone, acrylic, and sanitary ceramics such as toilets
21 and sinks in International Class 017 reciting a date of first

1 use of April 22, 2014. On information and belief, applicant
2 made no use of this mark prior to April 22, 2014. The
3 application resulted in the registration at issue, Reg. No.
4 4573180 which was registered on July 22, 2014.

5 3. Registrant's HIMG is highly similar in sound,
6 meaning, and commercial impression to Petitioner's HIMG
7 marks, and will be used on goods that are identical the very
8 same goods on which Petitioner uses its marks. Based on the
9 similarities of the marks and identity of the goods, the public
10 is likely to associate the goods sold by Registrant under the
11 mark HIMG with Petitioner or with Petitioner's goods or to
12 believe that Petitioner's goods are sponsored, endorsed or
13 licensed by Petitioner, or that there is some relationship
14 between Registrant and Petitioner.

15 4. For the above reasons, any use of the mark HIMG
16 by Registrant is likely to cause confusion, cause mistake or
17 deceive the public, and cause the public to believe that the
18 goods sold under the HIMG mark emanate from or are
19 otherwise sponsored by or endorsed by Petitioner, in violation
20 of the Lanham Act, 15 U.S.C. § 1052(d).

21 5. Further, Registrant's use and registration of the

1 HIMG mark dilutes Petitioner's HIMG marks.

2 6. By reason of the foregoing, Petitioner will be
3 damaged by the continued registration of the HIMG to
4 Registrant.

5
6 WHEREOF, Petitioner requests that Registration No.
7 4573180 be cancelled. The cancellation fee in the
8 amount of \$300.00 per class is enclosed. Should that
9 amount be insufficient, please charge our Deposit
10 Account No. 506203.

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12 Dated: March 20, 2015

13 Respectfully submitted,

14
15 BAYRAMOGLU LAW OFFICES LLC

16 By: /Gokalp Bayramoglu/

17 Gokalp Bayramoglu

18 Attorney for Petitioner

19 8275 S Eastern Ave

20 Suite 200-611

21 Las Vegas Nevada 89123

1 CERTIFICATE OF SERVICE

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3 I hereby certify on this 20th day of March 2015, the foregoing
4 Petition for Cancellation was served by our office, by mailing
5 same first class and postage prepaid, on the following
6 designated correspondent, as set forth in the records of the U.S.
7 Patent and Trademark Office. Furthermore, as the record of the
8 U.S. Patent and Trademark Office shows, Correspondent agreed
9 to correspond via email. Therefore a copy of the Petition for
10 Cancellation was also sent to Correspondent via email.

11
12 MARC BAUMGARTNER
13 BAUMGARTNER PATENT LAW
14 3439 NE SANDY BLVD STE 285
15 PORTLAND, OREGON 97232-1959
16 UNITED STATES

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18 marc@bapalaw.com

19 /Gokalp Bayramoglu/

20 Gokalp Bayramoglu

21 Attorney for Petitioner