

ESTTA Tracking number: **ESTTA681755**

Filing date: **07/03/2015**

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	Jeffrey Kaplan		
Entity	Individual	Citizenship	United States
Address	PO Box 11106 Fort Lauderdale, FL 33339 UNITED STATES		

Correspondence information	Jeffrey Kaplan PO Box 11106 Fort Lauderdale, FL 33339 UNITED STATES eggcream@earthlink.net Phone:9542033097
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Registration Subject to Cancellation

Registration No	1556500	Registration date	09/19/1989
Registrant	MSD CONSUMER CARE, INC. 3030 JACKSON AVENUE MEMPHIS, TN 38151 UNITED STATES		

Goods/Services Subject to Cancellation

Class 005. First Use: 1966/10/13 First Use In Commerce: 1966/10/13 All goods and services in the class are cancelled, namely: ANTIHISTAMINE/NASAL DECONGEST-ANT
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Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	PetitiontocancelDrixoral.pdf(88445 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	/Jeffrey Kaplan/
Name	Jeffrey Kaplan
Date	07/03/2015

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

In the matter of Trademark Registration No. 1556500
For the Mark DRIXORAL

Jeffrey Kaplan,

Cancellation No: Pending

Petitioner,

v.

July 3rd 2015

MSD Consumer Care Inc.

Respondent

PETITION FOR CANCELLATION

1. Jeffrey Kaplan (hereinafter the “Petitioner”) is an individual whose is located and is doing business at P.O.B. 11106 Fort Lauderdale, Florida 33339. To the best of Petitioner’s knowledge, MSD Consumer Care Inc. (hereinafter the “Respondent”) is a Delaware Corporation with its place of business at 3030 Jackson Avenue Memphis, Tennessee 38151

2. The Petitioner believes it is or will be damaged by Respondent’s U.S. Trademark Registration No. 1556500 for the mark DRIXORAL for Antihistamine/Nasal Decongestant which was registered on September 19th 1989.

3. The above-identified Petitioner believes that it is, or will be, damaged by the above identified registration and hereby petitions to cancel the same. The grounds for this cancellations is as follows:

ABANDONMENT UNDER SECTION 45 OF THE TRADEMARK ACT

4. On information and belief, Respondent has abandoned Registration No. 1556500 by discontinuing use of the mark for a period of three (3) years or more with no intent to resume use.

5. Petitioner is likely to be damaged by continuance of said registration in that Petitioner intends use of the same or similar mark and will be impaired by the continued registration of said abandoned mark of Respondent.

6. Petitioner believes if Respondents mark remains on the Principal Register his application for the mark DRIXORAL will be refused under Section 2(d) based on a likely of confusion rejection by the USPTO.

7. Petitioner intends to use and register the mark DRIXORAL for Decongestants International Class 005, by virtue of U.S. Serial No. 86675279 filed on June 26th 2015.

8. Concurrent use and registration of the mark by the Respondent and Petitioner is likely to result in irreparable damage to Petitioner's reputation and good will if Petitioner claims ownership of the Petitioner's mark DRIXORAL in U.S. Serial No. 86675279.

9. Petitioners and Respondents application and registrations are for identical marks and identify the same goods, that the marks are used in connection with.

10. If the Respondent is permitted to retain the registrations sought to be cancelled, a cloud would be placed on Petitioner's title in and to its trademark PUSS'N BOOTS, and on its right to enjoy the free and exclusive use thereof in connection with the sale of its goods and services, all to the great injury of Petitioner.

WHEREFORE, Petitioner respectfully requests that its Petition be granted in its entirety and that Registration No. 1556500 DRIXORAL be cancelled.

Respectfully Submitted,

/ Jeffrey Kaplan/
POB 11106
Ft. Lauderdale, Florida 33339

CERTIFICATE OF MAILING

It is hereby certified that the attached Petition for Cancellation is being deposited

First Class Postage Prepaid with the U.S. Postal Service addressed to:

MSD Consumer Care Inc. Att: Legal Dept. 3030 Jackson Avenue Memphis, Tennessee
38151

/Jeffrey Kaplan/
7-3-15