

ESTTA Tracking number: **ESTTA690328**

Filing date: **08/18/2015**

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    | Law Offices of Morland C. Fischer                           |             |            |
| Entity  | sole practitioner   | Citizenship | California |
| Address | 2030 Main Street #1300<br>Irvine, CA 92614<br>UNITED STATES |             |            |

|                      |   |  |  |
|----------------------|---|--|--|
| Attorney information | Morland C. Fischer<br>Law Offices of Morland C. Fischer<br>2030 Main Street #1300<br>Irvine, CA 92614<br>UNITED STATES<br>morlandf@earthlink.net Phone:949-476-0600 |  |  |
|----------------------|---|--|--|

**Registration Subject to Cancellation**

|                 |  |                   |            |
|-----------------|--|-------------------|------------|
| Registration No | 4504512  | Registration date | 04/01/2014 |
| Registrant      | Younique<br>795 S Main Street<br>Pleasant Grove, UT 84062<br>UNITED STATES |                   |            |

**Goods/Services Subject to Cancellation**

|  |
|--|
| Class 003. First Use: 2012/07/01 First Use In Commerce: 2012/11/01<br>All goods and services in the class are cancelled, namely: Make-up |
|--|

**Grounds for Cancellation**

|                                      |                            |
|--------------------------------------|----------------------------|
| Priority and likelihood of confusion | Trademark Act section 2(d) |
|--------------------------------------|----------------------------|

**Mark Cited by Petitioner as Basis for Cancellation**

|                      |          |                       |            |
|----------------------|----------|-----------------------|------------|
| U.S. Application No. | 86446733 | Application Date      | 11/06/2014 |
| Registration Date    | NONE     | Foreign Priority Date | NONE       |
| Word Mark            | YOUNIQUE |                       |            |

|                     |   |
|---------------------|---|
| Design Mark         |   |
| Description of Mark | NONE  |
| Goods/Services      | <p>Class 003. First use: First Use: 2006/09/01 First Use In Commerce: 2006/09/01<br/> Non-medicated cosmetics, namely, facialcleansers, skin moisturizing creams, lo-<br/> tions and toners, facial masks and scrubs, anti-bruising gels and creams,<br/> makeup, makeup remover, skin foundation, eye cream and eyelash conditioner</p> <p>Class 005. First use: First Use: 2006/09/01 First Use In Commerce: 2006/09/01<br/> Cosmetics containing a medication, namely, facial cleansers, skin moisturizing<br/> creams and lotions, acne creams and pre-saturated pads containing acne med-<br/> ication, liquid eyelash conditioners and growth enhancers, skin lightening<br/> creams, post-laser burn creams, sun block and sun screen liquids, eye creams,<br/> facial masks,shaving cream and skin bleaching creams</p> |

|             |   |
|-------------|---|
| Attachments | 86446733#TMSN.png( bytes )<br>TTAB Petition.pdf(1048205 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 | /Morland C. Fischer/ |
| Name      | Morland C. Fischer   |
| Date      | 08/18/2015           |

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

In the matter of Registration No.: 4,504,512  
Date of Registration: April 1, 2014  
Mark: YOUNIQUE PRODUCTS

Mark M. Youssef, )  
Petitioner )  
 )  
v. )  
 )  
Younique, LLC, )  
Registrant )  
\_\_\_\_\_ )

Cancellation No. \_\_\_\_\_

Trademark Trial and Appeal Board  
P. O. Box 1451  
Alexandria, VA 22313-1451

PETITION FOR CANCELLATION

Mark M. Youssef (hereinafter "Petitioner"), an individual and a citizen of the United States, having a principal place of business at 1551 Ocean Avenue, Santa Monica, California 90401, believes that he has been and will continue to be damaged by the existence of Registration No. 4,504,512 registered in International Class 3 on April 1, 2014 by Younique, LLC, (hereinafter "Respondent") with regard to make-up. Petitioner therefore asks that said registration be canceled.

As the grounds for making this Petition, Petitioner alleges as follows:

1. Petitioner is the owner of:

(a) U.S. Trademark Application Serial No. 86/446,733 for the mark YOUNIQUE as applied to: Non-medicated cosmetics, namely, facial cleansers, skin moisturizing creams, lotions and toners, facial masks and scrubs, anti-bruising gels and creams, makeup, makeup remover, skin foundation, eye cream and eyelash conditioner (in International Class 3); and Cosmetics containing a medication, namely, facial cleansers, skin moisturizing creams and lotions, acne creams and pre-saturated pads containing acne medication, liquid eyelash conditioners and growth enhancers, skin lightening creams, post-laser burn creams, sun block and sun screen liquids, eye creams, facial masks, shaving cream and skin bleaching creams (in International Class 5); and

(b) U.S. Service Mark Registration No. 3,543,530 for the mark YOUNIQUE as applied to: Cosmetic surgery (in International Class 44).

2. Registrant is the owner of U.S. Trademark Registration No. 4,504,512 for the mark YOUNIQUE PRODUCTS as applied to: Make-up (in International Class 3).

3. Registrant with a last know business address in Pleasant Grove, Utah is the registered owner of U.S. Trademark Registration No. 4,504,512 for the mark YOUNIQUE PRODUCTS as applied to: Make-up (in International Class 3).

4. Registrant was required by the Patent and Trademark Office to include as a limitation to its registration the following disclaimer: No claim is made to the exclusive right to use “PRODUCTS” apart from the mark as shown.

5. On information and belief, Registrant’s use of the registered mark YOUNIQUE PRODUCTS creates a likelihood of confusion between its mark and the Petitioner’s mark YOUNIQUE.

6. Registrant’s goods are identified as “make-up” which, on information and belief, is a non-medicated cosmetic and/or a medicated cosmetic applied to the face of a user. Accordingly, Registrant is providing and marketing goods which are identical and substantially identical to the goods provided and marketed by the Petitioner.

7. Petitioner’s pending Application No. 86/446,733 claims a date of first use for his goods as early as September 1, 2006.

8. Registrant’s Registration No. 4,504,512 claims dates of first use for its goods of July 1, 2012 and November 1, 2012 in commerce.

9. In view of Petitioner’s long prior use of his YOUNIQUE trademark, Petitioner clearly has priority over the Registrant with respect to use of the mark YOUNIQUE for non-medicated and medicated cosmetics, namely, make-up.

10. On February 28, 2015, the Patent and Trademark Office issued a refusal to register the Petitioner’s mark YOUNIQUE in his pending Application No. 86/446,733. The Examining

Attorney in this case found a likelihood of confusion between the Registrant's YOUNIQUE PRODUCTS mark in its Registration No. 4,504,512 and the Petitioner's YOUNIQUE mark.

11. If Registrant's aforementioned cited registration is not canceled, Petitioner's ability to register his YOUNIQUE trademark will be impeded, and Petitioner will be injured thereby.

12. Accordingly, Petitioner hereby requests that the Board cancel the Registrant's Registration No. 4,504,512.

13. In this regard, cancellation of Registration No. 4,504,512 will militate against the confusion created by Registrant's use of the substantially similar mark YOUNIQUE PRODUCTS on goods which are identical and closely related to goods of the Petitioner under the mark YOUNIQUE.

14. Cancellation of the Registrant's aforesaid registration will also remove the basis for the Examining Attorney's finding of a likelihood of confusion between the mark YOUNIQUE PRODUCTS in Registrant's cited registration and the Petitioner's mark YOUNIQUE in his pending application.

WHEREFORE, Petitioner prays that this Petition for Cancellation be granted and that U.S. Trademark Registration No. 4,504,512 be canceled as requested herein or in a manner consistent with the facts stated above.

The Commissioner is hereby authorized to charge the \$300.00 Petition filing fee to  
Deposit Account No. 08-1310.

Respectfully submitted,



Morland C. Fischer  
Attorney for the Petitioner  
2030 Main Street, Suite 1050  
Irvine, California 92614  
PH: (949) 476-0600  
FAX: (949) 476-0606

August 18, 2015

Dated

