

ESTTA Tracking number: **ESTTA710504**

Filing date: **11/24/2015**

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	Distribuidora Mas Alla LLC		
Entity	Limited Liability Company	Citizenship	New York
Address	91 11 31st Avenue East Elmhurst, NY 11369 UNITED STATES		

Attorney information	Seth Natter Natter & Natter 501 Fifth Avenue New York, NY 10017 UNITED STATES snatter@natterip.com Phone:2128408300		
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Registration Subject to Cancellation

Registration No	4264063	Registration date	12/25/2012
Registrant	Saint Michael Imports Inc. 10919 S.W. 40TH STREET MIAMI, FL 33165 UNITED STATES		

Goods/Services Subject to Cancellation

Class 003. First Use: 2012/04/01 First Use In Commerce: 2012/04/01 All goods and services in the class are cancelled, namely: Colognes, perfumes and cosmetics; Eau de perfume; Liquid perfumes; Oils for perfumes and scents; Perfume; Perfume oils; Perfumed creams; Perfumed powder; Perfumed powders; Perfumed soap; Perfumed soaps; Perfumes; Perfumes and colognes; Perfumes in solid form

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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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	MIEL DE AMOR		
Goods/Services	colognes, perfumes and cosmetics; eau de perfume; liquid perfumes; oils for perfumes and scents; perfume; perfume oils; perfumed powder; perfumed powders; perfumed soap; perfumed soaps; perfumes; perfumes and colognes and perfumes in solid form		

Attachments	Petition for Cancellation-063.11.24.pdf(18576 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	/Seth Natter/
Name	Seth Natter
Date	11/24/2015

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

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Distribuidora Mas Alla Llc	:	:
	:	:
Petitioner,	:	:
	:	:
v.	:	CANCELLATION NO.:
	:	:
Saint Michael Imports Inc.	:	:
	:	:
Registrant.	:	:

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To: Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

PETITION FOR CANCELLATION

Petitioner, Distribuidora Mas Alla Llc, a limited liability company organized under the laws of the State of New York, having an address at 91 11 31St Avenue East Elmhurst NY 11369 by and through its attorneys, Natter & Natter, believes that it is and will continue to be damaged by the existence of Registration No. 4,264,063 for the mark MIEL DE AMOR and hereby petitions to cancel said registration.

The grounds for cancellation are as follows:

1. On December 25, 2012, Registrant obtained Registration No. 4,264,063 on the Principal Register for the mark MIEL DE AMOR in connection with: colognes, perfumes and cosmetics; eau de perfume; liquid perfumes; oils for perfumes and scents; perfume; perfume oils; perfumed creams; perfumed powder; perfumed powders; perfumed soap; perfumed soaps; perfumes; perfumes and colognes; perfumes in solid form, in International Class 3
2. Registration No. 4,264,063 is based upon Application Serial No. 85/617,308 alleging first use of the MIEL DE AMOR mark on April 1, 2012.
3. Petitioner, Distribuidora Mas Alla Llc, through its predecessor in interest, has been using in commerce the mark MIEL DE AMOR in connection with: colognes, perfumes and cosmetics; eau de perfume; liquid perfumes; oils for perfumes and scents; perfume; perfume oils; perfumed powder; perfumed powders; perfumed soap; perfumed soaps; perfumes; perfumes and colognes and perfumes in solid form, in International Class 3, since at least as early as 1997.
4. Petitioner's goods under the mark MIEL DE AMOR are substantially the same as those goods identified in Registration No. 4,264,063 and Petitioner's mark is identical to the mark of Registration No. 4,264,063.

5. Upon information and belief, Registrant's claim of ownership of the MIEL DE AMOR mark in said Application Serial No. 85/617,308 was false and fraudulent and made with the knowledge that it is not the true owner of said mark.

6. Petitioner has priority with respect to the mark at issue in this proceeding. Petitioner, through its predecessor in interest, adopted and commenced usage of the mark MIEL DE AMOR, shown in Registration No. 4,264,063 long before Registrant filed its application for registration, long before first usage of the mark alleged by Registrant and prior to any date that may be claimed by Registrant.

7. Continued existence of Registration No. 4,264,063 creates a serious cloud on Petitioner's continued right to use its MIEL DE AMOR mark.

8. Continued existence of Registration No. 4,264,063 dilutes the capacity of Petitioner's mark to identify goods originating from Petitioner.

9. Continued existence of Registration No. 4,264,063 for the mark MIEL DE AMOR, will cause retailers and the purchasing public to assume erroneously, and to be confused, misled and/or deceived into believing that Registrant is the owner of the MIEL DE AMOR mark and will presumptively deprive Petitioner of the goodwill associated with its MIEL DE AMOR mark and cause irreparable harm, injury and damage to Petitioner.

10. Alternatively, the continued existence of Registration No. 4,264,063 will cause retailers and the public to assume erroneously, and to be confused, misled, and/or deceived that Petitioner's goods originate from Registrant or are endorsed, licensed or sponsored by Registrant, all to Petitioner's irreparable damage.

WHEREFORE, in accordance with 15 USC § 1064, Petitioner requests judgment sustaining this Petition for Cancellation and that Registration No. 4,264,063 be cancelled.

Dated: New York NY
November 24, 2015

Respectfully submitted,
NATTER & NATTER
Attorneys for Petitioner
501 Fifth Avenue
New York NY 10017
Tel: (212) 840-8300
email: s.natter@natteip.com

By /Seth Natter/
Seth Natter

CERTIFICATE OF MAILING

It is hereby certified that on this 24 day of November 2015, a true and correct copy of the within Petition for Cancellation is being mailed, first class, postage prepaid to the Registrant's correspondence address as follows:

Scott D. Smiley
The Concept Law Group Pa.
200 South Andrews Avenue, Suite 100
Fort Lauderdale FL 33301

 /Seth Natter/
Seth Natter