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Filing date: **01/12/2016**

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	JH Specialties Inc.		
Entity	Corporation	Citizenship	United States
Address	301 National Rd., Suite 400 Exton, PA 19341 UNITED STATES		

Attorney information	Matthew H. Swyers, Esq. The Trademark Company, PLLC 344 Maple Avenue West, Suite 151 Vienna, VA 22180 UNITED STATES mswyers@thetrademarkcompany.com Phone:18009068626100		
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Registration Subject to Cancellation

Registration No	4517895	Registration date	04/22/2014
Registrant	American Direct, Inc. 490 ROUTE 46 EAST Fairfield, NJ 07004 UNITED STATES		

Goods/Services Subject to Cancellation

Class 011. First Use: 2013/07/01 First Use In Commerce: 2013/07/01 All goods and services in the class are cancelled, namely: Electric candles; Flameless candles
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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 No.	86692658	Application Date	07/14/2015
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	LUMACANDLE		

Design Mark	LumaCandle
Description of Mark	NONE
Goods/Services	Class 004. First use: First Use: 2007/08/25 First Use In Commerce: 2007/08/25 Battery operated candles

Attachments	86692658#TMSN.png(bytes) Petition to Cancel Reg No 4517895.pdf(177069 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	/Matthew H. Swyers/
Name	Matthew H. Swyers, Esq.
Date	01/12/2016

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
The Trademark Trial and Appeal Board**

In the matter of U.S. Reg. No. 4,517,895;
For the mark LUMA CANDLES;
Registered on the Principal Register April 22, 2014.

JH Specialties Inc.,	:	
	:	
Petitioner,	:	
	:	
vs.	:	Cancellation No. _____
	:	
American Direct, Inc.,	:	
	:	
Registrant.	:	

PETITION TO CANCEL

Petitioner, JH Specialties Inc. (hereinafter “Petitioner”), a Pennsylvania corporation, located and doing business at 301 National Road, Suite 400, Exton, Pennsylvania 19341 believes that it is and will continue to be damaged by the continued registration of U.S. Registration 4,517,895 for the mark LUMA CANDLES used in connection with the goods identified in International Class 11 filed by American Direct, Inc., a New Jersey corporation, with a principal business address of 490 Route 46, East Fairfield, New Jersey 07004 (hereinafter “Registrant”) and accordingly, hereby petitions this honorable tribunal to cancel the same pursuant to 15 U.S.C. § 1064 and 37 C.F.R. § 2.111(b).

Grounds for Cancellation

As grounds for the instant Petition to Cancel, it is alleged that the continued registration of Registrant’s Mark LUMA CANDLES as more fully displayed in U.S. Registration No. 4,517,895 (“Registrant’s Mark”) for use in connection with “Electric candles; Flameless candles” covered in International Class 11 (“Registrant’s Goods”) would be likely to cause confusion with the Petitioner’s Mark as more fully identified herein below which retains priority of use over Registrant’s Mark by virtue of its prior use in commerce in the United States.

Statement of Facts

In support for the instant Petition to Cancel, it is alleged that:

In support of the instant Petition to Cancel, it is alleged that:

1. Petitioner is the owner of Federal Trademark Appl. Serial No. 86/692,658, filed on or about July 14, 2015, for the mark LUMACANDLE (hereinafter "Petitioner's Mark") for use in connection with "Battery operated candles" covered in Class 4 (hereinafter "Petitioner's Goods").

2. Petitioner first used Petitioner's Mark in connection with Petitioner's Goods in interstate commerce on or about August 25, 2007.

3. Petitioner's use of Petitioner's Mark used in connection with Petitioner's Goods in commerce has been continuous since on or about August 25, 2007.

4. Petitioner has invested significant sums of money in the promotion of Petitioner's Mark used in connection with Petitioner's Goods.

5. As a result of the aforesaid, Petitioner has developed a valuable reputation and goodwill in Petitioner's Mark and has achieved a following among the relevant consuming public prior to the filing, registration and/or priority date of Registrant's application to register the mark LUMA CANDLES identified more fully in U.S. Registration 4,517,895.

6. On or about July 14, 2015, Petitioner filed an application to register Petitioner's Mark for use in connection with Petitioner's Goods in Class 4. The application received Trademark Application Serial No. 86/692,658.

7. By way of an Office Action dated October 26, 2015, the USPTO Examining Attorney issued an initial refusal to register Petitioner's Mark for Petitioner's Goods based upon the Examining Attorney's opinion that, if registered, Petitioner's Mark would be likely to create a likelihood of confusion with Registrant's Mark LUMA CANDLES as identified more fully in U.S. Registration 4,517,895, under Trademark Act Section 2(d), 15 U.S.C. § 1052(d).

8. The Office Action dated October 26, 2015 referenced hereinabove was Petitioner's first notice that Registrant was using Registrant's Mark in commerce.

9. Based upon information and belief, Registrant is American Direct, Inc., a New Jersey corporation, with a principal business address of 490 Route 46, East Fairfield, New Jersey 07004.

10. Registrant is using Registrant's Mark in connection with "Electric candles; Flameless candles" in International Class 11 ("Registrant's Goods").

11. Upon information and belief, Registrant's underlying application for Registrant's Mark was filed with the United States Patent and Trademark Office on December 4, 2013 and was assigned U.S. Application Serial No. 86/135,478.

12. Upon information and belief, Registrant first used Registrant's Mark in connection with Registrant's Goods covered by its registration in commerce on July 1, 2013.

13. Registrant's Mark registered on the Principal Register on April 22, 2014 and received U.S. Registration No. 4,517,895.

14. Registrant's Mark is confusingly similar to the mark of the Petitioner as more fully identified hereinabove.

15. As such, Petitioner's rights in Petitioner's Mark has priority of use over Registrant's rights in Registrant's Mark, inasmuch as Petitioner commenced its use of Petitioner's Mark in connection with Petitioner's Goods in interstate commerce prior to the filing, registration, and/or priority of use date of the Registrant's registration and use of Registrant's Mark.

16. Petitioner believes that consumers confronted with the Registrant's Mark LUMA CANDLES will inevitably be confused and deceived into the mistaken belief that the Registrant's Goods have their origin or are in some manner connected with the Petitioner and/or Petitioner's Goods offered under Petitioner's Mark: LUMACANDLE.

17. The continued registration of Registrant's Mark confers upon Registrant rights to which it is not entitled and is inconsistent with the prior established rights of Petitioner in Petitioner's Mark.

18. By reason of the foregoing, Registrant will be seriously damaged by the continued registration of Registrant's Mark LUMA CANDLES as identified more fully in U.S. Registration 4,517,895 for use in connection with Registrant's Goods covered in International Class 11.

WHEREFORE Petitioner, JH Specialties Inc., by counsel, prays that the instant petition be granted and U.S. Registration No. 4,517,895 be cancelled.

Respectfully submitted this 12th day of January, 2016.

THE TRADEMARK COMPANY, PLLC

/Matthew H. Swyers/
Matthew H. Swyers, Esq.
344 Maple Avenue West, Suite 151
Vienna, VA 22180
Tel. (800) 906-8626 x100
Facsimile (270) 477-4574
mswyers@thetrademarkcompany.com
Counsel for Petitioner

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
The Trademark Trial and Appeal Board**

In the matter of U.S. Reg. No. 4,517,895;
For the mark LUMA CANDLES;
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JH Specialties Inc.,	:	
	:	
Petitioner,	:	
	:	
vs.	:	Cancellation No. _____
	:	
American Direct, Inc.,	:	
	:	
Registrant.	:	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I caused a copy of the foregoing this 12th day of January, 2016 to be served, via first class mail, postage prepaid, upon:

ELIZABETH OLINER
345 GROVE ST FL 2
SAN FRANCISCO, CA 94102-4462

and

American Direct, Inc.
490 Route 46 East
Fairfield, NJ 07004

/Matthew H. Swyers/
Matthew H. Swyers