

ESTTA Tracking number: **ESTTA731253**

Filing date: **03/03/2016**

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	Tavistock Restaurants Upscale Group Holdings, LLC		
Entity	Limited Liability Company	Citizenship	Florida
Address	2600 Tenth Street, Suite 253A Berkeley, CA 94710 UNITED STATES		

Attorney information	Scott W. Pink, Esq. DLA Piper LLP (US) 400 Capitol Mall, Suite 2400 Sacramento, CA 95814-4428 UNITED STATES TMDocket@dlapiper.com Phone:(916) 930-3271		
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### Registration Subject to Cancellation

Registration No	4473252	Registration date	01/28/2014
International Registration No.	NONE	International Registration Date	NONE
Registrant	2263847 ONTARIO LIMITED 309 BAY STREET TOTONTO, M5H 4G4 CANADA		

### Goods/Services Subject to Cancellation

Class 021. First Use: 0 First Use In Commerce: 0 All goods and services in the class are cancelled, namely: Drinking glasses
Class 025. First Use: 0 First Use In Commerce: 0 All goods and services in the class are cancelled, namely: Hats; Sweatshirts; T-shirts
Class 043. First Use: 0 First Use In Commerce: 0 All goods and services in the class are cancelled, namely: Cocktail lounge services; Restaurant and catering services

### Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	Petition to Cancel 4473252.pdf(416901 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	/Scott Pink/
Name	Scott W. Pink, Esq.
Date	03/03/2016

Petition to Cancel Registration No. 4473252 – STOCK  
Registered on the Principal Register on January 28, 2014

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

Tavistock Restaurants Upscale Group	)	
Holdings, LLC, a Florida Limited Liability	)	
Company,	)	Cancellation No.
	)	
Petitioner,	)	
	)	
v.	)	
	)	
2263847 Ontario Limited, a Canadian Limited	)	
Liability Company,	)	
	)	
Respondent.	)	
	)	

PETITION TO CANCEL

Tavistock Restaurants Upscale Group Holdings, LLC (“Petitioner”), a Florida Limited Liability Company, having its principal business address at 2600 Tenth Street, Suite 253A Berkeley CA, 94710, believes that it will be damaged by the continued presence on the Principal Register of Registration No. 4473252 for the mark STOCK for “Drinking glasses” in class 21, “Hats; sweatshirts; T-shirts” in class 25 and “Cocktail lounge services; Restaurant and catering services” in class 43 (the “Stock Services”) (the “Stock Registration”). Petitioner hereby petitions to cancel the Stock Registration.

Petitioner's grounds for this Petition are as follows:

1. Upon information and belief, respondent 2263847 Ontario Limited (“Respondent”) is the record owner of Registration No. 4473252 for the mark STOCK. To the

best of Petitioner's information, Respondent's last known address is 309 Bay Street, Toronto CANADA M5H 4G4.

2. According to the USPTO records, on or about June 9, 2011, Respondent applied to register STOCK for "Drinking glasses" in class 21, "Hats; sweatshirts; T-shirts" in class 25 and "Cocktail lounge services; Restaurant and catering services" in class 43 based on Section 44(e) Canadian application Serial No. 1507411 and Section 1(b) an intent to use the mark in interstate commerce.

3. According to the USPTO records, Respondent's attorney signed a declaration in the application filed on June 9, 2011 that Respondent had "a bona fide intention to use ...the mark in commerce on or in connection with the identified goods and/or services."

4. According to the USPTO records, on or about September 13, 2013 the STOCK application was amended via an Examiner's Amendment to remove the Section 1(b) intent to use basis and change the Section 44(d) basis to Section 44(e) based on Canadian registration No. TMA844,330.

5. According to the USPTO records, on or about January 28, 2014, the USPTO granted Registration No. 4473252 for the mark STOCK to Respondent.

6. When a US registration is based on a foreign registration, the registrant must commence use of the mark in US commerce within a "reasonable period" following registration. *Medinol Ltd. v. Neuro Vasx Inc.*, 67 U.S.P.Q.2d 1205 (TTAB 2003).

7. Upon information and belief, Respondent has not used its mark STOCK for the Stock Services in the United States in the over 2 years since STOCK was granted registration.

8. Upon information and belief, Respondent is no longer using its mark STOCK in Canada and has abandoned the mark in that jurisdiction.

9. Respondent abandoned the Stock Registration in the United States and is no longer entitled to maintain it, and Petitioner is entitled to cancellation of the Stock Registration under Section 14(3) of the United States Trademark Act of 1946, as amended, U.S.C. § 1064(3).

10. By virtue of the foregoing, Petitioner is now and will be damaged by the continued presence on the Register of Registration No. 4473252.

WHEREFORE, the Petitioner prays that Registration No. 4473252 be cancelled and that this Petition for Cancellation be sustained in favor of the Petitioner.

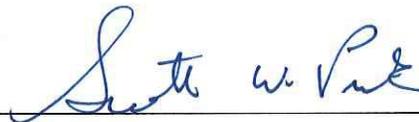
Please recognize as attorneys for petitioner Scott W. Pink, Esq., member of the Bar of the State of California, and the law firm of DLA Piper LLP (US), 400 Capitol Mall, Suite 2400, Sacramento, CA 95814-4428. All communications regarding this petition should be addressed to Scott W. Pink at the foregoing address.

Please charge the filing fees of this Petition to Cancel to our Deposit Acct. No. 07-1907. Please charge any additional fees, or credit any overpayment, to Deposit Acct. No. 07-1907.

DLA PIPER US LLP

Dated: March 3, 2016

BY: \_\_\_\_\_



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Sacramento, CA 95814-4428  
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Holdings, LLC

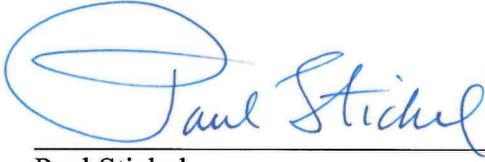
CERTIFICATE OF SERVICE BY MAIL

I hereby certify that a true and correct copy of the foregoing PETITION TO CANCEL is being served by First Class mail, postage prepaid, this 3rd day of March 2016, on Respondent:

Lori T. Milvain  
Latham, Shuker, Eden & Beaudine, LLP  
111 N. Magnolia Ave., Ste. 1400  
Orlando, FL 32801-2367

Executed this 3rd day of March 2016,

at San Francisco, California.

  
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Paul Stickel