

ESTTA Tracking number: **ESTTA773924**

Filing date: **09/30/2016**

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	Ali Bahri		
Entity	Individual	Citizenship	FRANCE
Address	40 Marshfield Rd Niantic, CT 06357 UNITED STATES		

Attorney information	Jackson MacDonald BreanLaw LLC P.O. Box 4120 ECM #72065 Portland, OR 97208 UNITED STATES tmsupport@breanlaw.com, jackson@breanlaw.com Phone:5034967585		
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Registration Subject to Cancellation

Registration No	3880090	Registration date	11/23/2010
Registrant	Human Matrix Sciences, LLC 205 South West Street Suite A Visalia, CA 93291 UNITED STATES		

Goods/Services Subject to Cancellation

Class 003. First Use: 2010/04/00 First Use In Commerce: 2010/05/00 All goods and services in the class are cancelled, namely: Skin creams, lotions and skin toner
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Grounds for Cancellation

Abandonment	Trademark Act Section 14(3)
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Attachments	CAN-PetitionToCancelAbandonment -- 3880090.pdf(80031 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	/JMD/
Name	Jackson MacDonald
Date	09/30/2016

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Bahri, Ali)	
)	
Petitioner,)	Cancellation No. _____
)	
)	Mark: ELLEMENTS
v.)	
)	Registration No. 3880090
)	
Human Matrix Sciences, LLC)	
Respondent.)	
)	

PETITION TO CANCEL

Petitioner, Ali Bahri (hereinafter, “Petitioner”) is citizen of France, with an address of 40 Marshfield Rd. Niantic, Connecticut United States 06357. Petitioner believes it is being damaged by Registration No. 3880090 for ELLEMENTS covering “Skin creams, lotions and skin toner,” in Class 003 and hereby petitions to cancel the registration of said mark.

As grounds in support for this Cancellation, Petitioner alleges the following:

1. Upon information and belief, the name of the current owner of the registration is Human Matrix Sciences, LLC with an address of 205 South West Street Suite A Visalia, California United States 93291 (hereinafter, “Respondent”).
2. Petitioner is the owner of Application Serial No. 86967384 for the mark ÉLÉMENTS covering “Cosmetics; Non-medicated skin care preparations” in International Class 003.
3. On Jul. 22, 2016, the United States Patent and Trademark Office issued an Office Action for Petitioner’s Application Serial No. 86967384 stating, *inter alia*, Registration of the applied-for mark is refused because of a likelihood of confusion with the mark(s) in U.S. Registration No(s).

3880090 Trademark Act Section 2(d), 15 U.S.C.A. § 1052(d); *see* TMEP §§ 1207.01 et seq.

COUNT I: ABANDONMENT

4. Upon information and belief, Respondent has abandoned the mark ELLEMENTS which is the subject of Registration No. 3880090.
5. The domain name <http://forticelle.com/>, which is apparently associated with Respondent, no longer lists and products bearing the ELLEMENTS mark and appears to no longer be maintained or kept active.
6. Upon information and belief, Respondent discontinued use of the mark ELLEMENTS on or in connection with the goods set forth in Registration No. 3880090 more than three years prior to Petitioner's filing this Petition, and Respondent's use of the Registered Mark has not resumed since such discontinuance.
7. Upon information and belief, Respondent's discontinuance of use of the mark ELLEMENTS on or in connection with the goods set forth in Registration No. 3880090 was accompanied by Respondent's intent not to resume use the mark ELLEMENTS on or in connection with such goods.
8. In light of the registration refusal based upon Registration No. 3880090 encountered by Petitioner in relation to Application Serial No. 86967384 and in view of the evidentiary presumptions that result from Registration No. 3880090 that should not be recognized given Respondent's abandonment of the mark in Registration No. 3880090, Petitioner will be damaged if Respondent is allowed to maintain such registration.

WHEREFORE, Petitioner prays that Registration No. 3880090 be cancelled as it relates to the goods for which it is registered.

The filing fee of \$300 for this Petition to Cancel is being submitted electronically with this Petition.

Petitioner hereby appoints Jackson MacDonald, of the law firm of BreanLaw, LLC, member of the Oregon bar, as its attorney with full power of substitution and revocation, to prosecute this cancellation proceeding, and to transact all business in the U.S. Patent and Trademark Office in connection herewith.

Dated: September 30, 2016

Respectfully submitted,

/JMD/

BreanLaw, LLC
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Portland, Oregon 97208
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800-451-5815
Attorney for Petitioner

CERTIFICATE OF SERVICE

This is to certify that a copy of this PETITION TO CANCEL, is being deposited with the U.S. Postal Service on September 30, 2016 by first-class mail, postage prepaid to the counsel of record in an envelope addressed as follows:

Human Matrix Sciences, LLC
205 South West Street Suite A
Visalia, CALIFORNIA UNITED STATES 93291

/JMD/

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800-451-5815
Attorney for Petitioner