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



IN THE MATTER OF the Trademarks

"LUSTRE-CREME"
Registration No. 415,476
Registered on August 7, 1945

"LUSTRE-CREME"
Registration No. 808,673
Registered on May 17, 1966

"LUSTRE-CREME"
Registration No. 808,949
Registered on May 24, 1966

"LUSTRE-CREME"
Registration No. 853,349
Registered on July 23, 1968

05-27-2003

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #22

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TRADEMARK TRIAL AND APPEAL BOARD

River West Brands LLC)
)
Petitioner)
)
v.)
)
Colgate-Palmolive Company)
)
Registrant)

Cancellation No. _____

PETITION TO CANCEL

River West Brands LLC, a Delaware limited liability company with a principal place of business at 648 West Randolph Street, Suite 400, Chicago IL, 60661 (hereinafter, "Petitioner") believes that Colgate-Palmolive Company, a Delaware corporation with a principal place of business at 300 Park Avenue, New York, New York, 10022 (hereinafter, "Registrant"), has not used the marks "LUSTRE-CREME" (Registration No. 415,476), "LUSTRE-CREME" (Registration No. 808,673), "LUSTRE-

CREME" (Registration No. 808,949), or "LUSTRE-CREME" (Registration No. 853,349) in commerce for an uninterrupted period of at least three (3) years and has no intention to resume such use. Petitioner believes that it will be damaged by the continued existence of Registration Nos. 415,476, 808,673, 808,949, and 853,349 and therefore petitions to cancel Registration Nos. 415,476, 808,673, 808,949, and 853,349 under Section 14(3) of the Trademark Act. As grounds therefore, Petitioner states as follows:

1. On information and belief, Registrant applied to register the mark "LUSTRE-CREME" on March 8, 1945 and claimed first use in commerce on February 29, 1944. Registration No. 415,476 was granted to Registrant on August 7, 1945.

2. On information and belief, Registrant applied to register the mark "LUSTRE-CREME" on April 29, 1965, and claimed first use in commerce on March 8, 1944. Registration No. 808,673 was granted to Registrant on May 17, 1966.

3. On information and belief, Registrant applied to register the mark "LUSTRE-CREME" on April 29, 1965 and claimed first use in commerce in January 1956. Registration No. 808,949 was granted to Registrant on May 24, 1966.

4. On information and belief, Registrant applied to register the mark "LUSTRE-CREME" on April 24, 1963 and claimed first use in commerce on September 1, 1958. Registration No. 1,315,630 was granted to Registrant on July 23, 1968.

5. On information and belief, Registrant is the current owner of record of Registration No. 415,476 for the mark "LUSTRE-CREME" in respect of "Liquid

shampoo preparations” in International Class 003. Registration No. 415,476 appears valid and in effect as of the date of this Petition.

6. On information and belief, Registrant is the current owner of record of Registration No. 808,673 for the mark “LUSTRE-CREME” in respect of “Hair shampoo” in International Class 003. Registration No. 808,673 is valid and in effect as of the date of this Petition.

7. On information and belief, Registrant is the current owner of record of Registration No. 808,949 for the mark “LUSTRE-CREME” in respect of “Hair rinse” in International Class 003. Registration No. 808,949 appears valid and in effect as of the date of this Petition.

8. On information and belief, Registrant is the current owner of record of Registration No. 853,349 for the mark “LUSTRE-CREME” in respect of “Hair spray and wave set” in International Class 003. Registration No. 853,349 appears valid and in effect as of the date of this Petition.

9. Petitioner filed an intent to use application under 15 U.S.C. 1051(b), as amended, for the mark “LUSTRE-CREME” in respect of “Hair conditioner and hair shampoo” in International Class 003. Petitioner filed this application on June 18, 2002.

10. On information and belief, Registration Nos. 415,476, 808,673, 808,949, and 853,349 were cited by the Examining Attorney on November 19, 2002 as a bar to registration of the mark “LUSTRE-CREME” as set forth in Petitioner’s application, thus causing damage to Petitioner.

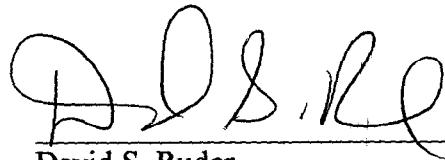
11. Petitioner failed to file a response to Examining Attorney within the six month deadline, so Petitioner filed a new intent to use application under 15 U.S.C. 1051(b), as amended, for the mark "LUSTRE-CREME" in respect of "Hair conditioner and hair shampoo" in International Class 003. Petitioner filed this application on May 20, 2002. Petitioner believes the Examining Attorney will object to the application because of Registration Nos. 415,476, 808,673, 808,949, and 853,349, and thus Petitioner will be damaged. Petitioner therefore has standing to bring this action.

12. Based on information obtained from Registrant and Petitioner's independent investigation, Registrant has not used the mark "LUSTRE-CREME" in any form for an uninterrupted period of at least three (3) years and has no bona fide intention to resume such use.

13. Registration Nos. 415,476, 808,673, 808,949, and 853,349 have therefore been abandoned under Section 45 of the Trademark Act, and should be cancelled pursuant to Section 14(3) of the Trademark Act.

WHEREFORE, Petitioner prays that this cancellation action be sustained and Registration Nos. 415,476, 808,673, 808,949, and 853,349 be cancelled from the Trademark Register.

The statutory Cancellation Filing Fee of \$1,200 (\$300 per mark to be cancelled) should be satisfied with the enclosed check. A duplicate copy of this Petition is enclosed as required by 37 CFR §2.112(a).



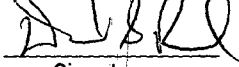
David S. Ruder
Chief Executive Officer
RIVER WEST BRANDS LLC

Date: May 23, 2003
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DAVID S. RUDER