

ESTTA Tracking number: **ESTTA13185**

Filing date: **08/11/2004**

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

<b>Name</b>	Altec Lansing Technologies, Inc.		
<b>Entity</b>	Corporation	<b>Citizenship</b>	Pennsylvania
<b>Address</b>	Routes 6 and 209 Milford, PA 18337 UNITED STATES		

<b>Attorney information</b>	G. Roxanne Elings Greenberg Traurig, LLP 200 Park Avenue New York, NY 10166 UNITED STATES harringtond@gtlaw.com Phone:212-801-9200
-----------------------------	---

#### Registration Subject to Cancellation

<b>Registration No</b>	2771908	<b>Registration date</b>	10/07/2003
<b>Registrant</b>	soundmatters, inc.		
<b>Goods/Services Subject to Cancellation</b>	Class 009. First Use: 20030400 , First Use In Commerce: 20030400 Goods/Services: Consumer communication and electronic audio products and related peripherals, namely, computers; multimedia sound systems consisting of amplifiers, power systems consisting of ac line cords, fuses, EMI filters, line rectifiers, energy storage capacitors, switches, transformers, fast rectifiers, feedback loops, output filters and output terminals; audio processors, audio mixers, audio speakers and computer hardware and software for use in connection with multimedia		

	sound systems, and user manuals sold together as a unit therewith
--	---

<b>Attachments</b>	Cancellation Petition for Soundmatters_v1.txt ( 2 pages )
--------------------	---

<b>Signature</b>	/G. R. Elings/
<b>Name</b>	G. Roxanne Elings
<b>Date</b>	08/11/2004

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

Altec Lansing Technologies, Inc. )

)  
Petitioner, )

)  
v. ) Cancellation No.

)  
Soundmatters, Inc. )

)  
Registrant. )

)

PETITION FOR CANCELLATION

Altec Lansing Technologies, Inc. ("Altec"), a corporation organized and existing under the laws of the State of Pennsylvania, having its principal place of business at Routes 6 and 209, Milford PA 18337, through its attorneys Greenberg Traurig LLP, believes that it will be damaged by Registration No. 2,771,908 and hereby petitions to cancel same.

As grounds therefore it is alleged as follows:

1. Soundmatters, Inc. ("Soundmatters") has obtained U.S. Registration No. 2,771,908 for the mark SOUNDMATTERS for in Class 9.
2. Altec is now and has for many years been engaged in the business of manufacturing high performance, high quality professional audio systems and components.
3. Altec has adopted and continuously used the trademark SOUND MATTERS, on and in connection with computer loudspeaker speakers since at least as early as November 1996, a date long prior to April 2003, the date of first use claimed in Registration No. 2,771,908, and prior to December 23, 1997, the filing date of the intent-to-use application from which the registration issued.
4. Altec is the owner of U.S. Trademark Application Serial Number 76/067709 for the mark SOUND MATTERS for "computer loudspeaker systems comprised of subwoofers, namely, loudspeakers that reproduces low audio frequency sounds; television home theatre loudspeakers, microphone systems comprising a dual pick-up microphone and software for use in localizing sound and/or noise cancellation; remote control for a personal computer; audio device, namely, a recorder incorporating electronic controls for playback, pause, noise reduction and volume adjustment capabilities for audio input and output to/from a computer; mixer, namely a device used to combine and adjust sounds from a variety of sources, signal processors, sound amplifiers, loudspeaker component parts and accessories, namely, transformer, signal processing modules, cables and connectors for such products," based upon use in commerce as early as November 1996.
5. The trademark SOUND MATTERS is and has become a valuable asset of Altec, with extremely valuable goodwill and a valuable reputation.
6. Soundmatters' mark, SOUNDMATTERS, incorporates and plays upon Altec's SOUND MATTERS trademark.
7. The goods and services covered by Soundmatters' registration are the same as the goods contained in Altec's Application Serial No. 76/067709 and on which the mark is used.

8. The U.S. Patent and Trademark Office has held that simultaneous use of Soundmatters' mark SOUNDMATTERS and Altec's mark, SOUND MATTERS, is likely to cause confusion, mistake or deception among purchasers, users and the public. In this regard, the Examining Attorney in application Serial No. 76/067709 has refused registration of the mark SOUND MATTERS on the grounds that the mark is likely to be confused with Soundmatters' mark SOUNDMATTERS, thereby damaging Altec.

9. Accordingly, continued registration of the mark SOUNDMATTERS by Soundmatters would result in a likelihood of confusion, mistake and deception in the trade and the public, be a source of damage and injury to Altec and diminish the significant investment Altec has made in its trademark SOUND MATTERS. Persons familiar with Altec's mark would likely mistake Soundmatters' goods and services for those of Altec, or at least believe Soundmatters' goods and services were sanctioned, sponsored by, authorized, affiliated with, licensed by or are otherwise related to Altec. Furthermore, any defect, objection or fault found with Soundmatters' goods or services would likely reflect upon and injure the reputation Altec has established with respect to its products.

10. A duplicate Petition for Cancellation and the required fee of \$300.00 is enclosed.

WHEREFORE, Altec Lansing Technologies, Inc. prays that Registration No. 2,771,908, be canceled and that this petition for cancellation be sustained.

Respectfully submitted,

GREENBERG TRAURIG LLP  
Attorneys for Applicant  
Date: August 11, 2004  
G. Roxanne Elings  
Allison Lucas  
200 Park Avenue  
New York, New York 10166  
(212) 801-9200

By: \_\_\_\_\_