

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

PETITION TO CANCEL

In the matter of trademark Registration No.: 2436370

Registration Date: March 20, 2001

For the mark: REHAB CONTINUUM REPORT

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| Eli Research, Inc. | : | |
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| Petitioner, | : | Cancellation No. _____ |
| | : | |
| v. | : | |
| | : | |
| ME Licensing Corporation | : | |
| | : | |
| Registrant. | : | |
| ----- | : | |

Commissioner for Trademarks
BOX TTAB/FEE
2900 Crystal Drive
Arlington, VA 22202-3513

PETITION TO CANCEL

Petitioner, Eli Research, Inc. ("Petitioner"), a North Carolina corporation with an office located at 2222 Sedwick Road, Suite 103, Durham, NC 27713 and a mailing address at P.O. Box 12038, Research Triangle Park, NC 27709, submits this Petition to Cancel dated August 10, 2004.

08/17/2004 JBR00KS1 00000036 2436370

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H&M: 143917.1



08-13-2004
U.S. Patent & TMO/TM Mail Rcpt Dt. #22

To the best of Petitioner's knowledge, the name and address of the current owner of Registration No. 2436370 is Global Informational Licensing Corporation, a Florida corporation with offices located in Claymont, DE, which is a division or subsidiary of The Thomson Corporation, a Delaware corporation with a mailing address of Legal Department, The Metro Center, 1 Station Place, Stamford, CT 06902 ("Registrant").

The above-identified Petitioner believes that it has been, and will continue to be, damaged by the above-identified registration of the mark "REHAB CONTINUUM REPORT" for "Newsletters concerning the rehabilitation industry", in International Class 016 (the "Registrant's Goods"), and hereby petitions to cancel the same.

Petitioner is engaged in offering various goods to others throughout the United States using the trademark "REHAB REPORT", which goods are similar in nature to, move within similar channels of trade as, and are within the a related field as, Registrant's Goods.

The grounds for cancellation are as follows:

1. Petitioner has been publishing a newsletter under the mark "REHAB REPORT" since at least January 15, 1994;
2. Petitioner has obtained common law rights based on use in commerce in the trademark "REHAB REPORT";
3. Registrant obtained registration of the mark "REHAB CONTINUUM REPORT" for "Newsletters concerning the rehabilitation industry", in International Class 016 on March 20, 2001 based on an application filed on June 11, 1999 claiming first use anywhere of January 31, 1997;
4. Petitioner, since at least January 15, 1994 under the trade mark "REHAB REPORT" has been providing goods in the ordinary course of business which are substantially similar to Registrant's Goods, and therefore has priority of use;

5. Petitioner filed a trademark application for the mark "REHAB REPORT", as evidenced by Application Serial No. 75/718521 filed on June 1, 1999 claiming first use anywhere of January 15, 1994, for "Newsletters concerning the health care industry", in International Class 016, which was inadvertently abandoned;

6. Petitioner filed a subsequent trademark application for the mark "REHAB REPORT", as evidenced by Application Serial No. 76/397764 filed on April 19, 2002, for "Newsletters published periodically for occupational therapist practitioners in the rehabilitation industry", in International Class 016, which remains pending;

7. Petitioner has a valid and legal right to describe its goods by use of the term "REHAB REPORT";

8. Petitioner has expended considerable sums of money and considerable efforts in promoting the "REHAB REPORT" mark and now enjoys a high reputation with subscribers in the health care field, and has valuable goodwill invested and symbolized by its "REHAB REPORT" trademark;

9. Petitioner believes its continuous use of the "REHAB REPORT" mark beginning prior to the Registrant's use of the "REHAB CONTINUUM REPORT" mark may lead to a likelihood of consumer confusion in the relevant channels of trade due to the similarity of Registrant's "REHAB CONTINUUM REPORT" mark and associated Registrant's Goods in comparison to Petitioner's common law trademark rights in "REHAB REPORT". Therefore, it is Petitioner's position that Registrant's registration should be cancelled based on Petitioner's priority of use of the trademark "REHAB REPORT" in association with Petitioner's provision of newsletters and related uses;

10. By reason of the foregoing allegations, Petitioner believes that it has been harmed by, and will continue to be harmed by, the registration of the "REHAB CONTINUUM REPORT" trademark as represented by Registration No. 2,436,370; and

11. In view of the allegations above, Registrant is not entitled to maintain federal registration of the "REHAB CONTINUUM REPORT" mark, is not entitled to the exclusive use of the "REHAB CONTINUUM REPORT" mark, or any other confusingly similar mark, in association with the Registrant's Goods or any goods and services substantially similar to those of Petitioner.

THEREFORE, Petitioner prays that this Petition to Cancel be sustained in favor of Petitioner and that Registration No. 2,436,370 be CANCELLED.

A duplicate copy of this Petition to Cancel is enclosed.

FEE: A check in the amount of \$300 is enclosed as payment of the required filing fee for a cancellation proceeding in one (1) International Class.

Respectfully submitted,



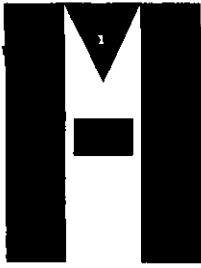
Neal B. Wolgin
Attorney for Petitioner

Date: August 13, 2004

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Enclosures

Our Ref.: ELI.12



TTAB

HUTCHISON & MASON PLLC

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August 13, 2004

VIA EXPRESS MAIL NO. EV435314544US

Commissioner of Trademarks
BOX: TTAB/FEE
2900 Crystal Drive
Arlington, Virginia 22202-3514

Dear Commissioner:

Enclosed please find the following:

1. Original and Duplicate Copy of the Petition of Eli Research, Inc., to cancel the mark "REHAB CONTINUUM REPORT", Registration No. 2,436,370;
2. A check in the amount of \$300.00 in payment of the filing fees; and
3. A self-addressed, postage-prepaid postcard. Please stamp the postcard with the filing date and return it to the address indicated.

If there are any questions regarding the enclosed, please contact the undersigned.

Respectfully submitted,

Neal B. Wolgin
Attorney for Applicant


Enclosures
cc: Eli Research, Inc.

CERTIFICATE UNDER 37 C.F.R. §1.8(a)

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail postage prepaid in an envelope addressed to: Commissioner of Trademarks, BOX: TTAB/FEE, 2900 Crystal Drive, Arlington, VA 22202-3514 on August 13, 2004.

Kimberly Hollister
August 13, 2004



08-13-2004

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

Counsel to the Technology CommunitySM