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June 14, 2005

Via First Class Mail

Commissioner for Trademarks
United States Patent and Trademark Office
P.O. Box 1451
Alexandria, Virginia 22313-1451

71037755

Re: Petition for Cancellation of Registration No. 2,515,560

Dear Commissioner:

Enclosed please find the original and one copy of a petition for cancellation for the above referenced trademark registration along with a check in the amount of \$300.00 to cover the cancellation fee.

If you have any questions, or require any additional information, please contact our Rockville, Maryland office at your earliest convenience. Thank you for your attention to this matter.

Very truly yours,



Martin L. Vedder

cc: Young Again Products, Inc.

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06-15-2005

U.S. Patent & TMO/TM Mail Ropt Dt. #64

UNITED STATES DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Registration No. 2,515,560
Mark: BETTER PROSTATE HEALTH
Date of Issue: December 4, 2001

_____)	
YOUNG AGAIN PRODUCTS, INC.,)	
)	
Petitioner,)	
)	
v.)	Cancellation No.
)	
ECONUGENICS, INC.)	
)	
Registrant.)	
_____)	

BOX TTAB/FEE
Assistant Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

PETITION FOR CANCELLATION

YOUNG AGAIN PRODUCTS, INC., a corporation organized and existing under the laws of Maryland, located and doing business at 310 N. Front Street, Suite 150, Wilmington, North Carolina 28401, believes that it will be damaged by Registration No. 2,515,560 as it relates to goods in International Class 005, namely vitamins, dietary and nutritional supplements, and hereby petitions to cancel the registration of the mark BETTER PROSTATE HEALTH used by Econugenics, Inc., for these goods. To the best of Petitioner's knowledge, the name and address of the current owner of the registration is Econugenics, Inc., 2208 Northpoint Parkway, Santa Rosa, California 95407.

As grounds for cancellation, it is alleged that:

1. Petitioner has adopted and continuously used the trademark BETA PROSTATE since at least January 1998 to the present, in connection with providing natural health and beauty aids, namely dietary and nutritional supplements and other related goods in International Class 0005.

2. Petitioner filed its application for registration of said mark on January 21, 1998, and its registration on the principal register issued on October 19, 1999, Registration No. 2,287,219.

3. Petitioner is further the owner of the common law trademark BETTER PROSTATE, which trademark it has continuously been using in commerce since November 1999 in connection with dietary and nutritional supplements and other related goods.

4. Registrant, Econugenics, Inc., is the owner of the federal registration BETTER PROSTATE HEALTH, Registration No. 2,515,560, for dietary and nutritional supplements in International Class 005.

5. Registration No. 2,515,560, sought to be cancelled, was issued on December 4, 2001.

6. Petitioner is clearly entitled to cancellation of Registrant's mark BETTER PROSTATE HEALTH, Registration No. 2,515,560, due to Petitioner's date of first use of BETA PROSTATE in January 1998 and BETTER PROSTATE in November 1999, as compared to Registrant's date of first use of September, 2000.

7. Moreover, upon information and belief, Registrant is currently not utilizing, nor does it plan to utilize, the mark BETTER PROSTATE HEALTH, Registration No. 2,515,560, in commerce. In fact, in communications with Registrant, Petitioner obtained a commitment by Registrant to cease all use of the mark BETTER PROSTATE HEALTH and to voluntarily file a Notice of Abandonment with the USPTO based upon Registrant's discontinued use of the mark BETTER PROSTATE HEALTH, Registration No. 2,515,560.

8. Registrant now refuses to file said Notice of Abandonment, even though Registrant

has not provided any evidence, and Petitioner cannot find any, that the mark is being used in commerce, or that Registrant is planning on resuming use of the mark in commerce.

9. Petitioner has expended considerable effort and expense in promoting its trademarks BETA PROSTATE, Registration No. 2,287,219, and BETTER PROSTATE and the goods sold under those marks, with the result that the purchasing public has come to know, rely upon, and recognize the products of Petitioner by such marks. Petitioner has exceedingly valuable goodwill established in its marks.

10. Registrant's goods, to the extent they are being sold under the mark BETTER PROSTATE HEALTH, Registration No. 2,515,560, are closely related, and in some instances identical to those of Petitioner.

11. If the Registrant, in fact, has not abandoned its mark, and is permitted to retain the registration sought to be cancelled, and thereby, the *prima facie* exclusive right to use the mark BETTER PROSTATE HEALTH, Registration No. 2,515,560, in commerce on the closely related and in some instances identical goods manufactured and sold by Petitioner, confusion in the trade is likely to result from any concurrent use of Petitioner's marks and that of the Registrant all to the great detriment of Petitioner, who has expended considerable sums and effort in promoting its marks.

12. Purchasers are likely to consider the goods of the Registrant sold under the mark BETTER PROSTATE HEALTH, Registration No. 2,515,560, as emanating from Petitioner, and purchase such goods under the belief that such goods are the Petitioner's, resulting in loss of sales to Petitioner.

13. Concurrent use of the mark by the Registrant and Petitioner may result in irreparable damage to Petitioner's reputation and goodwill, if the goods sold by the Registrant are inferior, since purchasers are likely to attribute the source of the Registrant's goods to the Petitioner.

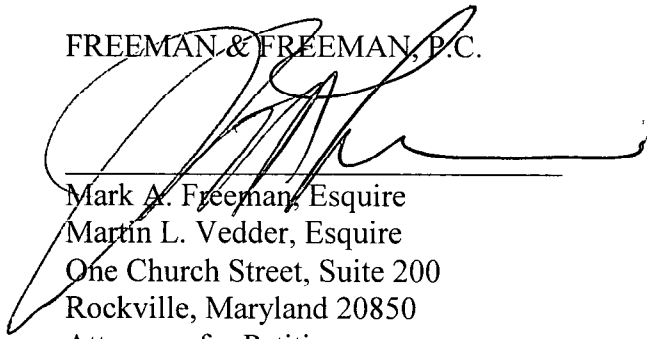
14. If the Registrant is permitted to retain the registration sought to be cancelled, a cloud will be placed on Petitioner's title in and to its trademarks, BETA PROSTATE, Registration No. 2,287,219, and BETTER PROSTATE, and on its right to enjoy the free and exclusive use thereof in connection with the sale of its goods, all to the great injury of Petitioner.

WHEREFORE, Petitioner deems that Registrant is not using nor has no plans to use Registration No. 2,515,560 in commerce and, to the extent Registrant does resume use of the mark, deems that it is or will be damaged by Registration No. 2,515,560, and petitions for cancellation thereof as it relates to the goods in International Class 005.

A duplicate Petition for Cancellation is being filed herewith, along with the filing fee required in § 2.6(a)(16).

Respectfully submitted,

FREEMAN & FREEMAN, P.C.

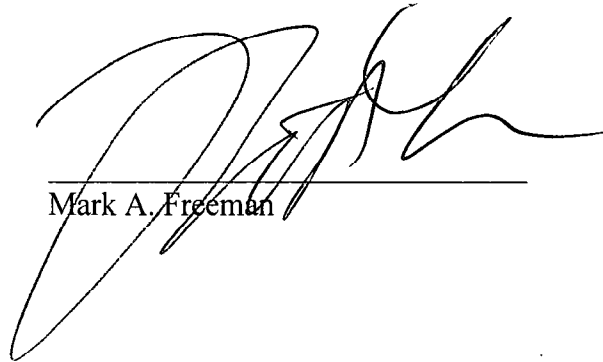


Mark A. Freeman, Esquire
Martin L. Vedder, Esquire
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Rockville, Maryland 20850
Attorneys for Petitioner

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a copy of Young Again Products, Inc.'s Petition For Cancellation was mailed first class, postage prepaid, on this 14th day of June, 2005, to:

Jay H. Geller, Esquire
Jay H. Geller, P.C.
2425 Olympic Boulevard
Suite 4000
Santa Monica, California 90404-4032



Mark A. Freeman