ESTTA Tracking number: **ESTTA94590**

Filing date: **08/14/2006**

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	Unica Corporation		
Entity	Corporation	Citizenship	Florida
Address	2380 South Dixie Highway Miami, FL 33133 UNITED STATES		

Attorney information	Henry Rodriguez, Esq. Sanchelima & Associates, Esq. 235 S.W. Le Jeune Road Miami, FL 33134 UNITED STATES legal@sanchelima.com Phone:305-447-1617

Registration Subject to Cancellation

Registration No	2903018	Registration date	11/16/2004
Registrant	Poole, Delma 1603 Aviation Blvd. # 14 Redonda Beach, CA 90278 UNITED STATES		
Goods/Services Subject to Cancellation	Class 044. First Use: 1999/08/03 , First Use In Commerce: 1999/08/03 Goods/Services: Massage Therapy Services		

Attachments	060814PetitionCancel.pdf (3 pages)(81563 bytes)

Signature	/hr/
Name	Henry Rodriguez, Esq.
Date	08/14/2006

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

In the Matter of Registration No. 2,903,018
Registration date: November 16, 2004
For the Mark: GLORIA'S MASSAGE

UNICA CORP.,	)	
	)	
Petitioner,	)	
	)	**Cancellation No.**
v.	)	
	)	
DELMA POOLE,	)	
	)	
Registrant.	)	

PETITION FOR CANCELLATION

Unica Corp. (Petitioner), a corporation of Florida, having its principal place of business at 2380 South Dixie Hwy, Miami, Florida 33133, believes that it is, and will be, damaged by the above-identified registration of the mark and hereby petitions to cancel the same.

As grounds for cancellation, it alleges that:

FIRST GROUND FOR CANCELLATION

1. Registrant filed its application for the above referenced registration for the mark GLORIA'S MASSAGE on October 27, 2003. Registrant alleged first use in commerce as early as August 3, 1999.

2. Registrant's above referenced mark was registered on November 16, 2004 on the Principal Register in class 44 for massage therapy services.

3. Petitioner has been using the mark GLORIA HINICAPIE since, at least as early as November 15, 1990, and in commerce since at least as early as July 31, 2000 to this

date. Said mark of Petitioner is symbolic of extensive good will and consumer recognition built up by Petitioner through substantial amounts of time and effort in advertising and promotion.

4. At the time of the registration, Registrant's mark GLORIA'S MASSAGE was merely descriptive and devoid of secondary meaning within the meaning of Section 2(e)(1) of the Lanham Act, 15 U.S.C. §1052(e)(1).

SECOND GROUND FOR CANCELLATION

5. Petitioner repeats and realleges the allegations set forth in paragraphs 1 through 3 of this Petition for Cancellation as if fully set forth herein.

6. Petitioner filed its application for the mark GLORIA HINCAPIE in class 44 for massage services on February 5, 2004.

7. On February 14, 2006, Examiner Yong Oh Kim issued a final refusal of registration of Petitioner's mark application for GLORIA HINCAPIE because of Registrant's previous registration.

8. Petitioner has superior rights to the mark based on its valid Colombian Registration No. 11421 issued on January 30, 1998 and continuous use in commerce of the mark GLORIA HINCAPIE prior to Registrant's filing date.

9. In accordance with Article 8 of the Inter-American Convention for Trademark and Commercial Protection, Petitioner seeks cancellation of Registrant's interfering registration based on paragraphs (a) and (c) of said article.

10. For the aforesaid reasons, Petitioner is being damaged by the registration of the mark identified above.

WHEREFORE, Petitioner prays that said Registration No. 2,903,018 be cancelled.

Attorneys for Petitioner:

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