

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

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In the matter of Trademark Registration No. 2,696,792  
For the mark ARTHX  
Registered on March 11, 2003.

TRACE MINERALS RESEARCH, L.C.,

Petitioner,

vs.

RAINBOW LIGHT NUTRITIONAL  
SYSTEMS, INC.,

Registrant.

Cancellation No. \_\_\_\_\_

**Petition for Cancellation**

Trace Minerals Research, L.C. ("TMR" or "Petitioner"), believes that it is and will be damaged by the registration of the mark ARTHX as shown in Registration No. 2,696,792, in International Class 5, and hereby petitions to cancel the same.

The grounds for cancellation are as follows:

1. Rainbow Light Nutritional Systems, Inc. ("RLNS" or "Registrant"), registered ARTHX as a trademark for: "dietary supplements" in International Class 5. RLNS claims a first use of February 1, 2002 for this registration.
2. TMR markets and sells numerous dietary, vitamin and mineral supplements in the United States and abroad. One of TMR's leading supplement products is ARTH-X. TMR, through its predecessor and its current owners has been and is now using the mark ARTH-X in commerce and



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otherwise in connection with the sale and marketing of dietary and mineral supplements in the United States and abroad, since at least as early as 1988.

3. On May 11, 2006, TMR filed an application to register ARTH-X in International Class 5 for "dietary supplement; bone, joint and ligament nutritional supplement". This Registration was assigned Serial No. 78/881,713.

4. The U.S. Patent and Trademark Office issued an office action on October 14, 2006 against Serial No. 78/881,713, refusing registration based upon the similarity to Registrant's registration of ARTHX.

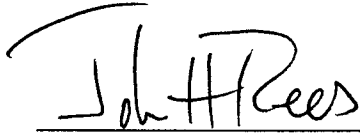
5. TMR has spent considerable time and resources developing, advertising and promoting its ARTH-X dietary supplements and has established valuable goodwill and consumer recognition in ARTH-X. In view of the similarity of ARTHX to ARTH-X and similarity of the goods with which each mark is used, TMR avers that Registrant's mark so resembles TMR's mark as to be likely to cause consumer confusion, or to cause mistake as to source, sponsorship or affiliation or to deceive. Purchasers and prospective purchasers are likely to believe mistakenly that the products offered by Registrant under ARTHX mark are produced, endorsed or approved by Petitioner, or are in some way affiliated or associated with Petitioner, all to the detriment of Petitioner.

6. TMR is the rightful owner of the ARTH-X mark. There is no issue as to priority as TMR began using the mark ARTH-X long before Registrant first used its ARTHX mark.

WHEREFORE, TMR believes that it is and will be damaged by the continued registration of Registration No. 2,696,792 and respectfully requests that the Trademark Trial and Appeal Board cancel such registration, and for such other and further relief as is deemed just and proper.

The required fee is enclosed herewith.

DATED: April 12, 2007.



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Attorney for Petitioner  
Trace Minerals Research, L.C.

CERTIFICATE OF SERVICE

I hereby certify that on April 12, 2007 a copy of the foregoing CANCELLATION PETITION was mailed first-class, postage prepaid, to the following:

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