

("Registrant's Mark") for use in connection with the following goods:

"Soaps, perfumery, essential oils for personal use, cosmetics, skin cleansers, cleansing milk for toiletry purposes, cosmetic creams, lotions for cosmetic purposes, gel for cosmetic purposes, oils for cosmetic purposes, sprays for topical application for cosmetic purposes, skin care preparations, cosmetic preparations for slimming purposes, plant extract compositions for cosmetic purposes, moisturizers, hair care products and dentifrices, cosmetic kits consisting of one or more of the foregoing goods," in International Class 003 and

Pharmaceuticals, veterinary preparations, fungicides, medicated compositions for topical application, antibacterial compositions for medical use, antivirals for medical use; acne treatment preparations, medicated skin preparations for use in treating skin disease, topical compositions for medical and therapeutic use, namely topical aerosols, gels, creams, lotions, solutions, sprays, ointments and pastes for the treatment of scarred and damaged skin, topical and transdermal preparations for medical and therapeutical use," in International Class 005.

(hereafter "Registrant's Goods") filed October 25, 2002, under the filing basis of Section 1B and Section 44D, but with a resulting registration on May 4, 2004, under Section 44E.

2. Petitioner has filed its own application, Serial No. 76/662,609, with the United States Patent and Trademark Office to register its mark "IN SKIN" (hereafter "Petitioner's Mark") for use in connection with the following goods and services:

"Customized skin care preparations, and cosmetics, namely, eyeliners, concealers, lip liners, lipsticks, blushes, creamy blushes, face powders, compact face powders, loose face powders, make-up, camouflage make-up, eye creams, non-medicated eye serums, facial creams, skin moisturizers, hydrating cosmetic pads, facial hydrating mist, face peel creams, body creams, lotions for skin, face and body, soothing gels for eyes, non-medicated skin

serums, non-medicated skin lifting serums, lightening face creams, non-medicated skin bleaching serums, skin cleansers, body and facial scrubs, sun block creams and sprays, disposable pads impregnated with sun block creams, skin bronzing creams, non-medicated acne creams, non-medicated acne skin cleansers, non-medicated acne facial mask, non-medicated acne cream impregnated disposable pads, therapeutic astringents for cosmetic purposes, lip balms, non-medicated therapeutic body scrubs, non-medicated therapeutic lotions for skin, face, and body, non-medicated therapeutic shaving creams," in International Class 3; and

"Customized skin care services, namely, facial treatments, deep cleansing facial treatments, deep pore acne facial treatment, oxygen facial treatment, anti-aging facial treatment, photo rejuvenation, radio frequency skin lifting, skin peels, chemical peels, enzyme and glycolic peels, microdermabrasion, botox treatment, collagen, and restylane enhancement procedures for face and lips and wrinkles, facial waxing, body waxing, laser hair removal, lash and eyebrow tinting and ear candling," in International Class 44.

(hereafter "Petitioner's Goods and Services"). Registration No. 2,837,876 was cited against Petitioner's pending application, Serial No. 76/662,609 under Section 2(d) of the Lanham Act, and as a result, Petitioner is likely to be damaged by continued registration of Registrant's Mark.

3. Since long prior to any date upon which Registrant may rely, Petitioner, and/or its predecessors, adopted and used the inherently distinctive designation and trademark "IN SKIN" for and in connection with Petitioner's Goods and Services.

4. Petitioner's Mark has been adopted and used in commerce by Petitioner and/or its predecessors since at least as early as December 1993 in the United States. Such adoption and use of the mark was in interstate commerce, and since that time, the mark has

been in continuous use in interstate commerce and has not been abandoned.

5. Petitioner has expended considerable time, money, and effort in promoting its services under the "IN SKIN" trademark. The strength of the "IN SKIN" trademark has continuously grown, such that Petitioner has established exceedingly valuable goodwill.

6. There is a likelihood of confusion between Petitioner's "IN SKIN" trademark for Petitioner's Goods and Services and Registrant's "INSKIN" trademark for Registrant's Goods, as set forth in Registration No. 2,837,876.

7. If Registrant is permitted to maintain said registration for Registrant's Mark in connection with Registrant's Services, there will be a continued likelihood of confusion, mistake, and deception among the consuming public and the trade, all in violation of §2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

ABANDONMENT

8. Petitioner repeats and re-alleges each and every allegation contained in paragraphs 1 through 7 as if fully set forth herein.

9. Upon information and belief, Registrant discontinued use of its "INSKIN" trademark with the intent not to resume use.

10. Upon information and belief, Registrant has never made use of its "INSKIN" trademark in United States commerce.

11. Upon information and belief, Registrant has not used the

"INSKIN" trademark in connection with Registrant's Goods.

12. In view of the above allegations, Registrant has abandoned Registrant's "INSKIN" trademark, as defined in Section 45 of the Trademark Act, 15 U.S.C. §1127, and as such is not entitled to continue registration of its alleged mark.

WHEREFORE, Petitioner prays that this Petition to Cancel be granted and that the aforesaid Registration No. 2,837,876 be cancelled and removed from the Federal Registry. An electronic copy of this Petition to Cancel and the fee required in 37 C.F.R §2.6(a)(16) are enclosed herewith.

Respectfully submitted,

Dated: June 13, 2007

By: /s David A. Gast
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David Gast

From: estta-server@uspto.gov
Sent: Wednesday, June 13, 2007 4:31 PM
To: David Gast; Maritza Castro
Subject: ESTTA. Petition for Cancellation. confirmation receipt ID: ESTTA145707

Petition for Cancellation.

Tracking No: ESTTA145707

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Filing date: 06/13/2007

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: In Skin, Inc.
Entity: Corporation
Citizenship: Florida
Address: 2300 S. Dixie Highway
Miami, FL 33176
UNITED STATES

Attorney information:
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UNITED STATES
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Registration Subject to Cancellation

Registration No: 2837876
Registration Date: 05/04/2004
Registrant:
Cosmeceutic Solutions Pty Ltd
Level 34, 360 Collins Street
Melbourne Victoria 3000,
AUSTRALIA

Goods/Services Subject for Cancellation

Class 003.

Cancelled goods and services in the class: Soaps, perfumery, essential oils for personal use, cosmetics, skin cleansers, cleansing milk for toiletry purposes, cosmetic creams, lotions for cosmetic purposes, gel for cosmetic purposes, oils for cosmetic purposes, sprays for topical application for cosmetic purposes, skin care preparations, cosmetic preparations for slimming purposes, plant extract compositions for cosmetic purposes, moisturizers, hair care products and dentifrices, cosmetic kits consisting of one or more of the foregoing goods Class 005.

Cancelled goods and services in the class: Pharmaceuticals, veterinary preparations, fungicides, medicated compositions for topical application, antibacterial compositions for medical use, antivirals for medical use; acne treatment preparations, medicated skin preparations for use in treating skin disease, topical compositions for medical and therapeutic use, namely topical aerosols, gels, creams, lotions, solutions, sprays, ointments and pastes for the treatment of scarred and damaged skin, topical and transdermal preparations for medical and therapeutical use

Mark Cited by Petitioner as Basis for Cancellation U.S. Application No.: 76662609

Application Date: 07/06/2006 Word Mark: IN SKIN

Goods/Services:

Class 003 First Use: 19930400 First Use In Commerce: 19930400
customized skin care services, namely, facial treatments, deep cleansing facial treatments, deep pore acne facial treatment, oxygen facial treatment, anti-aging facial treatment, photo rejuvenation, radio frequency lifting, skin peels, chemical peels, enzyme and glycolic peels, microdermabrasion, botox treatment, collagen and restylane enhancement procedures for face and lips and wrinkles, facial waxing, body waxing, laser hair removal, cosmetic permanent make-up, lash and eyebrow tinting and ear candling; customized skin care preparations and cosmetics, namely, eyeliners, eye lash treatment, concealers, lip liners, lipsticks, blushes, creamy blushes, powders, compact powders, loose powders, make-up, camouflage make-up, brushes, back brushes, facial brushes, eye creams, eye serums, facial creams, moisturizers, hydrating pads, hydrating mist, face peel creams, body creams, lotions, soothing gels, skin serums, lifting serums, lightening face creams, bleaching serums, skin cleansers, scrubs, sun block creams, sprays and pads, bronzer, acne creams, acne cleansers, acne mask, acne pads, therapeutic astringents, lip balms, therapeutic scrubs, therapeutic lotions, therapeutic shaving creams

Attachments:

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Petition to Cancel - INSKIN.pdf (5 pages) David A. Gast /David A. Gast/
06/13/2007