

TTAB

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

76355061

Mailed: October 2, 2007

Cancellation No. 92048197
Reg. No. 2704047

HealthStar Imaging, LLC
4 Lyon Place,
White Plains, NY 10601 UNITED STATES

ACCUIMAGING, LLC

V.

HealthStar Imaging, LLC

Thomas Y. Yee
Knobbe, Martens, Olson, & Bear LLP
2040 Main Street , 14th Floor
Irvine, CA 92614 UNITED STATES

Clara Vela, Paralegal Specialist

A petition, a copy of which is attached, has been filed to cancel the above-identified registration.

ANSWER IS DUE FORTY DAYS after the mailing date hereof.
(See Trademark Rule 2.196 for expiration date falling on Saturday, Sunday or a holiday).

Proceedings will be conducted in accordance with the Trademark Rules of Practice, set forth in Title 37, part 2, of the Code of Federal Regulations. Notices concerning the rules changes, as well as the *Trademark Trial and Appeal Board Manual of Procedure* (TBMP), are available on the TTAB's web page at www.uspto.gov/web/offices/dcom/ttab/.

The parties are particularly referred to Trademark Rule 2.126 pertaining to the form of submissions. Paper submissions, including but not limited to exhibits and depositions, not filed in accordance with Trademark Rule



10-19-2007

2.126 may not be given consideration or entered into the case file.

Discovery and testimony periods are set as follows:

Discovery period to open: 10/22/2007

Discovery period to close: 4/19/2008

30-day testimony period for party
in position of plaintiff to close: 7/18/2008

30-day testimony period for party
in position of defendant to close: 9/16/2008

15-day rebuttal testimony period
for plaintiff to close: 10/31/2008

A party must serve on the adverse party a copy of the transcript of any testimony taken during the party's testimony period, together with copies of documentary exhibits, within 30 days after completion of the taking of such testimony. See Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

NOTE: The Board allows parties to utilize telephone conferences to discuss or resolve many interlocutory matters that arise in inter partes cases. See TBMP § 502.06(a) (2d ed. rev. 2004).

If the parties to this proceeding are (or during the pendency of this proceeding, become) parties to another Board or civil proceeding involving related marks or other common issues of law or fact, they shall notify the Board immediately, so that the Board can consider consolidation or suspension of proceedings, if appropriate.

New Developments at the Trademark Trial and Appeal Board

For faster handling of all papers, the TTAB strongly encourages electronic filing whenever possible. TTAB forms for electronic filings are available at

<http://estta.uspto.gov>. Images of TTAB proceeding files
can be viewed using TTABvue at <http://ttabvue.uspto.gov>.

ESTTA Tracking number: **ESTTA165970**

Filing date: **10/01/2007**

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	ACCUIMAGING, LLC		
Entity	Limited Liability Company	Citizenship	Hawaii
Address	500 Ala Moana Blvd., Tower 4, Suite 510 Honolulu, HI 96813 UNITED STATES		

Attorney information	Thomas Y. Yee Knobbe, Martens, Olson, & Bear LLP 2040 Main Street, 14th Floor Irvine, CA 92614 UNITED STATES efiling@kmob.com Phone:949-760-0404
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Registration Subject to Cancellation

Registration No	2704047	Registration date	04/08/2003
Registrant	HealthStar Imaging, LLC 4 Lyon Place White Plains, NY 10601 UNITED STATES		

Goods/Services Subject to Cancellation

Class 042. First Use: 2000/01/17 First Use In Commerce: 2000/01/17 All goods and services in the class are cancelled, namely: COMPUTERIZED TOMOGRAPHY IMAGING SERVICES FOR MEDICAL DIAGNOSIS
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Grounds for Cancellation

Abandonment	Trademark Act section 14
Other	Respondent is not currently using its mark and that Respondent has thereby abandoned its mark.

Attachments	cancel.pdf (3 pages)(113657 bytes)
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Signature	/THOMAS Y. YEE/
Name	Thomas Y. Yee
Date	10/01/2007

ACIMG.006CN

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

ACCUIMAGING, LLC,

Petitioner,

v.

HEALTHSTAR IMAGING, LLC,

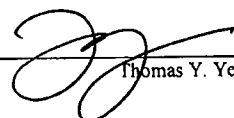
Respondent.

Cancellation No.

I hereby certify that this correspondence and all marked attachments are being electronically filed with the Trademark Trial and Appeal Board through their web site located at <http://esta.uspto.gov> on

10 | 1 | 2007

(Date)


Thomas Y. Yec


PETITION FOR CANCELLATION

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Sir or Madam:

ACCUIMAGING, LLC ("Petitioner") believes that it has or will be damaged by



Registration No. 2,704,047 for the mark , owned by HEALTHSTAR IMAGING, LLC ("Respondent"), registered on the Principal Registrar for "computerized tomography imaging services for medical diagnosis." Therefore, Petitioner hereby petitions to cancel same on the grounds that Respondent is not currently using its mark and that Respondent has thereby abandoned its mark.

Respondent's Registration No. 2,704,047 is described as follows:



Mark:
Goods: COMPUTERIZED TOMOGRAPHY IMAGING SERVICES FOR
 MEDICAL DIAGNOSIS
Filed: January 3, 2002
Alleged First Use: January 17, 2000
Registered: April 8, 2003

This petition to cancel the foregoing mark is based on 15 U.S.C. § 1064 (Section 14 of the Lanham Act), which states that "A petition to cancel a registration of a mark ... may ... be filed as follows by any person who believes that he is or will be damaged ... within five years from the date of the registration of the mark under this Act [or a]t any time if the registered mark ... has been abandoned"

As grounds for cancellation, it is alleged that:

1. Petitioner is the owner of U.S. Trademark Application Serial No. 77/202,707 for the mark IMAGING FOR LIFE in connection with "medical imaging services; medical consulting services" (the "'707 Application").
2. In the Office Action dated September 18, 2007, the '707 Application was refused registration under 15 U.S.C. § 1052 (d) (Section 2(d) of the Lanham Act) in view of the mark in U.S. Registration No. 2,704,047.
3. Petitioner petitions for cancellation within five years of the date of the registration of the mark shown in Registration No. 2,704,047.

4. On information, Petitioner believes that Respondent has discontinued use of said mark in the United States in connection with the goods and/or services listed in the registration with no intent to initiate or resume said use.

5. Therefore, Petitioner believes that Respondent has abandoned the mark shown in Registration No. 2,704,047.

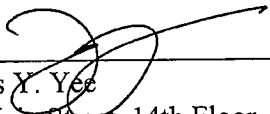
6. Accordingly, Petitioner has been, and continues to be, damaged by Respondent's Registration No. 2,704,047 because Respondent's Registration has been cited against Petitioner's '707 Application as a basis for refusal of registration under 15 U.S.C. § 1052 (d) (Section 2(d) of the Lanham Act).

7. In view of Respondent's non-use and abandonment of the mark shown in Registration No. 2,704,047, Petitioner believes Respondent is not entitled to registration of the mark, and therefore, Petitioner hereby petitions that Respondent's Registration be canceled for at least the reasons set forth above, and pursuant to 15 U.S.C. § 1064 (3) (Section 14(3) of the Lanham Act).

WHEREFORE, Petitioner prays that U.S. Trademark Registration No. 2,704,047 be canceled and that this Petition for Cancellation be sustained in favor of Petitioner. Please charge Deposit Account No. 11-1410 for any fees which may be required, or credit any overpayment to this account.

Respectfully submitted,
KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 10 | 1 | 2007

By: 
Thomas Y. Yee
2040 Main Street, 14th Floor
Irvine, CA 92614
(949) 760-0404
efiling@kmob.com
Attorney for Petitioner,
ACCUIMAGING, INC.

United States P:

Commissioner for Trademarks

P.O. Box 1451

Alexandria, VA. 22313-1451

If Undeliverable Return in Ten Days

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RECEIVED

92048197

HEALTHSTAR IMAGING, LLC
4 LYON PLACE
WHITE PLAINS, NY 10601

No longer at this address