

FULBRIGHT & JAWORSKI L.L.P.

A REGISTERED LIMITED LIABILITY PARTNERSHIP

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December 3, 2008

VIA FEDERAL EXPRESS

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

75/255, 736

Re: Cancellation Instituted by Remington Health Products, LLC
regarding Registration No. 2,319,909

Dear Whom it May Concern:

Enclosed please find a the following document and check to be filed with the TTAB concerning the above-referenced trademark registration:

- Petition for Cancellation & Associated Exhibit
- Check in the amount of \$300 directed to the Director of the US Patent and Trademark Office

Respectfully,



Erin Frazier

EBF/ebf
Enclosure



12-08-2008

U.S. Patent & TMO/TM Mail Rept. Ct #01

80395697.1

AUSTIN • BEIJING • DALLAS • DENVER • DUBAI • HONG KONG • HOUSTON • LONDON • LOS ANGELES • MINNEAPOLIS
MUNICH • NEW YORK • RIYADH • SAN ANTONIO • ST. LOUIS • WASHINGTON DC

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

In the matter of Registration No.: 2,319,909
By Tropicana Products, Inc. for the Mark: DRINKABLE FRUIT
Registration Issued on October 15, 1998;

REMINGTON HEALTH PRODUCTS,
LLC,

Remington,

v.

TROPICANA PRODUCTS,
INC.

Registrant.

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Cancellation No.: _____

PETITION FOR CANCELLATION

Remington Health Products, LLC ("Remington"), a limited liability company organized and existing under the laws of the state of Texas, having its principal place of business at 808 Blue Mound Road, Fort Worth, Texas 76131, believes that it is and will continue to be damaged by the existence of Registration No. 2,319,909 for the mark DRINKABLE FRUIT in Class 29, owned by Tropicana Products, Inc. ("Registrant") and hereby petitions to cancel the registration under the provisions of 15 U.S.C. § 1092.

As grounds of cancellation, Remington asserts that:

1. Remington owns U.S. Registration No. 2,552,892 for the mark DRINKABLES as a trademark registered in connection with the following goods:

Vitamins, dietary supplements, and mineral supplements, all in liquid form in Class 5.

The United States Patent & Trademark Office ("USPTO") issued U.S. Registration No. 2,552,892 on March 26, 2002, with Remington, or its predecessor-in-interest, having filed the

underlying application on May 30, 1997. Registration No. 2,552,892 is valid, subsisting and in full force and effect. A true and correct copy of the TARR record and USPTO Assignment Division record for the aforesaid registration are attached hereto as Exhibit A. The filing date for Registration No. 2,552,892 precedes Registrant's claimed date of first use of August 15, 1998.

2. Remington's mark referenced in paragraph 1 will hereafter be referred to as "Remington's Mark."

3. Remington's Mark is inherently distinctive and serves to distinguish Remington and the goods originating with Remington from those of others, and to distinguish the source of Remington's goods.

4. Remington has expended substantial amounts of time, money and effort in advertising and promoting Remington's Mark and the goods offered thereunder. As a result, Remington has developed substantial goodwill in Remington's Mark.

5. Registrant's U.S. Registration No. 2,319,909 is registered on the Supplemental Registration, for the mark DRINKABLE FRUIT ("Registrant's Mark") as a trademark in connection with the following goods (hereinafter referred to as "Registrant's Goods"):

Processed fruits in class 29.

6. Registrant's Mark so resembles Remington's Mark as to be likely, when used on or in connection with Registrant's Goods, to cause confusion, or to cause mistake, or to deceive. Purchasers and prospective purchasers are likely to falsely believe that Registrant's Goods offered and provided under Registrant's Mark are sponsored, endorsed, or approved by Remington, or are in some way affiliated, connected, or associated with Remington. Cancellation is therefore appropriate under 15 U.S.C. § 1052(d).

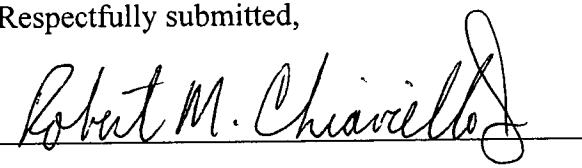
7. Upon information and belief, Remington believes that Registrant has abandoned Registrant's Mark; therefore, U.S. Registration No. 2,319,909 should be cancelled pursuant to 15 U.S.C. § 1092.

8. Remington believes that it is being, and will continue to be, damaged by the continued existence of Registrant's registration.

WHEREFORE, Remington prays that this Petition For Cancellation be sustained and that Registration No. 2,319,909 be cancelled in its entirety.

A fee in the amount of \$300.00 as required in 37 C.F.R. § 2.6(a)(17) is submitted herewith. If the amount is insufficient, or should any additional fees under 37 C.F.R. § 2.6 be required for any reason relating to the enclosed materials, or should an overpayment be included herein, the Commissioner for Trademarks is authorized to deduct or credit said fees from or to Fulbright & Jaworski Deposit Account No. 06-2380.

Dated: ^{November} ~~October~~ 15, 2008

Respectfully submitted,

Robert M. Chiaviello, Jr.
Erin B. Frazier
FULBRIGHT & JAWORSKI L.L.P.
2200 Ross Avenue, Suite 2800

Dallas, Texas 75201

Telephone: 214.855.8000

Fax: 214.855.8200

Email: DOIPDocket@Fulbright.com

COUNSEL FOR REMINGTON HEALTH
PRODUCTS, LLC

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing PETITION FOR CANCELLATION and Associated Exhibit were served by First Class Mail on December 3, 2008, upon Registrant at the address below:

TROPICANA PRODUCTS, INC.
1001 13TH AVENUE EAST
BRADENTON, FL 34208
United States



Erin B. Frazier

EXHIBIT A

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2008-10-03 15:12:52 ET

Serial Number: 75300688 Assignment Information Trademark Document Retrieval

Registration Number: 2552892

Mark (words only): DRINKABLES

Standard Character claim: No

Current Status: Section 8 and 15 affidavits have been accepted and acknowledged.

Date of Status: 2007-05-07

Filing Date: 1997-05-30

Transformed into a National Application: No

Registration Date: 2002-03-26

Register: Principal

Law Office Assigned: LAW OFFICE 105

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 40S -Scanning On Demand

Date In Location: 2007-05-18

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. REMINGTON HEALTH PRODUCTS, LLC

Address:

REMINGTON HEALTH PRODUCTS, LLC
804 BLUE MOUND ROAD
FORT WORTH, TX 76131
United States

Legal Entity Type: Limited Liability Company

State or Country Where Organized: Texas

GOODS AND/OR SERVICES

International Class: 005

Class Status: Active

vitamins, dietary supplements, and mineral supplements, all in liquid form

Basis: 1(a)

First Use Date: 1998-09-00

First Use in Commerce Date: 1998-09-00

<http://tarr.uspto.gov/servlet/tarr?regser=serial&entry=75300688>

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2007-05-18 - Case File In TICRS

2007-05-07 - Section 8 (6-year) accepted & Section 15 acknowledged

2007-04-24 - Assigned To Paralegal

2007-03-26 - Section 8 (6-year) and Section 15 Filed

2007-03-26 - TEAS Section 8 & 15 Received

2002-11-27 - Section 7 correction issued

2002-08-01 - Request for new certificate filed

2002-08-01 - PAPER RECEIVED

2002-03-26 - Registered - Principal Register

2001-12-03 - Allowed for Registration - Principal Register (SOU accepted)

2001-11-29 - Assigned To Examiner

2001-11-26 - Statement of use processing complete

2001-11-26 - Extension 3 granted

2001-11-07 - Amendment to Use filed

2001-11-07 - Extension 3 filed

2001-05-18 - Extension 2 granted

2001-05-08 - Extension 2 filed

2001-01-17 - Extension 1 granted

2000-11-09 - Extension 1 filed

Latest Status Info

2000-05-09 - Notice of allowance - mailed
2000-03-10 - Opposition terminated for Proceeding
2000-03-10 - Opposition dismissed for Proceeding
1998-08-18 - Opposition instituted for Proceeding
1998-05-15 - Extension Of Time To Oppose Received
1998-04-28 - Published for opposition
1998-03-27 - Notice of publication
1998-02-03 - Approved for Pub - Principal Register (Initial exam)
1998-01-28 - Examiner's amendment mailed
1998-01-03 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Linda M. Merritt

Correspondent

Linda M. Merritt
Fulbright & Jaworski L.L.P.
22000 ROSS AVENUE, Suite 2800
DALLAS TX 75201



United States Patent and Trademark Office

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Assignments on the Web > Trademark Query

Trademark Assignment Abstract of Title

Total Assignments: 6Serial #: 75300688

Filing Dt: 05/30/1997

Reg #: 2552892

Reg. Dt: 03/26/2002

Registrant: Remington Health Products, Inc.

Mark: DRINKABLES

Assignment: 1Reel/Frame: 1986/0281

Received: 11/08/1999

Recorded: 11/02/1999

Pages: 10

Conveyance: CHANGE OF NAME DOCUMENT. RE-RECORD TO CORRECT NATURE OF CONVEYANCE, PREVIOUSLY RECORDED ON REEL 1809, FRAME 0486.

Assignor: REMINGTON HEALTH PRODUCTS, INC.

Exec Dt: 09/30/1997

Entity Type: CORPORATION

Citizenship: TEXAS

Entity Type: CORPORATION

Citizenship: TEXAS

Assignee: STEELE INVESTMENTS, INC.932 BLUE MOUND ROAD
FORT WORTH, TEXAS 76131Correspondent: BAKER & BOTTS, L.L.P.
ROBERT M. CHIAVIELLO, JR., ESQ.
2001 ROSS AVENUE
DALLAS, TEXAS 75201**Assignment: 2**Reel/Frame: 2314/0094

Received: 06/15/2001

Recorded: 05/30/2001

Pages: 6

Conveyance: CHANGE OF NAME

Assignor: REMINGTON HEALTH PRODUCTS, INC.

Exec Dt: 09/30/1997

Entity Type: CORPORATION

Citizenship: TEXAS

Entity Type: CORPORATION

Citizenship: TEXAS

Assignee: STEELE INVESTMENT, INC.932 BLUE MOUND ROAD
FORT WORTH, TEXAS 76131Correspondent: BAKER BOTT L.L.P.
ROBERT M. CHIAVIELLO, JR., ESQ.
2001 ROSS AVENUE
DALLAS, TX 75201**Assignment: 3**Reel/Frame: 2314/0144

Received: 06/15/2001

Recorded: 05/30/2001

Pages: 5

Conveyance: CHANGE OF NAME (CORRECTION TO DOCUMENT RECORDED AT REEL 001809, FRAME 0486 EFFECTIVE ON OCTOBER 29, 1998)

Assignor: REMINGTON HEALTH PRODUCTS, INC.

Exec Dt: 09/30/1997

Entity Type: CORPORATION

Citizenship: TEXAS

Entity Type: CORPORATION

Citizenship: TEXAS

Assignee: STEELE INVESTMENTS, INC.932 BLUE MOUND ROAD
FORT WORTH, TEXAS 76131Correspondent: BAKER BOTTS L.L.P.
ROBERT M. CHIAVIELLO, JR. ESQ.
2001 ROSS AVENUE
DALLAS, TX 75201**Assignment: 4**Reel/Frame: 2314/0076

Received: 06/15/2001

Recorded: 05/30/2001

Pages: 5

Conveyance: CORRECTION TO DOCUMENT RECORDED AT REEL 001809, FRAME 0486

Assignor: STEELE INVESTMENTS, INC.

Exec Dt: 10/01/1997

Entity Type: CORPORATION

Assignee: REMINGTON HEALTH PRODUCTS, LLC
932 BLUE MOUND ROAD
FORT WORTH, TEXAS 76131

Citizenship: TEXAS

Entity Type: TEXAS LIMITED LIABILITY COMPANY

Citizenship: NONE

Correspondent: BAKER BOTTS LLP
ROBERT M. CHIAVIELLO, JR., ESQ.
2001 ROSS AVENUE
SUITE 600
DALLAS, TEXAS 75201-2980

Assignment: 5

Reel/Frame: 2346/0725 **Received:** 08/14/2001

Recorded: 07/27/2001

Pages: 5

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: STEELE INVESTMENTS, INC.

Exec Dt: 10/01/1997

Entity Type: CORPORATION

Citizenship: TEXAS

Entity Type: LIMITED LIABILITY COMPANY

Citizenship: TEXAS

Assignee: REMINGTON HEALTH PRODUCTS, LLC
932 BLUE MOUND ROAD
FORT WORTH, TEXAS 76131

Correspondent: BAKER BOTTS L.L.P.
DANA C. JEWELL, ESQ.
2001 ROSS AVENUE
SUITE 600
DALLAS, TEXAS 75201-2980

Assignment: 6

Reel/Frame: 1809/0486 **Received:** 11/06/1998

Recorded: 10/29/1998

Pages: 9

Conveyance: BILL OF SALE

Assignors: REMINGTON HEALTH PRODUCTS, INC.

Exec Dt: 07/01/1998

Entity Type: CORPORATION

Citizenship: TEXAS

Exec Dt: 07/01/1998

Entity Type: CORPORATION

Citizenship: TEXAS

Entity Type: CORPORATION

Citizenship: TEXAS

Assignees: STEELE INVESTMENTS, INC.

932 BLUE MOUND ROAD
FORT WORTH, TEXAS 76131

REMINGTON HEALTH PRODUCTS, LLC

932 BLUE MOUND ROAD
FORT WORTH, TEXAS 76131

Entity Type: CORPORATION

Citizenship: TEXAS

Correspondent: FELSMAN, BRADLEY, GUNTER & DILLON
MELVIN A. HUNN
201 MAIN STREET, SUITE 1600
FORT WORTH, TEXAS 76102-3105

Search Results as of: 10/03/2008 03:13 PM

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350. v.2.0.1
Web interface last modified: April 20, 2007 v.2.0.1

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