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Filing date: **01/13/2009**

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	Claus Schmitz		
Entity	Individual	Citizenship	GERMANY
Address	815 Brownell St. Louis, MO 63122 UNITED STATES		

Attorney information	Nelson Nolte Polster, Lieder, Woodruff & Lucchesi, L.C. 12412 Powerscourt Dr. Ste. 200 St. Louis, MO 63131 UNITED STATES trademarks@patpro.com, nnolte@patpro.com, ctandler@patpro.com Phone: 314-238-2400		
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**Registration Subject to Cancellation**

Registration No	2359354	Registration date	06/20/2000
Registrant	MOSAIC EVENT MANAGEMENT, INC. 480 Second Street, SUITE 302 San Francisco, CA 94107 UNITED STATES		

**Goods/Services Subject to Cancellation**

Class 035. First Use: 1995/03/01 First Use In Commerce: 1995/03/01 All goods and services in the class are cancelled, namely: Planning, managing, and conducting business meetings, conferences, and events
Class 041. First Use: 1995/03/01 First Use In Commerce: 1995/03/01 All goods and services in the class are cancelled, namely: Planning, managing, and conducting social events
Class 042. First Use: 1995/03/01 First Use In Commerce: 1995/03/01 All goods and services in the class are cancelled, namely: Catering services

**Grounds for Cancellation**

<i>Torres v. Cantine Torresella S.r.l. Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Abandonment	Trademark Act section 14

Attachments	Notice of Opposition.pdf ( 3 pages )(23825 bytes )
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**Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Nelson D. Nolte/
Name	Nelson Nolte
Date	01/13/2009

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

CLAUS SCHMITZ	)	
	)	
Petitioner,	)	
	)	
v.	)	Cancellation No.
	)	
MOSAIC EVENT MANAGEMENT, INC.	)	
	)	
Registrant.	)	

**PETITION FOR CANCELLATION**

In the matter of a Trademark Registration No. 2,359,354, registered June 20, 2000 under the Trademark Act of 1946 for the mark MOSAIC, Petitioner believes that he may be damaged by such registration of said alleged trademark and hereby petitions for cancellation of the same:

The grounds for cancellation are as follows:

1. Petitioner, Claus Schmitz, is citizen of the country of Germany and has a mailing address of 815 Brownell, St. Louis, Missouri 63122. Petitioner offers restaurant and bar services the mark MOSAIC.

**COUNT I - ABANDONMENT**

2. Registrant has abandoned use of its registered MOSAIC mark without the intent to resume such use for the services of “catering services” in International Class 43 such that the mark has lost the capacity to serve as a source indicator for that service.

**COUNT II – FRAUD ON THE PATENT & TRADEMARK OFFICE**

3. Petitioner realleges the allegations of paragraphs 1-2 above.

4. On or about February 22, 2006, Registrant filed with the U.S. Patent & Trademark Office a Combined Declaration Under Section 8 & 15 swearing *inter alia* that the mark was in use in commerce on or in connection with all of the goods or services listed in the existing registration and the mark had been continuously used in commerce for five (5) consecutive years after the date of registration, or the date of publication under Section 12(c), and was still in use in commerce on or in connection with all goods or services listed in the existing registration for this class for Registrant's '354 Registration. The signature on the Declaration was dated January 20, 2006.

5. Upon information and belief, Registrant's Combined Declaration Under Section 8 & 15 was false.

6. Registrant's Declaration included a specimen of use as evidence that the registered MOSAIC mark was use in conjunction with "catering services."

7. Upon information and belief, Registrant was not at the time of the declaration offering catering services.

WHEREFORE, this Petitioner, Claus Schmitz, believes and alleges that he may be damaged by said registration of the MOSAIC mark of Registration No. 2,359,354, as aforesaid, and prays that:

A. Judgment in the present petition for cancellation be entered in favor of Petitioner on Counts I and II, inclusive, of this Petition for Cancellation;

B. The present petition be sustained;

C. Registration No. 3,139,320 be cancelled as the recited catering services" in Class 43 for abandonment; and

D. Registration No. 3,139,320 be cancelled in its entirety based upon its fraudulent procurement.

Respectfully submitted,

CLAUS SCHMITZ

/Nelson D. Nolte/

Nelson D. Nolte

POLSTER, LIEDER, WOODRUFF & LUCCHESI, L.C.

12412 Powerscourt Dr. Ste. 200

St. Louis, MO 63131

Date: January 13, 2009