

ESTTA Tracking number: **ESTTA298842**

Filing date: **08/03/2009**

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

Proceeding	92051145
Party	Defendant 3M Company
Correspondence Address	Allen W. Hinderaker Merchant & Gould PC 80 South Eighth Street, Suite 3200 Minneapolis, MN 55402-2215 UNITED STATES
Submission	Answer
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Signature	/William Schultz/
Date	08/03/2009
Attachments	2009 08 03 Answer.pdf (4 pages)(98028 bytes)

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

Pradeep Mohan,)	
)	Cancellation No. 92051145
Petitioner,)	
)	
vs.)	Registration No. 3619324
)	
)	
3M Company,)	Mark: CARDIOLOGY III
)	
Registrant.)	
)	

ANSWER TO PETITION TO CANCEL

COMES NOW REGISTRANT, 3M Company, to answer the Petition to Cancel in Proceeding Number 92051145. Any and all allegations in the Petition to Cancel not specifically admitted herein are denied, including any allegations in non-numbered paragraphs. Registrant specifically denies any and all allegations of damage to Petitioner by the registration of the marks subject to Registration Number 3619324. An Answer to the allegations is provided below:

1. The Petition to Cancel is in an improper format pursuant to Rule 10(b) of the Federal Rules of Civil Procedure and TBMP § 309.03(a)(2). Petitioner has failed to state his claims in numbered paragraphs and to limit each as far as practicable to a single set of circumstances. The un-numbered allegations are denied in their entirety.

AFFIRMATIVE DEFENSES

Registrant 3M Company for its affirmative defenses states:

FIRST DEFENSE

2. On July 13, 2009, Registrant filed with the Trademark Trial and Appeal Board a Motion to Suspend Pending Final Determination of Federal District Court Action. Pursuant to 37 C.F.R. § 2.117(a) and TBMP §510.02(a), Registrant requests that the Board suspend this Proceeding pending final determination of Civil Action No. 09-CV-1413 filed in The United States District Court for the District of Minnesota on June 16, 2009. Registrant reserves all rights pending the outcome of that proceeding.

SECOND DEFENSE

3. Petitioner's Petition to Cancel, either in whole or in part, fails to state a claim upon which relief can be granted.

THIRD DEFENSE

4. Petitioner's Petition to Cancel is barred by the doctrines of consent and waiver.

FOURTH DEFENSE

5. Petitioner's Petition to Cancel is barred by the doctrine of unclean hands.

WHEREFORE, Registrant requests that this Proceeding be suspending pending the final determination of Civil Action No. 09-CV-1413. At that time, Registrant requests that Petitioner's claims be dismissed, with prejudice, and the registration of the mark CARDIOLOGY III as shown in U.S. Reg. No. 3619324 be maintained.

It is believed that no fee is required for filing this paper. In the event that any fee is required, the Commissioner of Trademarks is authorized to charge the underpayment or any fees in connection herewith to Deposit Account No. 13-2725.

Please direct all correspondence to:

Allen Hinderaker
MERCHANT & GOULD P.C.
P.O. Box 2910
Minneapolis, MN 55402-9944

Applicant hereby appoints Allen W. Hinderaker; William D. Schultz; and other attorneys of Merchant & Gould, P.C., and Hildy Bowbeer and Jim Voegeli of 3M Company, as attorneys with the full power to represent the Registrant in connection with this proceeding. These attorneys are authorized to transact all business in and before the United States Patent and Trademark Office in connection herewith.

Respectfully submitted,

3M Company

By its attorneys,



Allen Hinderaker
William Schultz
MERCHANT & GOULD P.C.
80 S. 8th Street
3200 IDS Center
Minneapolis, MN 55402
Telephone: (612) 332-5300

August 3, 2009
Date

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing ANSWER TO THE PETITION TO CANCEL was served, via first-class mail, postage prepaid to:

Pradeep Mohan
115 Chace Street
Santa Cruz, CA 95060

this 3rd day of August, 2009.



William Schultz

CERTIFICATE OF FILING

I hereby certify that this ANSWER TO THE PETITION TO CANCEL is being filed electronically with the United States Patent and Trademark Office's Electronic System for Trademark Trial & Appeals (ESTTA) on this 3rd day of August, 2009.



William Schultz