

ESTTA Tracking number: **ESTTA368453**

Filing date: **09/15/2010**

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	Jeffrey Kaplan		
Entity	Individual	Citizenship	UNITED STATES
Address	POB 11106 Ft. Lauderdale, FL 33339 UNITED STATES		

Correspondence information	Jeffrey Kaplan POB 11106 Ft. Lauderdale, FL 33339 UNITED STATES eggcream@earthlink.net Phone:eggcream@earthlink.net		
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### Registration Subject to Cancellation

Registration No	792115	Registration date	07/06/1965
Registrant	INSIGHT PHARMACEUTICALS LLC 550 TOWNSHIP LINE ROAD BLUE BELL, PA 19422 UNITED STATES		

### Goods/Services Subject to Cancellation

Class U018 (International Class 005). First Use: 1927/07/22 First Use In Commerce: 1927/07/22 All goods and services in the class are cancelled, namely: CHEWING GUM CONTAINING ASPIRIN
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### Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	AspergumPetitiontoCancel.pdf ( 3 pages )(1417459 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	/Jeffrey Kaplan/
Name	Jeffrey Kaplan
Date	09/15/2010

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

In the matter of Trademark Registrations No. 792,115  
For the Mark “ ASPERGUM”

Jeffrey Kaplan  
P.O.B. 11106  
Ft. Lauderdale, Fl. 33339,

Cancellation No: Pending

Petitioner,

v.

Insight Pharmaceuticals LLC  
550 Township Line Road  
Blue Bell PA 19422

Registrant

**PETITION FOR CANCELLATION**

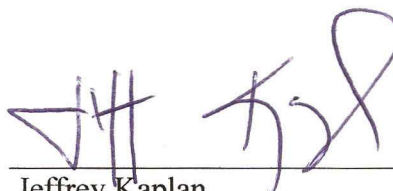
1. Jeffrey Kaplan (hereinafter the “Petitioner”) is an individual whose is located and is doing business at P.O.B. 11106 Fort Lauderdale, Florida 33339. To the best of Petitioner’s knowledge, Insight Pharmaceuticals LLC (hereinafter the “Registrant”) is a business located at 550 Township Line Road Blue Bell PA 19422.
2. Petitioner has filed an Intent-To Use Application with the U.S.P.T.O. for the mark “ASPERGUM” – Serial No. 85042190 for Medicated Chewing Gum.
3. The Petitioner believes it is or will be damaged by Registrant’s U.S. Trademark Registration No: 792,115 for the mark “ASPERGUM” for Chewing Gum Containing Aspirin.
4. The above-identified Petitioner believes that it is, or will be, damaged by the above identified registration, and hereby petitions to cancel the same. The grounds for this cancellation are as follows:

**ABANDONMENT UNDER STATUTE 15 USC 1064(3)**

5. On information and belief, Registrant has abandoned the mark “ASPERGUM” Registration No: 792,115 by discontinuing use of the mark for a period of three (3) years or more. Petitioner is likely to be damaged by continuance of said registration in that Petitioner intends use of the same or similar mark and will be impaired by the continued registration of said abandoned mark of Registrant.
6. On information and belief, Registrant does not intend to resume use of the mark “ASPERGUM” in commerce on the goods that are the subject of Registration No. 792,115.
7. Petitioner intends to use and register the mark “ASPERGUM” for medicated chewing gum by virtue of U.S. Serial No. 85126700 filed on September 10<sup>th</sup> 2010.
8. Concurrent use and registration of the mark by the Registrant and Petitioner is likely to result in irreparable damage to Petitioner’s reputation and good will if Petitioner claims ownership of the Petitioner’s mark “ASPERGUM” in U.S. Serial No. 85126700.
9. Petitioner’s and Registrant’s application and registration are for nearly identical marks and identify nearly the same goods, that the marks are used in connection with.
10. If the Registrant is permitted to retain the registrations sought to be cancelled, a cloud would be placed on Petitioner’s title in and to its trademark “ASPERGUM” and on its right to enjoy the free and exclusive use thereof in connection with the sale of its goods and services, all to the great injury of Petitioner.

WHEREFORE, Petitioner respectfully requests that its Petition be granted in its entirety and that Registration No. 786,098 for “FUNNY-FACE” be cancelled.

Respectfully Submitted,



Jeffrey Kaplan  
POB 11106  
Ft. Lauderdale, Florida 33339  
(954) 793-0637  
9/15/10

**CERTIFICATE OF MAILING**

It is hereby certified that the attached Petition for Cancellation is being deposited  
First Class Postage Prepaid with the U.S. Postal Service addressed to Insight  
Pharmaceuticals LLC 550 Township Line Road Blue Bell PA 19422.



Jeffrey Kaplan  
9/15/10