

ESTTA Tracking number: **ESTTA398337**

Filing date: **03/16/2011**

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 parties request to cancel indicated registration.

Petitioner Information

Name	David M. Morrow		
Entity	Individual	Citizenship	UNITED STATES
Address	69-780 Stellar Drive Rancho Mirage, CA 92270 UNITED STATES		

Name	The Morrow Institute Medical Group, Inc.		
Entity	Corporation	Citizenship	California
Address	69-780 Stellar Drive Rancho Mirage, CA 92270 UNITED STATES		

Attorney information	Clark D. Gross Law Office of Clark D. Gross 1800 Century Park East Suite 600 Los Angeles, CA 90067 UNITED STATES cgross@law-ip.com Phone:310-979-3444		
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Registration Subject to Cancellation

Registration No	3152675	Registration date	10/10/2006
Registrant	Jane Wan Chou P.O. Box 199 Randolph, MA 02368 UNITED STATES		


Goods/Services Subject to Cancellation

Class 044. First Use: 2005/08/18 First Use In Commerce: 2005/09/19 All goods and services in the class are cancelled, namely: Skin care services and spa services namely cosmetic body care services all including the following-- facials, microdermabrasion, blue peels and various chemical peels including Vitamin A; Glycolic, Lactic, Salicylic and Trichloroacetic acid peels and sonophoresis laser hair removal, hair waxing and brow tinting

Grounds for Cancellation

False suggestion of a connection	Trademark Act section 2(a)
Abandonment	Trademark Act section 14
Priority and likelihood of confusion	Trademark Act section 2(d)

Mark Cited by Petitioner as Basis for Cancellation

U.S. Application No.	85027889	Application Date	04/30/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	HEALTHY SKIN IS BEAUTIFUL SKIN		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 003. First use: Cosmetic preparations for skin renewal; cosmetics; cosmetic non-medicated skin care preparations, non-medicated skin care preparations for use in treating sun burn and chapping; sunscreen lotions and creams; non-medicated skin care preparations for UV protection; non-medicated skin care preparations for use in cosmetic peels; cosmetic preparations to soften skin, cleanse skin, enhance skin radiance, enhance and aid skin healing, reduce the appearance of acne, pimples, blackheads and acne scarring, reverse sun damage, promote collagen production, promote skin cell turnover, protect against and treat sun and UV damage, reduce the appearance of lines and wrinkles, reduce the appearance of cellulite, reduce the appearance of scars, reduce appearance of brown and age spots, and promote skin resurfacing; non-medicated skin care preparations in the form of skin lotions, gels, creams, moisturizers, ointments, serums, peels, resurfacing solutions, masques, sunscreens, cleansers, washes, topically applied exfoliators, balms, powders and bar soaps</p> <p>Class 005. First use: Medicated skin care preparations; medicated cosmetics; medicated skin care preparations for use in treating sun burn and chapping; medicated skin care preparations for UV protection; medicated skin care preparations in the form of ointments, lotions, creams, cleansers, and serums gels; medicated skin care preparations for use in cosmetic peels; medicated skin care preparations in the nature of ointments, lotions, creams, cleansers, and serums to reverse UV related aging and photo damage; medicated preparations in the nature of ointments, lotions, creams, cleansers, and serums to reduce and heal acne; herbal supplements; homeopathic supplements; medicines for acne, pre skin cancer lesions, photoaging, and to promote collagen production; medicated skin peel solutions, medicated skin care preparations, namely lotions, liquids, gels, creams and serums for use in cosmetic peels; pharmaceuticals, namely, pharmaceutical skin lotions to promote skin health; herbal supplements to treat hair loss, to promote hair growth, to reduce gray hair color, and to treat skin conditions such as dry skin acne, UV damaged skin (photo aging), wrinkles, brown spots, and red spots; homeopathic pharmaceuticals for use in the treatment of bruising, scarring, pain, inflammation, and for healing enhancement</p> <p>Class 044. First use: Medical services; cosmetic surgery; plastic surgery; reconstructive surgery; laser</p>		

	treatments; laser surgery; intense pulse light treatment (IPL); vein treatment; vein surgery; radio frequency treatment; medical or surgical treatments to stimulate collagen and elastin fiber production; medical and surgical treatments to reverse photo aging/sun damage; medical and surgical treatment to treat acne, acne scarring, scarring, and rosacea; laser resurfacing; topical application of liquid nitrogen; skin cancer treatment; skin cancer removal; hair removal; chemical skin peels; skin peels; infrared light treatments; radio frequency skin treatment; physician skin analysis; cosmetic body care services and facial treatment services, namely facials, microdermabrasion, microdermaplaning, light skin peels, glycolic skin peels, waxing, acne treatment, pimple treatment and extractions; body treatments in the nature of scrubs, exfoliation, massage, bronzing, deep moisturizing treatments, body wraps, skin exfoliating treatments, skin analysis, UV photography as a diagnostic tool, hydration analysis, wrinkle analysis, pore size analysis, bacterial analysis, pigment analysis, skin analysis using photographic images; and skin analysis using UV photographic images
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Attachments	85027889#TMSN.jpeg (1 page)(bytes) Petition-as-filed.pdf (4 pages)(130063 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	/clark gross/
Name	Clark D. Gross
Date	03/16/2011

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL & APPEAL BOARD

In the Matter of
Trademark Registration No. 3,152,675
For the Mark: HEALTHY SKIN IS IDEAL SKIN
Registration Date: October 10, 2006

David M. Morrow (an individual), and
The Morrow Institute Medical Group,
Inc. (a California Corporation),

Petitioners

v.

Jane Wan Chou (an individual),
Registrant.

Cancellation No. _____

PETITION FOR CANCELLATION

Petitioner, David M. Morrow, an individual having an address at 69-780 Stellar Drive, Rancho Mirage, CA 92270 (hereinafter "Dr. Morrow") and Petitioner The Morrow Institute Medical Group, Inc., a California Corporation having an address at 69-780 Stellar Drive, Rancho Mirage, CA 92270 (hereinafter "Morrow Institute") (Morrow Institute and Dr. Morrow are collectively referred to as "Petitioners"), believe that they will be damaged by the continued registration of the mark shown in Trademark Registration No. 3,152,675 for the mark HEALTHY SKIN IS IDEAL SKIN ("the '675 Reg."), owned by Jane Wan Chou, an individual, whose address is listed in the TARR database as P.O. Box 199, Randolph, MA 02368 (hereinafter "Registrant"), and hereby Petition to Cancel same. This Cancellation is filed as to all classes.

The grounds for this Cancellation are as follows:

1. On information and belief, Registrant has made no use of the mark HEALTHY SKIN IS IDEAL SKIN in connection with any of the goods or services recited in the '675 Reg. for at least three consecutive years preceding the filing of this Petition for Cancellation, Registrant has no intent to resume such use, and at the time Registrant discontinued use of the mark HEALTHY SKIN IS IDEAL SKIN, Registrant had the intent not to resume such use.
2. As a result of Registrant's failure to use the HEALTHY SKIN IS IDEAL SKIN mark and Registrant's intent not to resume such use, the HEALTHY SKIN IS IDEAL SKIN mark and the '675 Reg. have become abandoned, both at common law and under Section 45 of the Lanham Trademark Act (15 USC §1127).
3. On or about April 30, 2010, Petitioner Dr. Morrow filed United States Trademark Application No. 85/027,889, for the mark HEALTHY SKIN IS BEAUTIFUL SKIN (hereinafter "the '889 App."), based upon his *bona fide* intent to use the mark HEALTHY SKIN IS BEAUTIFUL SKIN in commerce in connection with the goods and services recited in said application.
4. Since on or about 1996, Petitioners have used their mark HEALTHY SKIN IS BEAUTIFUL SKIN, in commerce, in use analogous to trademark use, in connection with goods and services identical to, related to, complimentary to, and similar to those recited in the '675 Reg., and such use continues to this very day. This date of first use is well before any use of the mark of the '675 Reg. by Registrant, including the claimed dates of first use recited in the '675 Reg. of August 18, 2005 and September 19, 2005.
5. Due to such prior use and Petitioners' superior rights in and to the trademark HEALTHY SKIN IS BEAUTIFUL SKIN, Petitioners would be damaged by the continuing registration of HEALTHY SKIN IS IDEAL SKIN, and Petitioners have standing to bring this Cancellation.
6. On or about August 16, 2010, the Examiner of the '889 App. issued an Office Action, rejecting the '889 App. under §2(d), finding a likelihood of confusion with the '675 Reg. That rejection was continued in a Final Office Action issued on or about February 9, 2011. This constitutes separate and independent grounds for Petitioners' standing to bring this Cancellation.
7. Registrant is not entitled to use or register the mark of '675 Reg. due to Petitioners' prior use analogous to trademark use of HEALTHY SKIN IS BEAUTIFUL SKIN in the United States, and such use has not been

abandoned. Based upon the PTO's Final Rejection of the '889 App., the mark of the '889 App. is so similar to the mark of the '675 Reg. as to be likely, when both marks are used on or in connection with their recited goods and services (including without limitation Petitioners' analogous use), to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of Petitioners with Registrant, or as to the origin, sponsorship, or approval of Registrant's goods, services, or commercial activities by Petitioners.

8. Based upon the PTO's Final Rejection of the '889 App., the mark of the '675 Reg. so resembles that of the '889 App., and the respective goods and services (including without limitation Petitioners' analogous use) are so similar, as to represent a false designation of origin, false or misleading description of fact, or false or misleading representation of fact, which is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of Registrant with Petitioners, or as to the origin, sponsorship, or approval of Registrant's goods, services, or commercial activities by Petitioners.
9. For the above reasons, continued registration of the mark of the '675 Reg. would damage Petitioners, and Petitioners thus have standing to file this Petition for Cancellation.

Wherefore, Petitioners respectfully pray that this Petition for Cancellation be sustained against Registration No. 3,152,675, and that Registration No. 3,152,675 be Canceled.

Respectfully submitted,



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Dated: March 16, 2011

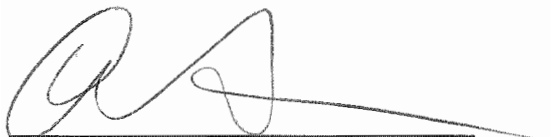
Attorney for Petitioners David M. Morrow
& The Morrow Institute Medical Group, Inc.

CERTIFICATE OF SERVICE

I hereby certify that true and complete copies of the foregoing Petition for Cancellation have been served on Registrant Jane Wan Chou by mailing said copies on March 16, 2011, via First Class Mail, postage prepaid, to her attorney of record at the time of issuance and to Registrant (both as reflected in the TARR database) at the following addresses:

Jane Wan Chou
c/o Lisa A. Kane, Esq.
1061 Brush Hill Road
Milton, MA 02186-1217

Jane Wan Chou
P.O. Box 199
Randolph, MA 02368

A handwritten signature in black ink, appearing to read 'Clark D. Gross', written over a horizontal line.

Clark D. Gross

Dated: March 16, 2011