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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    | Florida Garden Supplies, Inc.                             |             |         |
| Entity  | Corporation   | Citizenship | Florida |
| Address | 2692 W. 79th Street<br>Hialeah, FL 33016<br>UNITED STATES |             |         |

|                      |  |  |  |
|----------------------|--|--|--|
| Attorney information | Amaury Cruz<br>Amaury Cruz, P.A.<br>1560 Lenox Avenue Suite 207<br>Miami Beach, FL 33139<br>UNITED STATES<br>lex@lexarian.com Phone:305-604-2051 |  |  |
|----------------------|--|--|--|

### Registration Subject to Cancellation

|                 |  |                   |            |
|-----------------|--|-------------------|------------|
| Registration No | 3942681  | Registration date | 04/12/2011 |
| Registrant      | Sierra Reforestation Company<br>1341 DAYTON ST STE G<br>SALINAS, CA 93901<br>UNITED STATES |                   |            |

### Goods/Services Subject to Cancellation


Class 001. First Use: 2009/05/12 First Use In Commerce: 2009/06/12  
All goods and services in the class are cancelled, namely: Fertilizers

### Grounds for Cancellation

|                                      |                            |
|--------------------------------------|----------------------------|
| Priority and likelihood of confusion | Trademark Act section 2(d) |
|--------------------------------------|----------------------------|

### Mark Cited by Petitioner as Basis for Cancellation

|                      |                  |                       |            |
|----------------------|------------------|-----------------------|------------|
| U.S. Application No. | 85243928         | Application Date      | 02/16/2011 |
| Registration Date    | NONE             | Foreign Priority Date | NONE       |
| Word Mark            | XTREME NUTRIENTS |                       |            |

|                     |  |
|---------------------|--|
| Design Mark         |    |
| Description of Mark | The mark consists of the stylized wording "XTREME" appearing above the stylized wording "NUTRIENTS". The letter "X" is surrounded by the depiction of a single line circle that is broken by the letter "T" in "XTREME". |
| Goods/Services      | Class 001. First use: First Use: 2009/02/03 First Use In Commerce: 2009/02/03 Bio-fertilizers containing beneficial bacteria and fungi for domestic and agricultural use for use with plants, crops and fruit            |

|             |  |
|-------------|--|
| Attachments | 85243928#TMSN.jpeg ( 1 page )( bytes )<br>Petition for Cancellation XTREME GARDENING AND DESIGN.pdf ( 4 pages )(167596 bytes ) |
|-------------|--|

### 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 | /amaury cruz/ |
| Name      | Amaury Cruz   |
| Date      | 08/31/2012    |

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

In Re:           Registration No. 3,942,681  
Registered:    April 12, 2011  
Mark:           XTREME GARDENING  
Registrant:    SIERRA REFORESTATION COMPANY D/B/A REFORESTATION  
                  TECHNOLOGIES INTERNATIONAL CORPORATION

|                                  |   |                  |
|----------------------------------|---|------------------|
| -----                            | ) |                  |
| FLORIDA GARDEN SUPPLIES, INC.    | ) |                  |
|                                  | ) |                  |
| Petitioner,                      | ) |                  |
|                                  | ) |                  |
| v.                               | ) | Cancellation No. |
|                                  | ) |                  |
| SIERRA REFORESTATION COMPANY     | ) |                  |
| D/B/A REFORESTATION TECHNOLOGIES | ) |                  |
| INTERNATIONAL CORP.              | ) |                  |
|                                  | ) |                  |
| Registrant.                      | ) |                  |
| -----                            | ) |                  |

**PETITION FOR CANCELLATION**

Florida Garden Supplies, Inc. (“Petitioner”), a corporation in the State of Florida, with a principal place of business at 2692 W. 79<sup>th</sup> Street, Hialeah, Florida 33016, believes that it is being damaged by Registration No. 3,942,681 (“Registration”) for the designation XTREME GARDENING AND DESIGN covering “fertilizers,” in International Class 001, owned by Sierra Reforestation Company d/b/a Reforestation Technologies International Corp., (“Registrant”), and hereby petitions to cancel the same.

As grounds for cancellation, Petitioner alleges that:

1. Petitioner is the owner of the common law rights to the mark XTREME NUTRIENTS AND DESIGN for “bio-fertilizers.”

**AMAURY CRUZ, P.A.**

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2. Petitioner is now, and for many years has been, engaged in the manufacture, marketing and sale of bio-fertilizers and complex nutrients for domestic and agricultural use for plants, crops and fruits.
3. Prior to May 12, 2009, the Registrant's alleged date of first use, Petitioner has manufactured, marketed and sold fertilizer in commerce in connection with the trademark XTREME NUTRIENTS AND DESIGN.
4. Petitioner is the owner of the U.S. Trademark Application for XTREME NUTRIENTS AND DESIGN, Serial No. 85,243,928 for "bio-fertilizers containing beneficial bacteria and fungi for domestic and agricultural use for use with plants, crops and fruit." Petitioner filed this application on February 16, 2011. The United States Patent and Trademark Office, on February 15, 2012, denied registration of the latter on the basis, among other things, of likelihood of confusion with Registrant's mark.
5. As a result of Petitioner's advertising, marketing and sale of its products bearing the XTREME NUTRIENTS AND DESIGN designation, its mark is known to and recognized by U.S. consumers as indicating source exclusively in Petitioner.
6. Registrant's XTREME GARDENING AND DESIGN designation is substantially similar in sound, appearance, connotation, and commercial impression to Petitioner's XTREME NUTRIENTS AND DESIGN Mark. Further, the goods identified in the Application are identical or substantially similar to the products offered by Petitioner under its XTREME NUTRIENTS AND DESIGN Mark and fall squarely within the field of fertilizers.

**AMAURY CRUZ, P.A.**



**CERTIFICATE OF SERVICE**

I hereby certify that this Petition for Cancellation was served on Registrant Sierra Reforestation Company d/b/a Reforestation Technologies International Corp. via First Class Mail in an postage prepaid envelope addressed to Sierra Reforestation Company d/b/a Reforestation Technologies International Corp., 1341 Dayton St., Suite G, Salinas, California 93901, on this 31st day of August, 2012.

/AC/

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Amaury Cruz, Esq.

**AMAURY CRUZ, P.A.**

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