

ESTTA Tracking number: **ESTTA543611**

Filing date: **06/18/2013**

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	Caprico USA LLC		
Entity	Limited Liability Company	Citizenship	Florida
Address	7950 NW 53rd Street Suite 215 Miami, FL 33166 UNITED STATES		

Attorney information	John Cyril Malloy, III Malloy & Malloy, P.L. 2800 SW Third Avenue Miami, FL 33129 UNITED STATES jcmalloy@malloylaw.com, fferreiro@malloylaw.com, litigation@malloylaw.com Phone:305-858-8000
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Registration Subject to Cancellation

Registration No	3870044	Registration date	11/02/2010
Registrant	Tracie Martyn International LLC 101 Fifth Avenue New York, NY 10003 UNITED STATES		

Goods/Services Subject to Cancellation

Class 005. First Use: 2010/03/19 First Use In Commerce: 2010/03/19
All goods and services in the class are cancelled, namely: Nutritional supplements

Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	Petition to Cancel.pdf(22243 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	/Francisco J. Ferreiro/
Name	Francisco J. Ferreiro
Date	06/18/2013

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

In the matter of Registration No. 3,870,044
For the mark "RADICAL GLOW"

CAPRICO USA LLC,)	
)	
Petitioner,)	
)	
vs.)	Cancellation No.
)	
TRACIE MARTIN INTERNATIONAL, LLC)	
)	
Registrant.)	

PETITION TO CANCEL

COMES NOW the Petitioner, Caprico USA, LLC ("Petitioner"), a Florida limited liability company having its principal place of business at 7950 NW 53rd Street, Suite 215, Miami, Florida 33166, and, pursuant to 15 U.S.C. §1064(3), hereby petitions to cancel U.S. Registration No. 3,870,044 for "RADICAL GLOW" owned by Tracie Martin International, LLC ("Registrant"), a New York company having an address of 101 Fifth Avenue New York, New York 10003. As set forth below, Petitioner believes that it is or will be damaged by Registration No. 3,870,044:

CLAIM OF ABANDONMENT

1. On December 15, 2011, Petitioner filed an application with the United States Patent and Trademark Office ("PTO"), namely, application Serial No. 85/496,452 for "RADIGLOW" for use on "dietary supplements" in International Class 005.

2. On October 9, 2012, the Examining Attorney assigned to Petitioner's Application issued an Office Action setting forth a final Section 2(d) refusal prefaced on Registration No. 3,870,044. Applicant's request for reconsideration was denied on April 24, 2013.

3. The alleged trademark sought to be cancelled is Registration No. 3,870,044 for the mark "RADICAL GLOW" for use on "nutritional supplements", in International Class 5. Registrant's application was filed on March 25, 2010 and registered on November 2, 2010.

4. Registrant claims March 19, 2010 as the date that the alleged "RADICAL GLOW" mark was first used in commerce on "nutritional supplements."

5. Upon information and belief, Registrant is not currently offering "nutritional supplements" under the alleged "RADICAL GLOW" mark.

6. Upon information and belief, Registrant does not intend to resume bona fide use of the alleged "RADICAL GLOW" mark in the ordinary course of trade.

7. Upon information and belief, Registrant has abandoned the alleged "RADICAL GLOW" mark.

WHEREFORE, Petitioner prays that this Petition to Cancel be granted and that the aforesaid Registration No. 3,870,044 for the mark "RADICAL GLOW" be cancelled pursuant to 15 U.S.C. §1064(3) and

removed from the Federal Registry.

An electronic copy of this Petition to Cancel and the fee required in 37 C.F.R. §2.6(a)(16) are enclosed herewith.

Respectfully submitted,

Dated: June 18, 2013

By: /Francisco J. Ferreiro/
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CERTIFICATE OF FILING

I HEREBY CERTIFY that the foregoing document was filed electronically via the ESTTA, at the United States Patent and Trademark Office, Trademark Trial and Appeal Board, web site, www.uspto.gov, this 18th day of June 2013.

By: /Francisco J. Ferreiro/
Francisco J. Ferreiro

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Petition to Cancel has been served on the following by mailing said copy on June 18, 2013, via First Class Mail, postage prepaid to:

Tracie Martin International, LLC
101 Fifth Avenue
New York, New York 10003

Kathryn Jennison Shultz, Esq.
JENNISON & SHULTZ, P.C.
2001 Jefferson Davis Highway, Suite 1102
Arlington, VIRGINIA 22202

By: Francisco J. Ferreiro/
Francisco J. Ferreiro