

ESTTA Tracking number: **ESTTA551182**

Filing date: **07/30/2013**

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	Natural Organics, INC.		
Entity	Corporation	Citizenship	New York
Address	548 Broadhallow Road Melville, NY 11747 UNITED STATES		

Attorney information	Marie-Anne Mastrovito Abelman Frayne & Schwab 666 Third Avenue New York, NY 11747 UNITED STATES MAMastrovito@lawabel.com, Rdahl@lawabel.com Phone:212-949-9022		
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Registrations Subject to Cancellation

Registration No	4238184	Registration date	11/06/2012
Registrant	Naturally Plus Direct Marketing Pte. Ltd. 70 Shenton Way, #13-01 Marina House Singapore, 079118 SINGAPORE		

Goods/Services Subject to Cancellation

Class 005. First Use: 1999/00/00 First Use In Commerce: 2012/01/00 All goods and services in the class are cancelled, namely: Nutritional supplements
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Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)		
Registration No	4242475	Registration date	11/13/2012
Registrant	Naturally Plus Direct Marketing Pte. Ltd. 70 Shenton Way, #13-01 Marina House Singapore, 079118 SINGAPORE		

Goods/Services Subject to Cancellation

Class 005. First Use: 1999/00/00 First Use In Commerce: 2012/01/00 All goods and services in the class are cancelled, namely: Nutritional supplements containing lutein
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Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)		
Registration No	4238185	Registration date	11/06/2012

Registrant	Naturally Plus Direct Marketing Pte. Ltd. 70 Shenton Way, #13-01 Marina House Singapore, 079118 SINGAPORE
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Goods/Services Subject to Cancellation

Class 005. First Use: 1999/00/00 First Use In Commerce: 2012/01/00 All goods and services in the class are cancelled, namely: Nutritional supplements
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Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	2066716	Application Date	03/15/1996
Registration Date	06/03/1997	Foreign Priority Date	NONE
Word Mark	NATURE'S PLUS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1972/02/00 First Use In Commerce: 1972/02/00 dietary supplements and vitamins		

Attachments	NATURAL ORGANICS V NATURALLY PLUS DIRECT MARKETING - PETITION TO CANCEL - 7-30-13.pdf(299355 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	/Marie-Anne Mastrovito/
Name	Marie-Anne Mastrovito
Date	07/30/2013

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

**In the Matter Of: Trademark Registration Nos. 4238184, 4242475 and 4238185
in the United States.**

NATURAL ORGANICS INC.	:	
	:	
	:	
Petitioner,	:	
	:	
v.	:	
	:	Cancellation No. -----
NATURALLY PLUS DIRECT MARKETING PTE. LTD.	:	
	:	
	:	
Respondent.	:	
	:	
	:	

PETITION TO CANCEL

Natural Organics, Inc., a New York corporation, with a business address at 548 Broadhollow Road, Melville, New York 11747 (“hereinafter “Petitioner”), believes that it will be damaged by the continued registration of the marks shown in Trademark Registration Nos. 4238184, 4242475 and 4238185 (hereinafter collectively referred to as “Respondent’s Registrations”) and hereby requests cancellation of these registrations. Respondent’s Registrations are believed to be currently owned by Naturally Plus Direct Marketing Pte. Ltd. (hereinafter, “Respondent”). As many issues relevant to the cancellation actions overlap, Petitioner seeks to consolidate the actions and has therefore filed a single Petition to Cancel with allegations relevant to each of Respondent’s Registrations.

As grounds for this petition to cancel it is alleged that:

1. On August 12, 2010, Respondent filed an application to register the mark **NATURALLY PLUS** in connection with “nutritional supplements.” The application

was based on intention to use the mark in commerce under Section 1(b) of the Trademark Act. On or about September 24, 2012, Respondent filed a Statement of Use for the mark alleging first use of the mark in commerce in January, 2012. The mark was registered on November 6, 2012 and assigned Registration No. 4238185.

2. On August 12, 2010, Respondent also filed an application to register the mark NATURALLY PLUS AND DESIGN as shown below:



The goods are indentified in the application and resulting registration as “nutritional supplements.” The application was based on intention to use the mark in commerce under Section 1(b) of the Trademark Act. On or about September 24, 2012, Respondent filed a Statement of Use for the mark alleging first use of the mark in commerce in January, 2012. The mark was registered on November 6, 2012 and assigned Registration No. 4238184.

3. On August 12, 2010, Respondent also filed an application to register the mark NATURALLY PLUS SUPER LUTEIN AND DESIGN as shown below:



The goods were originally indentified in the application as “nutritional supplements,” however, the identification of goods was later amended to “nutritional supplements containing lutein.” The application was based on intention

to use the mark in commerce under Section 1(b) of the Trademark Act. On or about September 24, 2012, Respondent filed a Statement of Use for the mark alleging first use of the mark in commerce in January, 2012. The mark was registered on November 13, 2012 and assigned Registration No. 4242475.

4. Petitioner is the owner of federal Registration No. 2066716 for the mark NATURE'S PLUS in connection with dietary supplements and vitamins. The registration is based on use of the mark in commerce. The registration issued June 3, 1997 and is now incontestable. A TARR printout of this registration is attached.
5. Petitioner has continuously used the mark NATURE'S PLUS in U.S. commerce in connection with dietary supplements and vitamins for over 35 years. Over this time period, the mark has acquired widespread consumer recognition and goodwill.
6. On information and belief, the Petitioner's first use and registration of Petitioner's NATURE'S PLUS trademark was well in advance of the filing date of the applications underlying Respondent's Registrations and any use which Respondent has made of the NATURALLY PLUS trademarks shown in Respondent's Registrations.
7. Petitioner's Goods are closely related to the goods covered by the Respondent's Registrations.
8. Registration of the marks shown in Respondent's Registrations, which are all highly similar to the Petitioner's prior mark NATURE'S PLUS, and which are allegedly used in connection with closely related goods, is likely to cause confusion, mistake, or deception of purchasers as to the source of Respondent's and Petitioner's Goods and is likely to falsely suggest a common association, sponsorship or origin of said

goods between Respondent and Petitioner, all to Petitioner's irreparable damage and injury.

9. The marks shown in Respondent's Registrations should be cancelled and should be precluded from continued or future registration under Sections 2(d) of the Trademark Act because they so resemble the trademark previously used and registered by Petitioner and not abandoned as to be likely when used on or in connection with the Respondent's Goods to cause confusion, to cause mistake, or to deceive.

WHEREFORE, Petitioner believes that it has a real interest in this proceeding and will be irreparably damaged by the registration of the Respondent's Marks, and respectfully requests that the Board sustain this Cancellation action.

Respectfully submitted,

ABELMAN, FRAYNE & SCHWAB


By: MARIE ANNE MASTROVITO

666 Third Avenue
New York, New York 10017
Telephone (212) 949 -9022

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing PETITION TO CANCEL was served by first class mail, postage prepaid this 30th day of July, 2013 upon the following:

William J. Seiter
Seiter & Co.
220 26th Street, Suite 202
Santa Monica, CA 90402


MARIE ANNE MASTROVITO

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Mark: NATURE'S PLUS

US Serial Number: 75073073 Application Filing Date: Mar. 15, 1996
US Registration Number: 2066716 Registration Date: Jun. 03, 1997
Register: Principal
Mark Type: Trademark
Status: The registration has been renewed.
Status Date: Oct. 29, 2006
Publication Date: Mar. 11, 1997

Mark Information

Mark Literal Elements: NATURE'S PLUS
Standard Character Claim: No
Mark Drawing Type: 1 - TYPESET WORD(S) /LETTER(S) /NUMBER(S)

Related Properties Information

International Registration Number: 0954576
International Application(s) /Registration(s) Based on this Property: A0011383/0954576

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services.
- Double parenthesis (()) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks * identify additional (new) wording in the goods/services.

For: dietary supplements and vitamins
International Class(es): 005 - Primary Class U.S Class(es): 006, 018, 044, 046, 051, 052
Class Status: ACTIVE
Basis: 1(a)
First Use: Feb. 1972 Use in Commerce: Feb. 1972

Basis Information (Case Level)

Filed Use: Yes	Currently Use: Yes	Amended Use: No
Filed ITU: No	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: Natural Organics, Inc.
Owner Address: 548 Broadhollow Road
Melville, NEW YORK 11747
UNITED STATES

Legal Entity Type: CORPORATION

State or Country Where Organized: NEW YORK

Attorney/Correspondence Information

Attorney of Record

Attorney Name: PASQUALE A. RAZZANO

Docket Number: 1938.8002

Correspondent

Correspondent Name/Address: PASQUALE A. RAZZANO
Abelman Frayne and Schwab
666 Third Avenue 10th Floor
New York, NEW YORK 10017-5612
UNITED STATES

Phone: 212-949-9022

Fax: 212-949-9190

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Aug. 12, 2008	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Dec. 07, 2006	CASE FILE IN TICRS	
Oct. 29, 2006	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	76293
Oct. 29, 2006	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	
Oct. 29, 2006	ASSIGNED TO PARALEGAL	76293
Aug. 25, 2006	REGISTERED - COMBINED SECTION 8 (10-YR) & SEC. 9 FILED	
Aug. 25, 2006	TEAS SECTION 8 & 9 RECEIVED	
Sep. 16, 2002	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	
Aug. 09, 2002	REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED	
Aug. 09, 2002	PAPER RECEIVED	
Jun. 03, 1997	REGISTERED-PRINCIPAL REGISTER	
Mar. 11, 1997	PUBLISHED FOR OPPOSITION	
Feb. 07, 1997	NOTICE OF PUBLICATION	
Dec. 22, 1996	APPROVED FOR PUB - PRINCIPAL REGISTER	
Dec. 18, 1996	EXAMINER'S AMENDMENT MAILED	
Sep. 24, 1996	NON-FINAL ACTION MAILED	
Aug. 16, 1996	ASSIGNED TO EXAMINER	73365

Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Incontestability: Section 15 - Accepted

Renewal Date: Jun. 03, 2007

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: SCANNING ON DEMAND

Date in Location: Dec. 07, 2006