

ESTTA Tracking number: **ESTTA582500**

Filing date: **01/17/2014**

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	Laboratorios Lopez, S.A. de C.V.		
Entity	a sociedad anonima (sa de cv)	Citizenship	El Salvador
Address	Kilometro 5 1/2, Boulevard del Ejercito Nacional Soyapango, San Salvador, EL SALVADOR		

Attorney information	James R. Menker Holley & Menker, P.A. P.O. Box 331937 Atlantic Beach, FL 32233 UNITED STATES eastdocket@holleymenker.com Phone:904 247-2620
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Registration Subject to Cancellation

Registration No	3994679	Registration date	07/12/2011
Registrant	Promesa Distributors 5160 Indiana Ave. Ste. A Winston Salem, NC 27106 NEW CALEDONIA		

Goods/Services Subject to Cancellation

Class 005. First Use: 2010/12/20 First Use In Commerce: 2010/12/20 All goods and services in the class are cancelled, namely: Anti-itch cream; Anti-itch ointment

Grounds for Cancellation

Abandonment	Trademark Act section 14
Other	Registrant is not the owner of the trademark.

Attachments	20140117 ALERGFIN 3994679 PETITION TO CANCEL.pdf(131684 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	/jmenker/
Name	James R. Menker

Date	01/17/2014
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Laboratorios Lopez, S.A. de C.V.,)	
)	
Petitioner,)	
)	
v.)	
)	Reg. No. 3994679
Promesa Distributors,)	
)	
Registrant.)	

PETITION TO CANCEL

Laboratorios Lopez, S.A. de C.V. (hereinafter "Petitioner"), a sociedad anonima (sa de cv) of El Salvador having an address at Kilometro 5 ½, Boulevard del Ejercito Nacional, Soyapango, San Salvador, El Salvador is or will be damaged by the continued registration of the mark ALERGFIN, which is set forth in Reg. No. 3994679 and issued to Promesa Distributors (hereinafter "Registrant"), and hereby requests the cancellation of the same.

As grounds for cancellation, Petitioner, by its attorneys, avers as follows:

1. On July 12, 2011, the United States Patent and Trademark Office issued Reg. No. 3994679 for the mark ALERGFIN for "anti-itch cream; anti-itch ointment."
2. On May 11, 2011, Petitioner submitted application Ser. No. 85317805 to the United States Patent and Trademark Office seeking to register the mark ALERFIN for "allergy medications; allergy relief medication; allergy tablets; antiallergic medicines; antihistamines; pharmaceutical preparations for treating allergies."
3. During the examination of application Ser. No. 85317805, the US PTO refused registration under Section 2(d) of the Trademark Act based on a likelihood of confusion with the

mark set forth in Reg. No. 3994679.

4. On December 13, 2013, Petitioner submitted a new application, Ser. No. 86142859, again seeking to register the mark ALERFIN for “allergy medications; allergy relief medication; allergy tablets; anti-itch cream; antihistamines; nose drops; pharmaceutical preparations for treating allergies.”

5. On information and belief, Registrant has discontinued use of the mark set forth in Reg. No. 3994679.

6. On information and belief, Registrant does not intend to resume use of the mark set forth in Reg. No. 3994679.

7. On information and belief, Registrant has abandoned the mark set forth in Reg. No. 3994679.

8. Any goodwill that may have been associated with the mark set forth in 3994679 has been destroyed by Registrant’s intentional abandonment and nonuse of the mark in commerce.

9. On information and belief, Registrant was never the owner of the mark set forth in Reg. No. 3994679 as required by Section 1 of the Trademark Act, 15 U.S.C. § 1051 and was instead merely a distributor of anti-itch creams and anti-itch ointments. The specimen of use submitted by Registrant to the US PTO during the examination of the application that resulted in the issuance of Reg. No. 3994679 clearly identifies Registrant as the distributor.

10. Petitioner is or will be damaged by the existence of this registration. Specifically,

an Examining Attorney will be of the opinion that the mark set forth in application Ser. No. 86142859 consists of or comprises a mark which so resembles the mark set forth in Reg. No. 3994679 as to be likely to cause confusion, or to cause mistake, or to deceive, under Trademark Act Section 2(d), 15 U.S.C. § 1052(d), and will, therefore, refuse registration of application Ser. No. 86142859.

WHEREFORE, Petitioner respectfully requests that Reg. No. 3994679 be cancelled.

The required filing fee is submitted herewith.

Respectfully submitted,

Laboratorios Lopez, S.A. de C.V

By:


James R. Menker

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing "PETITION TO CANCEL"
was served on Registrant at the address of record:

5160 Indiana Ave., Ste. A
Winston Salem, North Carolina 27106

, via first class mail, postage prepaid, today **January 17, 2014**.

By:



Laura K. Greer