

ESTTA Tracking number: **ESTTA594350**

Filing date: **03/24/2014**

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	FremantleMedia North America, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	2900 West Alameda 8th Floor Burbank, CA 91505 UNITED STATES		

Correspondence information	Steven M. Weinberg Holmes Weinberg, PC 30765 Pacific Coast Hwy. Suite 411 Malibu, CA 90265 UNITED STATES hwtrademarks@gmail.com Phone:310 457 6100		
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Registration Subject to Cancellation

Registration No	3729862	Registration date	12/22/2009
Registrant	Neil, Leonard #5 Santa Monica, CA 90403 USX		

Goods/Services Subject to Cancellation

Class 041. First Use: 2009/06/25 First Use In Commerce: 2009/06/25 All goods and services in the class are cancelled, namely: Entertainment services, namely, conducting an on-line talent competition exclusively conducted for companies and private organizations, using streaming video submissions as a mechanism for judging contestants

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.	3350449	Application Date	04/03/2006
Registration Date	12/04/2007	Foreign Priority Date	NONE
Word Mark	AMERICA'S GOT TALENT		

Design Mark	AMERICA'S GOT TALENT
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 2006/06/21 First Use In Commerce: 2006/06/21 Entertainment services in the nature of an ongoing television talent show; entertainment services, namely, providing an on-line computer game

Attachments	78979095#TMSN.jpeg(bytes) 2014.03.24_YOUR COMPANY'S GOT TALENT Cancellation Petition.pdf(40895 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	/s/ Nelda Piper
Name	Nelda Piper
Date	03/24/2014

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

In re Reg. No. 3729862
Date Registered: December 22, 2009

FremantleMedia North America, Inc.,

Petitioner,

v.

Leonard Neil

Respondent.

PETITION FOR CANCELLATION

TO: ASSISTANT COMMISSIONER FOR TRADEMARKS
BOX TTAB –FEE
2900 Crystal Drive
Arlington, VA 22202-3513

Petitioner FremantleMedia North America, Inc. (“Petitioner”), a corporation organized and existing under the laws of the State of Delaware, believes that it would be damaged by the continued registration of the above-referenced mark, and hereby petitions to cancel the same. As grounds for this Petition, Petitioner respectfully alleges as follows:

1. Petitioner is a corporation organized and existing under the laws of the State of Delaware having a place of business at 2900 W. Alameda Avenue, 8th Floor, Burbank, CA 91505.

2. The mark subject to this Petition is YOUR COMPANY’S GOT TALENT, Reg. No. 3729862 (the “Respondent’s Mark”) for “Entertainment services, namely, conducting an on-

line talent competition exclusively conducted for companies and private organizations, using streaming video submissions as a mechanism for judging contestants” in International Class 041.

3. Said registration matured from Application Serial No. 77/665,562, filed on February 6, 2009, and registered on December 22, 2009. The claimed date of first use is June 25, 2009.

First Ground for Cancellation

(Likelihood of Confusion under Section 2(d) of the Act)

4. Petitioner is the exclusive owner in the United States of the federally registered AMERICA’S GOT TALENT mark (the “AMERICA’S GOT TALENT® Mark”) for “entertainment services in the nature of an ongoing television talent show; entertainment services, namely, providing an on-line computer game,” Reg. No. 3350449, and of common law rights therein. It is also the producer of the renowned AMERICA’S GOT TALENT television talent show.

5. This registration is valid and enforceable and Petitioner’s exclusive rights in Reg. No. 3350449 are incontestable.

6. Petitioner has used the AMERICA’S GOT TALENT trademark in the United States since 2006. For more than seven years, Petitioner has produced, advertised, distributed and sold services and goods in interstate commerce under its AMERICA’S GOT TALENT® Mark. Further, Petitioner’s services include offering on-line video auditions for its AMERICA’S GOT TALENT television talent show, and have included the use of streaming video submissions as a mechanism for judging and selecting contestants.

7. Because Petitioner first used its AMERICA’S GOT TALENT® Mark in relation to an ongoing television talent competition and related services and products several years before

Respondent filed Application Serial No. 77/665,562, and such use has been continuous, Petitioner has priority of use.

8. By virtue of Petitioner's continuous, extensive and exclusive use and marketing, promotion and sale of, and the widespread consumption of services and related products under the AMERICA'S GOT TALENT® Mark, the AMERICA'S GOT TALENT® Mark has come to be recognized by the relevant public as identifying services and goods having their origin in or otherwise associated exclusively with Petitioner.

9. The Respondent's Mark for entertainment services in the nature of conducting an on-line talent competition based on video submissions is similar to Petitioner's well-known AMERICA'S GOT TALENT® Mark. For example, both marks are comprised of the words GOT TALENT. Further, Respondent's Mark evokes the same or highly similar connotation as the AMERICA'S GOT TALENT® Mark. Both the Respondent's Mark and the AMERICA'S GOT TALENT® Mark are used for identical and commercially related services, namely entertainment services in the nature of providing talent competitions that utilize video submissions and related on-line content. Accordingly, it is likely that consumers will mistakenly believe that the Respondent's Mark for entertainment services in the nature of conducting an on-line talent competition is connected to, sponsored or endorsed by, or otherwise associated with Petitioner or its AMERICA'S GOT TALENT television talent show and related services and products.

10. The continued registration of the Respondent's Mark for International Class 041 services would be inconsistent with Petitioner's rights in its AMERICA'S GOT TALENT® Mark and will cause damage to Petitioner.

WHEREFORE, Petitioner FremantleMedia North America, Inc. respectfully prays that federal Registration No. 3729862 be cancelled.

DATED this 24th Day of March, 2014

Respectfully submitted,

By: _____



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Counsel for Petitioner FremantleMedia North America, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing PETITION FOR CANCELLATION was served by USPS Priority Mail to Registrant and Registrant's counsel at the following addresses:

Brian Grossman
TESSER RUTTENBERG & GROSSMAN LLP
12100 Wilshire Blvd., Suite 220
Los Angeles, California 90025

Leonard Neil
1820 Idaho Ave. #5
Santa Monica, CA 90403

Dated: March 24, 2014

By: /s/ Nelda Piper
Nelda Piper
Paralegal