

ESTTA Tracking number: **ESTTA594960**

Filing date: **03/27/2014**

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	Post Foods, LLC		
Entity	limited liability company	Citizenship	Delaware
Address	1 Upper Pond Road Parsippany, NJ 07054 UNITED STATES		

Attorney information	Thomas A. Polcyn Thompson Coburn LLP One US Bank Plaza St. Louis, MO 63101 UNITED STATES tpolcyn@thompsoncoburn.com, hal-shathir@thompsoncoburn.com, ipdocket@thompsoncoburn.com, mnoelke@thompsoncoburn.com
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Registration Subject to Cancellation

Registration No	3424522	Registration date	05/06/2008
Registrant	MOM BRANDS COMPANY 20802 Kensington Blvd Lakeville, MN 55044 MONGOLIA		

Goods/Services Subject to Cancellation

Class 030. First Use: 2007/04/30 First Use In Commerce: 2007/04/30
All goods and services in the class are cancelled, namely: BREAKFAST CEREAL

Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	petition for cancellation.pdf(78205 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/ Thomas A. Polcyn
Name	Thomas A. Polcyn
Date	03/27/2014

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

Post Foods, LLC,)	
)	
Petitioner,)	
)	Cancellation No.
)	
vs.)	Directed to U.S. Reg. No. 3,424,522
)	
Mom Brands Company,)	Mark: CEREAL SNACKERS
)	
Registrant.)	

PETITION FOR CANCELLATION

Post Foods, LLC (“Petitioner”) believes it will be damaged by U.S. Registration No. 3,424,522 for the mark CEREAL SNACKERS, owned by Mom Brands Company (“Registrant”). Accordingly, pursuant to 15 U.S.C. §1064, Petitioner hereby petitions to cancel the registration.

PARTIES AND BACKGROUND

1. Petitioner is a Delaware limited liability company with an address of 1 Upper Pond Road, Parsippany, New Jersey 07054.
2. On information and belief, Registrant is a Minnesota corporation with an address of 20802 Kensington Blvd., Lakeville, Minnesota 55044.
3. On information and belief, Registrant is the owner of U.S. Registration No. 3,424,522 for the mark CEREAL SNACKERS for *breakfast cereal* in International Class 030.
4. Petitioner owns U.S. Serial No. 86/232,750 for the mark SNACKERS for *breakfast cereal; cereal-based snack foods; grain-based snack foods; and snack mixes* in International Class 030. Petitioner, therefore, has standing to bring this cancellation action.

COUNT I
(Abandonment)

5. Petitioner incorporates the above allegations by reference.

6. On information and belief, Registrant is not currently using CEREAL SNACKERS in commerce in connection with *breakfast cereal*. Moreover, on information and belief, Registrant has not used CEREAL SNACKERS in commerce in connection with *breakfast cereal* for at least the three years before the filing date of this cancellation action.

7. On information and belief, Registrant has discontinued use of the mark CEREAL SNACKERS with no intent to resume such use.

8. On information and belief, Registrant has abandoned the mark CEREAL SNACKERS, and U.S. Registration No. 3,424,522 for the mark should therefore be cancelled.

ACCORDINGLY, Petitioner respectfully requests that this cancellation action be sustained and that U.S. Registration No. 3,424,522 be cancelled.

Respectfully submitted,

By: /s/ Thomas A. Polcyn
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Attorneys for Petitioner,
Post Foods, LLC

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was sent via First Class Mail, postage prepaid, this 27th day of March, 2013, to the following:

Mom Brands Company
20802 Kensington Boulevard
Lakeville, Minnesota 55044

John A. Clifford
Merchant & Gould P.C.
P.O. Box 2910
Minneapolis, Minnesota 55402-0910

/s/ Thomas A. Polcyn