

ESTTA Tracking number: **ESTTA622006**

Filing date: **08/18/2014**

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

Proceeding	92059021
Party	Plaintiff New England BioLabs, Inc.
Correspondence Address	SEAN PLOEN PLOEN LAW FIRM PC 100 SOUTH FIFTH STREET, SUITE 1900 MINNEAPOLIS, MN 55402 UNITED STATES sploen@ploen.com, ttab@ploen.com
Submission	Motion to Amend Pleading/Amended Pleading
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Date	08/18/2014
Attachments	NEOBIOLAB Motion to Amend Petition to Cancel.pdf(81560 bytes)

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

New England BioLabs, Inc.,)	
)	
Petitioner)	
)	Cancellation No.: 92059021
v.)	
)	
NEO Group, Inc.,)	
)	
Respondent)	
)	

MOTION TO AMEND PETITION TO CANCEL

On July 22, 2014, respondent NEO Group, Inc. (“Respondent”) filed a Combined Motion to Dismiss Petition to Cancel and Motion to Suspend, along with supporting memorandum (the “Motion to Dismiss”). On July 30, 2014, the Board, acting in accord with Trademark Rule 2.127(d), suspended the above-captioned proceeding pending disposition of Respondent’s Motion to Dismiss.

In response to the pending Motion to Dismiss, Petitioner New England BioLabs, Inc. (“Petitioner”) has this day separately filed its First Amended Petition to Cancel the registration noted above. Petitioner’s First Amended Petition to Cancel corrects the defects that Respondent has alleged to have existed in Petitioner’s originally-filed Petition to Cancel, and Petitioner’s filing now is made in accord with *Trademark Trial and Appeal Board Manual of Procedure* § 503.03:

Thus, plaintiffs to proceedings before the Board ordinarily can, and often do, respond to a motion to dismiss by filing, inter alia, an amended complaint. If the amended complaint corrects the defects noted by the defendant in its motion to dismiss, and states a claim upon which relief can be granted, the motion to dismiss normally will be moot.

Petitioner states that its First Amended Petition to Cancel states a claim upon which relief can be

granted, and Petitioner therefore moves that such First Amended Petition to Cancel be accepted by the Board as Petitioner's operative pleading in the above-captioned matter, with the effect that Respondent's Motion to Dismiss shall be rendered moot.

Respectfully submitted,

NEW ENGLAND BIOLABS, INC.

By: /s/ Sean Ploen
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August 18, 2014

CERTIFICATE OF SERVICE

I, Sean Ploen, hereby certify that on this 18th day of August, 2014, a true and correct copy of the foregoing MOTION TO AMEND PETITION TO CANCEL has been served, First Class U.S. Mail, postage prepaid, upon Respondent's counsel of record:

Weiguo Zhou, Esq.
The Anchor Law, LLC
26 Reeves Rd.
Bedford, MA 01730

and

Trina A. Longo, Esq.
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/s/ Sean Ploen _____
Sean Ploen