

ESTTA Tracking number: **ESTTA627711**

Filing date: **09/17/2014**

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	Diversey, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	8310 16th Street Sturtevant, WI 53177 UNITED STATES		

Attorney information	James R. Steffen Faegre Baker Daniels LLP 2200 Wells Fargo Center 90 South Seventh Street Minneapolis, MN 55402 UNITED STATES james.steffen@faegrebd.com Phone:612-766-7000
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Registration Subject to Cancellation

Registration No	939378	Registration date	08/01/1972
Registrant	HYDROX CHEMICAL CO. ELGIN, IL 60123 UNITED STATES		

Goods/Services Subject to Cancellation

Class 003. First Use: 1913/03/22 First Use In Commerce: 1913/03/22 All goods and services in the class are cancelled, namely: HYDROGEN PEROXIDE

Grounds for Cancellation

Abandonment	Trademark Act section 14
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Related Proceedings	Petition to Cancel Registration No. 4,576,307 being filed concurrently herewith.
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Attachments	cancel'378.pdf(37744 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	/JRSteffen/
Name	James R. Steffen

Date	09/17/2014
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3. The '378 Registration issued on August 1, 1972.
4. Petitioner believes that it is and/or will be damaged by the continued registration of the '378 Registration. Registrant has relied on its ownership of the '378 Registration in a pending proceeding between Registrant and Petitioner in a United States District Court. Registrant has in a pending proceeding between Registrant and Petitioner in a United States District Court asserted that Petitioner infringes Registrant's rights in the '378 Registration.
5. Registrant no longer uses the Subject Mark on or in connection with the Subject Goods.
6. Registrant has not used the Subject Mark on or in connection with the Subject Goods for more than three years.
7. On information and belief, Registrant has discontinued use of Subject Mark on or in connection with the Subject Goods without bona fide intent to resume such use.
8. On information and belief, Registrant has abandoned the Subject Mark for use with the Subject Goods.
9. The '378 Registration should be cancelled in its entirety pursuant to 15 U.S.C. § 1064(3).

WHEREFORE, Petitioner believes that it is and/or will be damaged by continued registration of the mark shown in the '378 Registration, and prays that this cancellation be sustained in Petitioner's favor and that the '378 Registration be cancelled.

The requisite filing fee of \$300.00 is submitted herewith. If the amount submitted is determined to be incorrect, the Commissioner may charge any additional fees or to credit any over payment to Deposit Account No. 06-0029.

Please address correspondence to:

James R. Steffen
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2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402
James.steffen@faegrebd.com

Dated: September 17, 2014

Respectfully submitted,
FAEGRE BAKER DANIELS LLP

By: /JRSteffen/

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*Attorneys for Petitioner Diversey,
Inc.*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing PETITION TO CANCEL was served on Registrant on September 17, 2014, via first class mail to:

Hydrox Chemical Co.
825-B Toll Gate Road
Elgin, IL 60123

James Michael Faier
Faier & Faier P.C.
566 W. Adams St., Ste. 600
Chicago, IL 60661

/JRSteffen/
James R. Steffen

CERTIFICATE OF TRANSMITTAL

I hereby certify that a true copy of the foregoing PETITION TO CANCEL is being filed electronically with the TTAB via ESTTA on this 17th day of September, 2014.

_____/JRSteffen/
James R. Steffen