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Filing date: **10/23/2014**

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	Vista Farms SE		
Entity	limited liability company	Citizenship	Puerto Rico
Address	P.O. Box 1834 Juana Diaz, PR 00795 UNITED STATES		

Attorney information	James M. Weatherly Cochran Freund & Young LLC 2026 Caribou Drive, suite 201 Fort Collins, CO 80525 UNITED STATES jamesw@patentlegal.com, barbc@patentlegal.com, lynetted@patentlegal.com Phone:970-492-1100
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**Registration Subject to Cancellation**

Registration No	3807562	Registration date	06/22/2010
Registrant	Cameron Nursery P.O. Box 300 Eltopia, WA 99330 UNITED STATES		

**Goods/Services Subject to Cancellation**

Class 031. First Use: 2009/11/19 First Use In Commerce: 2009/11/19 All goods and services in the class are cancelled, namely: Living commercial fruit plants sold by commercial nurseries to commercial growers
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**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. Application No.	86103056	Application Date	10/28/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	VISTA FARMS		

Design Mark	VISTA FARMS
Description of Mark	NONE
Goods/Services	Class 031. First use: First Use: 1988/12/00 First Use In Commerce: 1988/12/00 Live ornamental and decorative plants; living ornamental and decorative plants

Attachments	86103056#TMSN.png( bytes ) Petition for Cancellation - VISTA.pdf(725299 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	/James M. Weatherly/
Name	James Weatherly
Date	10/23/2014

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

**Vista Farms S.E.**

Petitioner

v.

Cancellation No.

**Cameron Nursery LLC**

Registrant

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United States Patent and Trademark Office  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

PETITION FOR CANCELLATION

1. Vista Farms S.E. a limited liability company, organized under the laws of Puerto Rico, having a mailing address of P.O. Box 1834 Juana Diaz, Puerto Rico, 00795, believes that it will be damaged by U.S. Registration No. 3,807,562 and hereby petitions to cancel same.
2. As grounds for this petition, it is alleged upon information and belief that:
  - a. The Registrant has obtained United States Trademark Registration No. 3,807,562 for the mark VISTA for use in connection with “living commercial fruit plants sold by commercial nurseries to commercial growers” in International Class 31, issued on June 22, 2010. Registrant's Certificate of Registration asserts a date of first use and first use in commerce of November 19, 2009.
  - b. On October 28, 2013, Petitioner filed a trademark application with the United States Patent and Trademark Office, Application Serial No. 86/103,056, covering the

mark VISTA FARMS for use in connection with "Live ornamental and decorative plants; living ornamental and decorative plants" in International Class 31.

c. Petitioner, has used the mark VISTA FARMS since as early as 1988.

3. On April 28, 2014, the United States Patent and Trademark Office issued a Final Office Action refusing to register Petitioner's VISTA FARMS application on the ground that the mark is confusingly similar to Registrant's VISTA Registration No. 3,807,562.

4. Petitioner has been selling live ornamental and decorative plants under the VISTA FARMS mark since 1988, and as such, Petitioner is the senior user of the mark and is entitled to the Registration. In view of the similarity of the respective marks and the related nature of the goods of the respective parties, it is alleged that Registrant's registered mark so resembles Petitioner's mark currently used in the United States as to be likely to cause confusion, or to cause mistake or to deceive.

5. Petitioner is damaged and will continue to be damaged because Registrant's continued registration of the VISTA mark stands as a bar to Petitioner's ability to federally register and protect its VISTA FARMS mark for the goods identified in paragraph 2b above.

WHEREFORE, Petitioner prays that Registration No. 3,807,562 be canceled and that this Petition for Cancellation be sustained in favor of Petitioner.

Attorneys for the Petitioner

October 23, 2014  
Date:

  
James M. Weatherly

Cochran Freund & Young, LLC  
2026 Caribou Drive, Suite 201  
Fort Collins, Colorado 80525  
Telephone: (970) 492-1100  
Facsimile: (970) 492-1101

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed, via First Class Mail, on the 23rd day of October 2014 to the following:

Cameron Nursery  
P.O. Box 300  
Eltopia, WA 99330

and

Mr. Patrick H. Ballew  
Ballew Law  
215 S. 11th Avenue  
Yakima, Washington 98902

Attorneys for the Petitioner

October 23, 2014  
Date:



James M. Weatherly

Cochran Freund & Young, LLC  
2026 Caribou Drive, Suite 201  
Fort Collins, Colorado 80525  
Telephone: (970) 492-1100  
Facsimile: (970) 492-1101