

ESTTA Tracking number: **ESTTA672356**

Filing date: **05/14/2015**

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	Beaulieu Group, LLC		
Entity	Corporation	Citizenship	Georgia
Address	1502 Coronet Drive Dalton, GA 30722 UNITED STATES		

Attorney information	Lucy Jewett Wheatley McGuireWoods LLP One James Center 901 East Cary Street Richmond, VA 23219 UNITED STATES lwheatley@mcguirewoods.com, bnewberg@mcguirewoods.com Phone: 8047754320		
----------------------	--	--	--

Registration Subject to Cancellation

Registration No	4011791	Registration date	08/16/2011
Registrant	Everclean Group Inc 4541-7 Saint Augustine Road Jacksonville, FL 32207 UNITED STATES		

Goods/Services Subject to Cancellation

Class 037. First Use: 2007/05/01 First Use In Commerce: 2008/11/01
All goods and services in the class are cancelled, namely: Cleaning of floors, carpets, and windows; Disinfecting; Janitorial services; Pressure washing services

Grounds for Cancellation

Abandonment	Trademark Act section 14
-------------	--------------------------

Related Proceedings	Beaulieu Group, LLC has applied for the trademark EVERCLEAN, Application No. 86486352.
---------------------	--

Attachments	2015.05.14 - Petition to Cancel.pdf(105290 bytes)
-------------	--

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Overnight Courier on this date.

Signature	/Lucy Jewett Wheatley/
Name	Lucy Jewett Wheatley
Date	05/14/2015

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

In re Registration of: Everclean Group Inc.

Reg. No.: 4,011,791

Reg. Date: Aug. 16, 2011

Mark:



BEAULIEU GROUP, LLC

Petitioner,

v.

EVERCLEAN GROUP INC.

Registrant.

Cancellation No. _____

PETITION TO CANCEL

Beaulieu Group, LLC (“Beaulieu” or “Petitioner”), a limited liability company organized and existing under the laws of the State of Georgia with its principal place of business at 1502 Coronet Drive, Dalton, Georgia 30722, is being damaged by registration of the mark shown in Registration No. 4,011,791 (the “Registration”) held by Everclean Group Inc. (“Registrant”) and petitions to cancel the same under Section 14 of the Trademark Act of 1946 (“Lanham Act”), 15 U.S.C. § 1064. As grounds for cancellation, Petitioner alleges that:

1. Beaulieu is the owner of record of U.S. Registration No. 4,293,216 for the mark BLISS BY BEAULIEU EVERCLEAN in International Class 27 for “[c]arpeting” (“Petitioner’s

Registration”), and trademark application Serial No. 86/486,352 for the mark EVERCLEAN in International Class 27 for “[c]arpeting” (“Petitioner’s Application”).

2. Registrant is the owner of record of the Registration, and has listed a correspondence address of 4541-7 Saint Augustine Rd, Jacksonville, Florida 32207-9525.

3. On April 1, 2015, the Trademark Examining Attorney issued an Office Action against Petitioner’s Application because it found a likelihood of confusion with the mark in the Registration, namely EVERCLEAN (stylized) (“EVERCLEAN Design Mark”), in connection with “cleaning of floors, carpets, and windows; disinfecting; janitorial services; pressure washing services” in International Class 37.

4. Upon information and belief, however, Registrant, which has ceased to operate as a business, has abandoned use of the EVERCLEAN Design Mark in connection with the goods recited in the Registration. Accordingly, though Petitioner does not agree that there is a likelihood of confusion between the Registration and Petitioner’s Application, Petitioner is filing this Petition to Cancel based on the Registrant’s abandonment of the EVERCLEAN Design Mark.

5. Registrant Everclean Group Inc. applied to register the EVERCLEAN Design Mark in International Class 37 on January 13, 2011. With its application, the Registrant submitted what it described as a digital image of a brochure as a specimen of use, which listed a website at the url: evercleangroup.com.

6. The Registration subsequently issued on August 16, 2011.

7. Upon information and belief, Registrant Everclean Group Inc. ceased to operate as a business and ceased to use the EVERCLEAN Design Mark by no later than June 2012.

8. Records from the Florida Department of State Division of Corporations show that Articles of Dissolution were filed on behalf of Registrant Everclean Group Inc. in December 2012. The stated reason for the dissolution was that Everclean Group Inc. had been out of business since June 31, 2012 and had lost contracts with customers and ceased all activity by that date.

9. The website identified in Registrant's specimen of use, at evercleangroup.com, no longer exists.

10. Upon information and belief, Registrant has never resumed its use of the EVERCLEAN Design Mark after it went out of business, and has no intention to do so, as shown by its formal dissolution of Everclean Group Inc. in 2012.

11. Accordingly, Registrant has expressed its intent not to resume use of the EVERCLEAN Design Mark by formally dissolving its business, and through its statements that the business ceased to operate. Further, Registrant has admittedly not used the EVERCLEAN Design Mark in the United States for almost three years, which (as of June 31, 2015) will be *prima facie* evidence of Registrant's intent to abandon the EVERCLEAN Design Mark. As such, Registrant has abandoned use of the EVERCLEAN Design Mark without the intent to resume use of that mark, and the Registration should be cancelled under Section 14 of the Lanham Act, 15 U.S.C. § 1064.

WHEREFORE, Petitioner prays that its petition be granted and that Registration No. 4,011,791 be cancelled.

/

/

/

Dated: May 14, 2015

Respectfully submitted,

Beaulieu Group, LLC

By Counsel

/Lucy Jewett Wheatley/

Brad R. Newberg (VSB No. 73654)

MCGUIREWOODS LLP

1750 Tysons Boulevard

Suite 1800

Tysons Corner, VA 22102

Tel: (703) 712-5061

Fax: (703) 712-5187

Email: bnewberg@mcguirewoods.com

Janet P. Peyton (VSB No. 39496)

jpeyton@mcguirewoods.com

Lucy Jewett Wheatley (VSB No. 77459)

lwheatley@mcguirewoods.com

McGuireWoods LLP

One James Center

901 East Cary Street

Richmond, Virginia 23219-4030

(804) 775-1000

(804) 775-1061 (fax)

Counsel for Beaulieu Group, LLC

CERTIFICATE OF SERVICE

On May 14, 2015, a copy of this document was sent by Federal Express to Registrant, Everclean Group Inc., at the following listed correspondence address:

Everclean Group Inc
4541-7 Saint Augustine Rd
Jacksonville, Florida 32207-9525

On May 14, 2015, a copy of this document was also sent by Federal Express to Registrant, Everclean Group Inc. at the following address:

5565 Jeremy Lane
Jacksonville, Florida 32257

/Lucy Jewett Wheatley/

Lucy Jewett Wheatley