

ESTTA Tracking number: **ESTTA680145**

Filing date: **06/25/2015**

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	FirstPath Autism, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	723 E. Main Street Turlock, CA 95380 UNITED STATES		

Attorney information	Richard J. Greenstone Richard J. Greenstone Attorneys & Counselors at Law 456 Montgomery Street Suite 1300 San Francisco, CA 94104 UNITED STATES trademarks@rjg.com Phone:415-438-1890		
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Registration Subject to Cancellation

Registration No	3811386	Registration date	06/29/2010
Registrant	FirstSolutions 525 S Lake Street Duluth, MN 55802 UNITED STATES		

Goods/Services Subject to Cancellation

Class 044. First Use: 2007/06/30 First Use In Commerce: 2007/06/30 All goods and services in the class are cancelled, namely: Health care, namely, assisting individuals to stop smoking; Health care services, namely, disease management programs; Health care services, namely, wellness programs

Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	Petition for Cancellation with Cert.pdf(933292 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	/Richard J. Greenstone/
Name	Richard J. Greenstone

Date	06/25/2015
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Registration No. 3,811,386
Date of Registration: June 29, 2010

FIRSTPATH AUTISM, INC.,

Petitioner,

vs.

FIRSTSOLUTIONS,

Registrant.

Cancellation No. _____

PETITION FOR CANCELLATION

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

Petitioner, FirstPath Autism, Inc., a Delaware corporation, having its principal place of business at 723 E. Main Street, Turlock, CA 95380, believes that it is being or will be damaged by Registration No. 3,811,386 and hereby petitions to cancel same. The grounds for cancellation are as follows:

1. The Registrant, FirstSolutions, a Minnesota corporation having its principal place of business and last known address at 525 S. Lake Street, Duluth, MN 55802, had obtained a registration for the mark FIRSTPATH (Registration No. 3,811,386) for health care services, namely, assisting individuals to stop smoking.

2. Petitioner filed the following intent to use applications in connection with the

mark FIRSTPATH AUTISM on February 20, 2015:

- a. Serial No. 86/541592 (FIRSTPATH AUTISM (standard character mark) for downloadable electronic books in the field of education and treatment of individuals with autism, class 009);
- b. Serial No. 86/541601 (FIRSTPATH AUTISM (standard character mark) for a series of non-fiction books in the field of education and treatment of individuals with autism, class 016);
- c. Serial No. 86/541609 (FIRSTPATH AUTISM (standard character mark) for education services, namely pre-kindergarten through 12th grade classroom instruction, vocational instruction, mentoring, tutoring, classes, seminars, and workshops for individuals with autism, class 041);
- d. Serial No. 86/541615 (FIRSTPATH AUTISM (standard character mark) for providing an internet website featuring new and information relating to diagnosis and treatment of autism, class 044);
- e. Serial No. 86/541624 (FIRSTPATH AUTISM (and design) for downloadable electronic books in the field of education and treatment of individuals with autism, class 009);
- f. Serial No. 86/541628 (FIRSTPATH AUTISM (and design) for a series of non-fiction books in the field of education and treatment of individuals with autism, class 016);
- g. Serial No. 86/541633 (FIRSTPATH AUTISM (and design) for education services, namely pre-kindergarten through 12th grade classroom instruction, vocational instruction, mentoring, tutoring, classes, seminars, and workshops for individuals with autism, class 041);
- h. Serial No. 86/541640 (FIRSTPATH AUTISM (and design) for providing an internet website featuring new and information relating to diagnosis and treatment of autism, class 044);

(hereinafter collectively “Petitioner’s Applications”).

3. On or about June 2, 2015, the United States Patent and Trademark Office Examining Attorney issued Office Actions (hereinafter collectively the “Office Actions”) refusing registration of Petitioner’s Applications, explaining that Petitioner’s marks, when used in connection with the identified goods and services, are likely to cause

confusion with the mark in U.S. Registration No. 3,811,386.

4. Petitioner has spent substantial sums of money and time in developing its marketing plans, packaging, and promotions to sell and distribute its goods and services using the marks FIRSTPATH AUTISM (standard character mark) and FIRSTPATH AUTISM (and design) in commerce.

5. Upon information and belief, Petitioner avers that Registrant has abandoned FIRSTPATH since the mark has not been used in commerce for over three years and Registrant has dissolved its corporate entity.

6. Based on the circumstances set forth in ¶ 5, Petitioner believes that Registrant does not intend to resume using FIRSTPATH.

7. Petitioner is likely to be damaged by continuance of FIRSTPATH in that Petitioner shall be prevented from developing extensive goodwill throughout the United States with respect to Petitioner's FIRSTPATH AUTISM marks, and Petitioner will be prevented from obtaining federal registrations in international classes 009, 016, 041, and 044.

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8. Certificates of Service and the fee required in 37 C.F.R. section 2.6(a)(16) are enclosed herewith.

WHEREFORE, Petitioner prays that Registration No. 3,811,386 be cancelled and that this be Petition for Cancellation be sustained in favor of the Petitioner.

Respectfully submitted,
FirstPath Autism, Inc.

By:  June 25, 2015
RICHARD J. GREENSTONE Date
Attorney at Law
Attorney for Petitioner
456 Montgomery Street
Suite 1300
San Francisco, CA 94104
(415) 438-1890
trademarks@rjg.com

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

In the Matter of Registration No. 3,811,386
Date of Registration: June 29, 2010

FIRSTPATH AUTISM, INC.,

Petitioner,

vs.

FIRSTSOLUTIONS,

Registrant.

Cancellation No. _____

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Petition for Cancellation has been served on FirstSolutions by mailing said copy on June 25, 2015, via First Class Mail, postage prepaid, to FirstSolutions, 525 S. Lake Street, Duluth, MN 55802.


RICHARD J. GREENSTONE

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

In the Matter of Registration No. 3,811,386
Date of Registration: June 29, 2010

FIRSTPATH AUTISM, INC.,

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FIRSTSOLUTIONS,

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Cancellation No. _____

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Petition for Cancellation has been served on Mr. Stephen R. Bergerson by mailing said copy on June 25, 2015, via First Class Mail, postage prepaid, to Stephen R. Bergerson, Frederickson & Byron, P.A., 200 South Sixth Street, Suite 400, Minneapolis, MN 55402-1425.


RICHARD J. GREENSTONE

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

In the Matter of Registration No. 3,811,386
Date of Registration: June 29, 2010

FIRSTPATH AUTISM, INC.,

Petitioner,

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FIRSTSOLUTIONS,

Registrant.

Cancellation No. _____

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Petition for Cancellation has been served on Mr. John C. Pickerill by mailing said copy on June 24, 2015, via First Class Mail, postage prepaid, to John C. Pickerill, Frederickson & Byron, P.A., 200 South Sixth Street, Suite 400, Minneapolis, MN 55402-1425.


RICHARD J. GREENSTONE