

ESTTA Tracking number: **ESTTA698256**

Filing date: **09/25/2015**

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	Vytaliz LLC		
Entity	Limited Liability Company	Citizenship	New York
Address	25 Broadway New York, NY 10004 UNITED STATES		

Attorney information	Kelly M. Weiner 175 Varick Street, Fl 6 New York, NY 10014 UNITED STATES kweiner@kellyweinerlaw.com, docketing@kellyweinerlaw.com Phone:212.360.2307		
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### Registrations Subject to Cancellation

Registration No	3223808	Registration date	04/03/2007
Registrant	Health Care Support Systems, Inc. 136 Central Avenue Clark, NJ 07066 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 044. First Use: 2003/02/01 First Use In Commerce: 2003/04/02 All goods and services in the class are cancelled, namely: HEALTH CARE SERVICES, NAMELY, PROVIDINGADVICE, MANAGEMENT, ASSISTANCE AND GUIDANCE FOR AND TO ILL, HANDICAPPED AND ELDERLY PERSONS
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### Grounds for Cancellation

Abandonment	Trademark Act section 14		
Registration No	3106806	Registration date	06/20/2006
Registrant	MAXIT HEALTHCARE, LLC 705 E MAIN STREET WESTFIELD, IN 46074 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 042. First Use: 2002/00/00 First Use In Commerce: 2002/00/00 All goods and services in the class are cancelled, namely: Providing information technology consulting services to healthcare organizations
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### Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	Petition to Cancel 3,223,808.pdf(279883 bytes ) Petition to Cancel 3,106,806.pdf(281270 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	/kellymweiner/
Name	Kelly M. Weiner
Date	09/25/2015

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

In the matter of: Trademark Registration No. 3,223,808  
For the mark: VITALIZE  
Date registered: Apr. 03, 2007

VYTALIZ LLC

v.

HEALTH CARE SUPPORT SYSTEMS, INC.

PETITION FOR CANCELLATION

This Petition For Cancellation is filed by Vytaliz LLC, a New York company with a business address of 25 Broadway, New York, New York 10004 (“Petitioner”).

To the best of Petitioner’s knowledge, the name and address of the current owner of the above-identified registration is Health Care Support Systems, Inc., located at 136 Central Avenue Clark, NJ 07066 (“Registrant”).

Petitioner believes that it will be damaged by the above-identified registration, and hereby petitions to cancel the same.

As grounds for cancellation, Petitioner, by and through its undersigned counsel, alleges that:

1. Petitioner provides a website and mobile application allowing customers to schedule medical services on demand at the customer’s location.
2. Petitioner will be damaged by continued registration by Registrant of VITALIZE, in that the subject registration has been cited against Petitioner’s own application Serial No. 86564680 to register the mark VYTALIZ.
3. On information and belief, the Registrant has not made bona fide use of the VITALIZE mark in commerce in connection with the services that are the subject of Registration No. 3,223,808, for the mark VITALIZE, since on or about August 2006. Registrant’s non-use of the VITALIZE mark for more than three consecutive years is prima facie evidence of abandonment. Accordingly, Registrant has abandoned the VITALIZE mark and, pursuant to 15 U.S.C. § 1064(c), Registration No. 3,223,808 should be cancelled.

WHEREFORE, for all of the foregoing reasons and for such other reasons as the Board determines are appropriate, Petitioner respectfully prays that this Petition be sustained and that Registrant's subject registration be cancelled.

Date: September 25, 2015

*Kelly Weiner*

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Kelly M. Weiner

Law Office of Kelly Weiner PLLC  
175 Varick Street, Fl 6  
New York, NY 10014  
212.360.2307  
Attorney for Petitioner

## CERTIFICATE OF SERVICE

I hereby certify that on September 25, 2015, I caused a true and correct copy of the foregoing Petition for Cancellation to be served by United States first class mail, postage prepaid, upon Daniel H. Bobis at the following address:

Daniel H Bobis  
Lerner, David, Littenberg, Krumholz & Me  
600 S Ave W Ste 3  
Westfield, New York 07090-1497

*Kelly Weiner*  
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Kelly M. Weiner

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

In the matter of: Trademark Registration No. 3,106,806  
For the mark: VITALIZE  
Date registered: Jun. 20, 2006

VYTALIZ LLC

v.

MAXIT HEALTHCARE, LLC

PETITION FOR CANCELLATION

This Petition For Cancellation is filed by Vytaliz LLC, a New York company with a business address of 25 Broadway, New York, New York 10004 (“Petitioner”).

To the best of Petitioner’s knowledge, the name and address of the current owner of the above-identified registration is Maxit Healthcare, LLC, located at 705 E Main Street, Westfield, Indiana 46074 (“Registrant”).

Petitioner believes that it will be damaged by the above-identified registration, and hereby petitions to cancel the same.

As grounds for cancellation, Petitioner, by and through its undersigned counsel, alleges that:

1. Petitioner provides a website and mobile application allowing customers to schedule medical services on demand at the customer’s location.
2. Petitioner will be damaged by continued registration by Registrant of VITALIZE, in that the subject registration has been cited against Petitioner’s own application Serial No. 86564680 to register the mark VYTALIZ.
3. On information and belief, neither Registrant nor its predecessor in interest have made bona fide use of the VITALIZE mark in commerce in connection with the services that are the subject of Registration No. 3,106,806, for the mark VITALIZE, since on or about August 13, 2012. Registrant’s non-use of the VITALIZE mark for more than three consecutive years is prima facie evidence of abandonment. Accordingly, Registrant has abandoned the VITALIZE mark and, pursuant to 15 U.S.C. § 1064(c), Registration No. 3,106,806 should be cancelled.

WHEREFORE, for all of the foregoing reasons and for such other reasons as the Board determines are appropriate, Petitioner respectfully prays that this Petition be sustained and that Registrant's subject registration be cancelled.

Date: September 25, 2015

*Kelly Weiner*

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Kelly M. Weiner

Law Office of Kelly Weiner PLLC  
175 Varick Street, Fl 6  
New York, NY 10014  
212.360.2307  
Attorney for Petitioner

## CERTIFICATE OF SERVICE

I hereby certify that on September 25, 2015, I caused a true and correct copy of the foregoing Petition for Cancellation to be served by United States first class mail, postage prepaid, upon Mark G. McCreary at the following address:

Mark G. McCreary  
Wiley Rein, LLP  
1776 K Street, NW  
c/o Trademark Administration  
Washington, District of Columbia 20006

*Kelly Weiner*  
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Kelly M. Weiner