

ESTTA Tracking number: **ESTTA726534**

Filing date: **02/11/2016**

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	Acella Pharmaceuticals, LLC		
Entity	limited liability company	Citizenship	Delaware
Address	8505 Dunwoody Place Atlanta, GA 30350 UNITED STATES		

Attorney information	Neil C. Jones Nelson Mullins Riley & Scarborough, LLP 100 North Tryon Street, 42nd Floor Charlotte, NC 28202 UNITED STATES ip@nelsonmullins.com Phone:803-799-2000		
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Registration Subject to Cancellation

Registration No	3406639	Registration date	04/01/2008
Registrant	LUMARA HEALTH IP LTD. 300 DELAWARE AVENUE, SUITE 1270 WILMINGTON, DE 19801 UNITED STATES		

Goods/Services Subject to Cancellation

Class 005. First Use: 2005/07/01 First Use In Commerce: 2007/07/01 All goods and services in the class are cancelled, namely: Nutritional supplements and iron supplements

Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	REPLIVA Cancellation Petition.pdf(178047 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	/Neil C. Jones/
Name	Neil C. Jones
Date	02/11/2016

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

In the Matter of trademark Registration No. 3,406,639
For the mark: REPLIVA
Date registered: April 1, 2008

Acella Pharmaceuticals, LLC)	
	Petitioner,)
)	
v.)	Cancellation No.: _____
)	
Lumara Health IP Ltd.)	
)	
	Registrant.)
)	
_____)	

PETITION TO CANCEL

Acella Pharmaceuticals, LLC (“Acella”), a limited liability company organized and existing under the laws of the State of Delaware, having a principal place of business at 8505 Dunwoody Place, Atlanta, Georgia 30350, hereby petitions to cancel the registration of Lumara Health IP Ltd. ("Lumara") for the mark REPLIVA registered for “nutritional supplements and iron supplements” in International Class 005, U.S. Trademark Registration No. 3,406,639, registered on April 1, 2008.

Petitioner states the following grounds in support of cancellation:

1. Petitioner is actively engaged in the field of pharmaceutical sales, marketing, manufacturing, and distribution management and has an interest in maintaining the quality and integrity of its products, including without limitation, the trademarks used in connection with those products.

2. Petitioner is the owner of U.S. Trademark Application Serial No. 86889944 for the trademark REPLIVA, filed on January 28, 2016, and alleges a bona fide intention to use the mark in commerce under Section 1(b) of the Lanham Act.
3. Upon information and belief, Registrant has ceased use of the mark REPLIVA in connection with the goods identified in U.S. Trademark Registration No. 3,406,639 and intends not to resume such use.
4. As a result of its non-use of the mark REPLIVA in connection with the goods identified in U.S. Trademark Registration No. 3,406,639 with an intention not to resume use, Registrant has abandoned the mark REPLIVA with respect to those goods within the meaning of 15 U.S.C. §1127.

WHEREFORE, Petitioner prays that the registration for U.S. Reg. No. 3,406,639 be cancelled in its entirety, and for such other and further relief as the Trademark Trial and Appeal Board may deem just and proper.

The filing fees required by 37 C.F.R. 2.6(a)(16) for cancellation of U.S. Reg. No. 3,406,639 for all goods in International Class 005 are enclosed herewith.

NELSON MULLINS RILEY & SCARBOROUGH, L.L.P.

Dated: February 11, 2016

/Neil C. Jones/
By: _____
Neil C. Jones (Reg. No. 35,561)
Nelson Mullins Riley & Scarborough LLP
101 North Tryon Street, 42nd Floor
Charlotte, NC 28202
Tel. (803) 799-2000
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neil.jones@nelsonmullins.com

Attorney for Petitioner Acella Pharmaceuticals, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing PETITION TO CANCEL has been served on Lumara Health IP, Ltd., by mailing said copy on February 11, 2016, via First Class Mail, postage prepaid to the current correspondence address as listed in the Trademark Applications and Registrations Retrieval (TARR) system for Registration No. 3,406,639, which current correspondence address is listed as:

Eleanor M. Yost
Goodwin Procter LLP
901 New York Avenue, N.W.
Attn: Trademark Administrator
Washington, DC 20001

with a copy mailed by First Class Mail, postage prepaid on February 11, 2016 to:

Lumara Health IP Ltd.
300 Delaware Avenue, Suite 1270
Wilmington, DE 19801

/Neil C. Jones/

Neil C. Jones (Reg. No. 35,561)
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Attorney for Petitioner Acella Pharmaceuticals, LLC