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Filing date: **09/07/2016**

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	Dymocks Holdings Pty Ltd		
Entity	proprietary limited company	Citizenship	Australia
Address	L6 428 George Street Sydney, 2606 AUSTRALIA		

Attorney information	Susan Upton Douglass Fross Zelnick Lehrman & Zissu, P.C. 866 United Nations Plaza New York, NY 10017 UNITED STATES sdouglass@frosszelnick.com Phone:212-813-5900		
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Registration Subject to Cancellation

Registration No	3922405	Registration date	02/22/2011
Registrant	Patten Seed Company P.O. Box 217 Lakeland, GA 31635 UNITED STATES		

Goods/Services Subject to Cancellation

<p>Class 029. First Use: 2009/12/31 First Use In Commerce: 2009/12/31 All goods and services in the class are cancelled, namely: Processed nuts; roasted nuts; shelled nuts; salted nuts; processed, roasted, shelled, salted and candied pecans; candied nuts; cinnamon glazed nuts; processed,roasted, shelled, salted and candied nuts packaged in gift boxes; processed, roasted, shelled, salted and candied nuts packaged in gift tins; processed, roasted, shelled, salted and candied nuts packaged in gift bags; processed unshelled nuts; processed unshelled pecans</p>
<p>Class 030. First Use: 2009/12/31 First Use In Commerce: 2009/12/31 All goods and services in the class are cancelled, namely: Pies; pecan pies; chocolate pecan pie; pralines; praline pecans; pralines packaged in gift boxes; praline pecans packaged in gift boxes; chocolate covered nuts; chocolate covered nut clusters</p>
<p>Class 031. First Use: 2009/12/31 First Use In Commerce: 2009/12/31 All goods and services in the class are cancelled, namely: Unshelled raw nuts; unshelled raw pecans; raw nuts; fresh nuts; unprocessed nuts; raw, fresh and unprocessed pecan halves; raw, fresh and unprocessed nuts packaged in gift boxes; raw, fresh and unprocessed nuts packaged in gift bags; raw, fresh and unprocessed nuts packaged in gift tins</p>

Grounds for Cancellation

Abandonment	Trademark Act Section 14(3)
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Attachments	F2041681.pdf(243029 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	/sud/
Name	Susan Upton Douglass
Date	09/07/2016

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

In re Registration No. 3,922,405

Opposer's Ref: DYMK 1606106



Trademark:
Registered February 22, 2011

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Dymocks Holdings Pty Ltd,

Petitioner,

- against -

Patten Seed Company,

Registrant.
-----X

PETITION FOR CANCELLATION

Dymocks Holdings Pty Ltd ("Petitioner"), a proprietary limited company organized and existing under the laws of Australia, with an address at L6, 428 George Street, Sydney NSW 2606, Australia, believes that it will be damaged by the continued registration of U.S. Reg. No. 3,922,405, issued on February 22, 2011 to Patten Seed Company ("Registrant"), and hereby petitions to cancel the same pursuant to Section 14(3) of the Lanham Trademark Act of 1946, 15 U.S.C. § 1064(3).

As grounds therefor, Petitioner alleges as follows:

1. Petitioner is the owner of pending application Serial No. 87/161,630 for the mark PATONS, filed on September 6, 2016, for "Snack mix consisting of dehydrated fruit and processed nuts; prepared nuts; nut-based snack food, namely, nut bars with chocolate; processed

nuts; nut butters; nut butter with chocolate; honey butter; jams and fruit jellies; oils for food; dried meat; pâté” in Class 29, “Nut confectionery namely, chocolate-coated nuts; sugared nuts; candy-covered nuts; nut brittle; nut nougat; bakery goods, namely, chocolate nut bars; cookies, namely, shortbread and chocolate-coated shortbread; sauces and marinades; honey; macadamia nut truffles and pralines; honey spread” in Class 30, “Fresh nuts” in Class 31, and finally “Liqueurs” in Class 33.

2. Petitioner is also owner of pending application Serial No. 86/841,999 for

PATONS

DISCOVER NATURE'S SECRET, filed on December 8, 2015, for “Prepared nuts; processed nuts; nut

butters; chocolate nut butter; honey butter and honey spread; jams and fruit jellies; oils for food; dried meat” in Class 29, “Nut confectionery, namely, chocolate-coated nuts; sugared nuts; candy-covered nuts; chocolate nut bars; cookies; honey; pralines; nut brittle; nut nougat; biscuits, namely, shortbread; pate; sauces and marinades; macadamia nut truffles and pralines” in Class 30, “Fresh nuts” in Class 31, and finally “Liqueurs” in Class 33.



3. Registrant owns U.S. Registration 3,922,405 for the mark registered on February 22, 2011 for “Processed nuts; roasted nuts; shelled nuts; salted nuts; processed, roasted, shelled, salted and candied pecans; candied nuts; cinnamon glazed nuts; processed, roasted, shelled, salted and candied nuts packaged in gift boxes; processed, roasted, shelled, salted and candied nuts packaged in gift tins; processed, roasted, shelled, salted and candied nuts packaged in gift bags; processed unshelled nuts; processed unshelled pecans” in Class 29, “Pies; pecan pies; chocolate pecan pie; pralines; praline pecans; pralines packaged in

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gift boxes; praline pecans packaged in gift boxes; chocolate covered nuts; chocolate covered nut clusters” in Class 30, and “Unshelled raw nuts; unshelled raw pecans; raw nuts; fresh nuts; unprocessed nuts; raw, fresh and unprocessed pecan halves; raw, fresh and unprocessed nuts packaged in gift boxes; raw, fresh and unprocessed nuts packaged in gift bags; raw, fresh and unprocessed nuts packaged in gift tins” in Class 31.

4. Registrant’s mark was cited as a bar to registration under Section 2(d) of the Trademark Act against Petitioner’s mark shown in Serial No. 86/841,999. Due to the similarity

PATONS

of the marks DISCOVER NATURE’S SECRET and PATONS and the similarity of their goods, the same blocking citation could be raised in the Examining Attorney’s review of application Serial No. 87/161,630.



5. On information and belief, Registrant’s mark  has been discontinued for all goods with intent not to resume such use. Thus, Registrant has abandoned its trademark.

6. By reason of the foregoing, Petitioner will be damaged by the continued registration



of the  mark by Registrant.

WHEREFORE, Petitioner requests that Registration No. 3,922,405 be canceled.

Dated: New York, New York
September 7, 2016

Respectfully submitted,

FROSS ZELNICK LEHRMAN
& ZISSU, P.C.

By:


Susan Upton Douglass

Attorneys for Petitioner
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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Petition for Cancellation was sent by first-class pre-paid mail to Patten Seed Company, P.O. Box 217, Lakeland, Georgia 31635 this 7th day of September, 2016.


Susan Upton Douglass