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Filing date: **08/11/2018**

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

<b>Proceeding</b>	92065444
<b>Party</b>	Plaintiff Ultra PRO International, LLC
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<b>Submission</b>	Motion to Amend Pleading/Amended Pleading
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<b>Date</b>	08/11/2018
<b>Attachments</b>	Third amended petition to cancel.pdf(135134 bytes )

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

*In the matter of:*

Serial No.           4,804,295  
Filing Date:        December 6, 2010  
Mark:                TABLETOPICS

	)	
	)	
Ultra Pro International, LLC,	)	
	)	
Petitioner,	)	
	)	
v.	)	Cancellation No. 92065444
	)	
	)	
Toastmasters International Corp.	)	
	)	
Registrant.	)	
	)	
	)	

**THIRD AMENDED PETITION FOR CANCELLATION**

Petitioner Ultra Pro International, LLC, ("Petitioner"), respectively, a Limited Liability Company, located at 6049 Slauson Avenue, Commerce City, California 90040, believe they will be damaged by the continued registration of the mark shown in Trademark Registration No. 4,804,295, for the mark TABLETOPICS filed by Registrant Toastmasters International Corporation, 23182 Arroyo Vista Rancho Santa Margarita, California 92688. ("Registrant") and hereby seeks to cancel that registered mark, alleging as grounds for its cancellation:

1. Petitioner will be damaged by the continued registration of the TABLETOPICS Registration because Petitioner currently owns U.S. Application Serial No. 85/245,713 for the mark TABLETOPICS in International Class 9 for "Downloadable software in the nature of a mobile application for presenting and managing conversation starter questions".

Petitioner has made use of the TABLETOPICS mark since at least as early as January 27, 2011.

2. Petitioner owns U.S. Registration No. 2,913,122 for the mark TABLETOPICS in International Class 028 for "Game, namely a parlor game with question cards." Petitioner has made use of the mark TABLETOPICS in commerce since at least as early as November 3, 2003.
3. Registrant seeks to register the mark TABLETOPICS as a trademark in International Class 9 for "Downloadable software available via wireless and other communication networks for providing, organizing, and timing speeches, speech activities and speech exercises for the purpose of training in public speaking, communication and leadership." Registrant claims a date of first use of July 17, 2015 on an application filed on December 6, 2010.
4. Since at least 2003 and prior to any date of first use on which Registrant can rely, including any date of constructive first use, the Petitioner and Petitioner's predecessors-in-interest have adopted and continuously used the TABLETOPICS mark in commerce for their goods and services.
5. Petitioner has spent significant amounts of revenue and resources in the marketing and sale of goods bearing TABLETOPICS mark, and, as result of extensive marketing, promotion, advertising and sales activity, its mark has become well-known as identifying its goods. Through Petitioners' continuing use of its marks in commerce, the mark has become valuable assets and principal symbols of Petitioners' extensive goodwill.

#### Likelihood of Confusion

6. Registrant's TABLE TOPICS mark so resembles Petitioners' highly similar mark TABLETOPICS and the goods and services associated with the respective marks are so

highly related that the continued registration of the TABLE TOPICS mark is likely to cause confusion, reverse confusion, or mistake among relevant consumers, or to deceive consumers, users and others who may believe that Registrant's goods and services are Petitioners' goods and services or that such use is sponsored, authorized, licensed by, or in some other way legitimately connected with Petitioner.

7. Registrant's use or potential use of the TABLE TOPICS mark so resembles Petitioners' use of the registered mark TABLETOPICS that it is likely to falsely designate the origin of Registrant's goods or Petitioners' goods.
8. Registrant's use of TABLE TOPICS mark is likely to disparage and falsely suggest a connection with Petitioners' goods, thereby causing loss, damage and injury to Petitioner and consumers and interfering with Petitioners' use of its marks and its ability to avail itself of present and future commercial benefit resulting from its sustained personal and financial investment in the development thereof.

#### No Use In Commerce

9. Registrant filed an allegation of use in the current registration on July 24, 2015 claiming use in commerce of TABLE TOPICS in connection with “Downloadable software available via wireless and other communication networks for providing, organizing, and timing speeches, speech activities and speech exercises for the purposes of training in public speaking, communication and leadership” claiming a date of first use of at least as early as July 17, 2015.
10. Upon information and belief based upon Registrant’s recent responses to discovery requests in the instant cancellation proceeding, Registrant did not use TABLE TOPICS in connection with “Downloadable software available via wireless and other communication



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