

ESTTA Tracking number: **ESTTA809560**

Filing date: **03/27/2017**

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	ITALICA IMPORTACIONES-EXPORTACIONES, S.L.		
Entity	LIMITED LIABILITY COM-PANY	Citizenship	Spain
Address	4, calle Jacometrezo MADRID, E-28028 SPAIN		

Attorney information	Alexander Lazouski Lazouski IP LLC 14726 Bowfin Terrace, Suite 1 Lakewood Ranch, FL 34202 UNITED STATES al@lzlawoffice.com Phone:2016455616
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Registration Subject to Cancellation

Registration No	4056965	Registration date	11/15/2011
Registrant	FINCA LA CELIA S.A. CORRIENTES NO 316, 4 PISA BUENOS AIRES, ARGENTINA		

Goods/Services Subject to Cancellation

Class 033. First Use: 2005/08/00 First Use In Commerce: 2006/08/00
All goods and services in the class are cancelled, namely: Wines

Grounds for Cancellation

Abandonment	Trademark Act Section 14(3)
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Attachments	Cancellation Petition - ALTIVO.pdf(124249 bytes)
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Signature	/asl/
Name	Alexander Lazouski
Date	03/27/2017

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

Italica Importaciones-Exportaciones, S.L.,

Petitioner,

v.

Cancellation No.:
Registration No.: 4056965
Mark: ALTIVO

FINCA LA CELIA S.A.
Respondent.

PETITION FOR CANCELLATION

Petitioner, Italica Importaciones-Exportaciones, S.L., an Spanish-based company at 4, calle Jacometrezo, E-28028 Madrid, Spain (“Petitioner”), believes that it will be damaged by continued registration of Registration No. 4056965 for the mark ALTIVO (“Respondent’s Mark”) by FINCA LA CELIA S.A., (“Respondent”), and hereby petitions to cancel same on the basis of that Respondent is not using Respondent’s Mark for “wines”, having abandoned said mark with no intent to resume use of such mark in that part.

As grounds for the cancellation, it is alleged that:

1. During the examination of Petitioner’s Application Serial No. 79168708, the USPTO refused registration due to likelihood of confusion with the Respondent’s mark Registration Reg. No. 4056965.
2. According to Office Actions issued in connection with Petitioner’s Application Serial No. 79168708, the USPTO believes that the mark in Petitioner’s Application so resembles the mark in the Respondent’s Mark as to be likely to cause confusion, or to mistake or deceive.
3. Therefore, Petitioner is likely to be damaged by the continued registration of the Respondent’s Mark.

4. Upon information and belief, Respondent name is Finca La Celia S.A., it is a corporation with offices at Corrientes No 316, 4 Pisa, Buenos Aires Argentina.
5. To the best of Petitioner's knowledge, Respondent's Attorney of Record and Correspondent for Respondent's Mark is:

Cynthia C. Weber
Sughrue Mion, PLLC
2100 Pennsylvania Ave NW
Washington, District Of Columbia United States 20037-3202

Email: tm@sughrue.com
6. To the best of Petitioner's knowledge, it is not aware of Respondent's email address(es).
7. On February 22, 2010 Respondent filed a U.S. Trademark Application Serial No. 77941646 for ALTIVO in International Class 33 for "wines" claiming 1(b) basis ("Respondent's Application")
8. Respondent's Application was registered for "wines" on November 15, 2011.
9. During the course of the investigation, Petitioner was not able to locate any information about Respondent's Mark in regards to use of the Respondent's Mark in commerce in US in connection with wines.
10. On information and belief, Respondent is not using Respondent's Mark in connection with wines, having abandoned said mark with no intent to resume use of such mark for more than three consecutive years.
11. According to TBMP §309.03(c)(11), such nonuse of Respondent's Mark for three consecutive years constitutes prima facie evidence of abandonment.

WHEREFORE, PETITIONER PRAYS THAT Registration Number 4056965 be cancelled and that this Petition for Cancellation be sustained in favor of Petitioner.

Petitioner has complied with the requirements for filing the petition to the Director by submission of the petition fee filed herewith.

Respectfully submitted,

Date: March 27, 2017

/asl/

Alexander S. Lazouski
Lazouski IP LLC
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Lakewood Ranch 34202, FL
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CERTIFICATE OF SERVICE

Petitioner confirms that it filed this complaint electronically on march 27, 2017 through ESTTA.

According to TBMP §2.113(a), the notice, which will include a web link or web address to access the electronic proceeding record, constitutes service to the registrant of the petition to cancel. According to 37 CFR § 2.113, 37 CFR § 2.119 and TBMP §309.02(c) this complaint need not be served by the plaintiff on the defendant. Rather, the complaint, and any exhibits thereto, will be forwarded to the defendant by the Board itself.

Date: March 27, 2017

/asl/
Alexander S. Lazouski