

ESTTA Tracking number: **ESTTA865598**

Filing date: **12/18/2017**

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 has filed a petition to cancel the registration indicated below.

### Petitioner Information

Name	BETA CELL, INC.		
Entity	Corporation	Citizenship	Delaware
Address	222-15 Northern Blvd. Suite LL-B Bayside, NY 11361 UNITED STATES		

Attorney information	Pina M. Campagna CARTER, DELUCA, FARRELL & SCHMIDT, LLP 445 Broad Hollow Road, Suite 420 Melville, NY 11747 UNITED STATES Email: docket@cdfslaw.com, crierder@cdfslaw.com, pcampagna@cdfslaw.com Phone: 631-501-5700		
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### Registration Subject to Cancellation

Registration No.	2209326	Registration date	12/08/1998
Registrant	MICHELLE PRODUCTS, INC. 25131 ARTIC OCEAN LAKE FOREST, CA 92630 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 005. First Use: 1998/04/03 First Use In Commerce: 1998/04/03 All goods and services in the class are subject to cancellation, namely: vitamin preparation for topical use by humans; namely, on the skin and in the oral cavity
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### Grounds for Cancellation

Abandonment	Trademark Act Section 14(3)
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Attachments	01183867.PDF(260750 bytes )
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Signature	/Pina M. Campagna/
Name	Pina M. Campagna
Date	12/18/2017

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

In re Registration No. 2,209,326  
Mark: BETACELL  
Filed: March 25, 1994  
Issued: December 8, 1998

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BETA CELL INC.,

Petitioner,

CANCELLATION NO. \_\_\_\_\_

v.

MICELLE PRODUCTS, INC.

Registrant.

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**PETITION FOR CANCELLATION**  
**[Based on Abandonment for Non-Use]**

Petitioner, BETA CELL, INC., a Delaware Corporation, having its principal place of business at 222-15 Northern Blvd., Suite LL-B, Bayside, New York 11361, believes it will be damaged by Registration No. 2,209,326<sup>1</sup> of the mark BETACELL (hereinafter “Registrant’s BETACELL mark”) and hereby petitions to cancel the same.

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

1. Petitioner is a company in the dietary supplements and nutraceuticals business under the word mark BETACELL and BETACELL with design (hereinafter “Petitioner’s BETACELL mark”).

2. Petitioner’s BETACELL mark will serve as a unique identifier of the goods which will be offered by Petitioner.

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<sup>1</sup> Exhibit 1- A copy of U.S. Registration No. 2,209,326 and status is attached.

3. Upon information and belief, Registrant MICELLE PRODUCTS, INC. is an entity having its principal place of business at 25131 Artic Ocean, Lake Forest, California 92630.

4. Petitioner will be damaged by Registrant's continued registration of Registrant's BETACELL mark in connection with "vitamin preparation for topical use by humans; namely, on the skin and in the oral cavity" in International Class 005, in that the subject registration has been cited against Petitioner's own application Serial No. 87/537,966 to register the mark BETACELL SCIENCE BASED SUPPLEMENTS (with design) in connection with "Dietary food supplements; Anti-inflammatory ointments; Medical preparations, namely, foot, hand and skin creams for diabetics; Topical analgesic creams" in International Class 005.

5. Upon information and belief, Registrant has abandoned the mark BETACELL in connection with the specified goods, namely, "vitamin preparation for topical use by humans; namely, on the skin and in the oral cavity" in International Class 005, based on non-use for at least three years with no intent to resume. Accordingly, the subject registration for BETACELL should be cancelled.

6. Upon information and belief, Registrant provided a date of first use of the mark BETACELL of April 3, 1998.<sup>2</sup>

7. Upon information and belief, Registrant's BETACELL mark was last used on its website at [www.micelleproducts.com](http://www.micelleproducts.com) on May 15, 2009.

8. Upon information and belief, Registrant founded Micelle Laboratories, Inc. in 1991. Upon information and belief and according to the records of the California Secretary of State, new Micelle Laboratories Inc. was incorporated in 1998 and the company was later suspended by the franchise tax Board in February 1999.<sup>3</sup>

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<sup>2</sup> *Id.*

<sup>3</sup> See California Secretary of State Report attached.

9. Upon information and belief, the assignment records indicate Micelle Laboratories, Inc. assigned its trademark BETACELL to Micelle Products, Inc., a California corporation on January 15, 2002 and recorded the assignment at Reel/frame 2466/0461.<sup>4</sup>

10. Upon information and belief, a search of the Registrant Micelle Products, Inc. entity in the California Secretary of State records resulted in “no entities found”.

11. Upon information and belief, the Registrant is no longer reachable at the phone number listed in the yellow pages listing for the company and an email to the Registrant was returned as undeliverable.

12. Upon information and belief, Registrant sold its company to a third party International Veterinary Services (IVS) about 5-6 years ago and IVS does not presently and has never carried any products under the BETACELL mark.

13. Upon information and belief, there are no recent instances of the mark on the internet which constitutes use of the mark in commerce.

14. Upon information and belief, Registrant has abandoned the mark BETACELL, which is the subject of the present cancelation, for at least 3 years prior to the filing of this cancelation with no intent to resume. Accordingly, nonuse for three consecutive years shall be prima facie evidence of abandonment of the BETACELL mark and, pursuant to 15 U.S.C. § 1064(c), Registration No. 2,209,326 should be cancelled.

WHEREFORE, Petitioner requests that its petition to cancel Registration No. 2,209,326 be sustained and that the Trademark Trial and Appeal Board grant any and all further relief to Petitioner that the Board finds necessary and just in the circumstances. A fee in the amount of \$400 as required by 37 CFR 2.6(a)(17) has been submitted electronically. The Commissioner

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<sup>4</sup> See Assignment records attached.

is authorized to draw on the Deposit Account of Carter, DeLuca, Farrell & Schmidt, LLP, Account No. 50-2140, if the accompanying fee is insufficient or inadvertently omitted.

Please recognize as attorneys for Petitioner in this proceeding, Pina M. Campagna and Raymond E. Farrell of Carter, DeLuca, Farrell & Schmidt, LLP, 445 Broad Hollow Road, Suite 420, Melville, New York 11747.

DATED: December 18, 2017

Respectfully submitted,

/Pina M. Campagna/

Pina M. Campagna  
Raymond E. Farrell  
Attorneys for Petitioner  
**CARTER, DELUCA, FARRELL & SCHMIDT, LLP**  
445 BROAD HOLLOW ROAD, SUITE 420  
MELVILLE, NEW YORK 11747  
Tel: (631) 501-5700  
Fax: (631) 501-3526

**CERTIFICATE OF SERVICE**

I hereby certify that on this 18th day of December, 2017, I caused a true and correct copy of the foregoing Petition for Cancellation to be served by email, upon the following domestic representative / correspondent of record:

GABOR L. SZEKERES  
Gabor L. Szekeres  
P.O. Box 27938  
Anaheim Hills, California 92809  
[glszekeres@yahoo.com](mailto:glszekeres@yahoo.com)

/Pina Campagna/  
Pina Campagna  
Attorney for Petitioner

Generated on: This page was generated by TSDR on 2017-12-12 13:20:47 EST

Mark: BETACELL

US Serial Number: 74505248

Application Filing Date: Mar. 25, 1994

US Registration Number: 2209326

Registration Date: Dec. 08, 1998

Register: Principal

Mark Type: Trademark

Status: The registration has been renewed.

Status Date: Dec. 11, 2008

Publication Date: Jan. 24, 1995

Notice of Allowance Date: Apr. 18, 1995

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## Mark Information

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Mark Literal Elements: BETACELL

Standard Character Claim: No

Mark Drawing Type: 1 - TYPESET WORD(S) /LETTER(S) /NUMBER(S)

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## Goods and Services

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Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

For: vitamin preparation for topical use by humans; namely, on the skin and in the oral cavity

International Class(es): 005 - Primary Class

U.S Class(es): 006, 018, 044, 046, 051, 052

Class Status: ACTIVE

Basis: 1(a)

First Use: Apr. 03, 1998

Use in Commerce: Apr. 03, 1998

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## Basis Information (Case Level)

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Filed Use: No

Currently Use: Yes

Amended Use: No

Filed ITU: Yes

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

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## Current Owner(s) Information

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**Owner Name:** MICHELLE PRODUCTS, INC.

**Owner Address:** 25131 ARTIC OCEAN  
LAKE FOREST, CALIFORNIA 92630  
UNITED STATES

**Legal Entity Type:** CORPORATION

**State or Country** CALIFORNIA  
**Where Organized:**

## Attorney/Correspondence Information

### Attorney of Record

**Attorney Name:** GABOR L. SZEKERES

**Docket Number:** CASE.120.41.

**Attorney Primary Email Address:** [glszekeres@yahoo.com](mailto:glszekeres@yahoo.com)

**Attorney Email Authorized:** Yes

### Correspondent

**Correspondent Name/Address:** GABOR L. SZEKERES  
Gabor L. Szekeres  
P.O. Box 27938  
Anaheim Hills, CALIFORNIA 92809  
UNITED STATES

**Phone:** 714-944-5778

**Fax:** 714-639-4961

**Correspondent e-mail:** [glszekeres@yahoo.com](mailto:glszekeres@yahoo.com)

**Correspondent e-mail Authorized:** Yes

### Domestic Representative - Not Found

## Prosecution History

Date	Description	Proceeding Number
Dec. 08, 2017	COURTESY REMINDER - SEC. 8 (10-YR)/SEC. 9 E-MAILED	
Dec. 11, 2008	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	68502
Dec. 11, 2008	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	
Dec. 11, 2008	ASSIGNED TO PARALEGAL	68502
Nov. 24, 2008	ASSIGNED TO PARALEGAL	76293
Nov. 15, 2008	TEAS SECTION 8 & 9 RECEIVED	
Jul. 31, 2007	CASE FILE IN TICRS	
Feb. 21, 2007	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Apr. 26, 2004	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	
Mar. 17, 2004	REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED	
Mar. 17, 2004	REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED	
Aug. 14, 2002	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Dec. 08, 1998	REGISTERED-PRINCIPAL REGISTER	
Oct. 09, 1998	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Aug. 13, 1998	CORRESPONDENCE RECEIVED IN LAW OFFICE	
Jun. 24, 1998	NON-FINAL ACTION MAILED	
May 21, 1998	ASSIGNED TO EXAMINER	65999
May 14, 1998	STATEMENT OF USE PROCESSING COMPLETE	
Apr. 16, 1998	USE AMENDMENT FILED	
Nov. 16, 1997	EXTENSION 5 GRANTED	
Oct. 16, 1997	EXTENSION 5 FILED	
May 12, 1997	EXTENSION 4 GRANTED	
Apr. 16, 1997	EXTENSION 4 FILED	
Dec. 04, 1996	EXTENSION 3 GRANTED	
Oct. 14, 1996	EXTENSION 3 FILED	
Jul. 18, 1996	EXTENSION 2 GRANTED	
Apr. 17, 1996	EXTENSION 2 FILED	
Dec. 05, 1995	EXTENSION 1 GRANTED	
Oct. 18, 1995	EXTENSION 1 FILED	
Apr. 18, 1995	NOA MAILED - SOU REQUIRED FROM APPLICANT	



Jan. 24, 1995 PUBLISHED FOR OPPOSITION  
Dec. 23, 1994 NOTICE OF PUBLICATION  
Sep. 29, 1994 APPROVED FOR PUB - PRINCIPAL REGISTER  
Sep. 21, 1994 PREVIOUS ALLOWANCE COUNT WITHDRAWN  
Aug. 22, 1994 APPROVED FOR PUB - PRINCIPAL REGISTER  
Aug. 16, 1994 ASSIGNED TO EXAMINER

65999

## Maintenance Filings or Post Registration Information

**Affidavit of Continued Use:** Section 8 - Accepted

**Affidavit of Incontestability:** Section 15 - Accepted

**Renewal Date:** Dec. 08, 2008

## TM Staff and Location Information

### TM Staff Information - None

#### File Location

**Current Location:** POST REGISTRATION

**Date in Location:** Dec. 11, 2008

## Assignment Abstract Of Title Information

### Summary

**Total Assignments:** 1

**Registrant:** BIOGLAN, INC.

### Assignment 1 of 1

**Conveyance:** ASSIGNS THE ENTIRE INTEREST

**Reel/Frame:** [2466/0461](#)

**Pages:** 11

**Date Recorded:** Feb. 28, 2002

**Supporting Documents:** [assignment-tm-2466-0461.pdf](#)

### Assignor

**Name:** [MICELLE LABORATORIES, INC.](#)

**Execution Date:** Jan. 15, 2002

**Legal Entity Type:** CORPORATION

**State or Country Where Organized:** CALIFORNIA

### Assignee

**Name:** [MICELLE PRODUCTS, INC.](#)

**Legal Entity Type:** CORPORATION

**State or Country Where Organized:** CALIFORNIA

**Address:** 25131 ARTIC OCEAN  
LAKE FOREST, CALIFORNIA 92630

### Correspondent

**Correspondent Name:** KLEIN & SZEKERES LLP

**Correspondent Address:** GABOR L. SZEKERES  
4199 CAMPUS DRIVE  
SUITE 700  
IRVINE, C.A. 92612

**Domestic Representative - Not Found**

**Int. Cl.: 5**

**Prior U.S. Cls.: 6, 18, 44, 46, 51, and 52**

**Reg. No. 2,209,326**

**United States Patent and Trademark Office**

**Registered Dec. 8, 1998**

**TRADEMARK  
PRINCIPAL REGISTER**

**BETACELL**

**BIOGLAN, INC. (CALIFORNIA CORPORATION)  
23456 SOUTH POINTE DRIVE  
LAGUNA HILLS, CA 92653**

**FIRST USE 4-3-1998; IN COMMERCE  
4-3-1998.**

**SN 74-505,248, FILED 3-25-1994.**

**FOR: VITAMIN PREPARATION FOR TOPI-  
CAL USE BY HUMANS; NAMELY, ON THE  
SKIN AND IN THE ORAL CAVITY, IN CLASS  
5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).**

**JULIA HARDY COFIELD, EXAMINING AT-  
TORNEY**

Alex Padilla  
California Secretary of State

## Business Search - Entity Detail

The California Business Search is updated daily and reflects work processed through Monday, December 11, 2017. Please refer to document [Processing Times](#) for the received dates of filings currently being processed. The data provided is not a complete or certified record of an entity. Not all images are available online.

### C2096697 NEW MICELLE LABORATORIES INC.

**Registration Date:** 11/17/1998  
**Jurisdiction:** CALIFORNIA  
**Entity Type:** DOMESTIC STOCK  
**Status:** SOS/FTB SUSPENDED  
**Agent for Service of Process:** THERESA M MARCHLEWSKI  
 STE 4000 NORTH, 1620 26TH ST  
 SANTA MONICA CA 90404  
**Entity Address:** 20481 CRESCENT BAY DR  
 LAKE FOREST CA 92630  
**Entity Mailing Address:** 20481 CRESCENT BAY DR  
 LAKE FOREST CA 92630

Document Type	↕	File Date	↕	PDF
SI-NO CHANGE		05/04/2000		Image unavailable. Please request paper copy.
SI-COMPLETE		02/22/1999		Image unavailable. Please request paper copy.
REGISTRATION		11/17/1998		Image unavailable. Please request paper copy.

\* Indicates the information is not contained in the California Secretary of State's database.

- If the status of the corporation is "Surrender," the agent for service of process is automatically revoked. Please refer to California Corporations Code [section 2114](#) for information relating to service upon corporations that have surrendered.
- For information on checking or reserving a name, refer to [Name Availability](#).
- If the image is not available online, for information on ordering a copy refer to [Information Requests](#).

- For information on ordering certificates, status reports, certified copies of documents and copies of documents not currently available in the Business Search or to request a more extensive search for records, refer to [Information Requests](#).
- For help with searching an entity name, refer to [Search Tips](#).
- For descriptions of the various fields and status types, refer to [Frequently Asked Questions](#).

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Pages: 11

Recorded: 02/28/2002

Conveyance: ASSIGNS THE ENTIRE INTEREST

**Total properties: 1**

1	Serial #: <a href="#">74505248</a>	Filing Dt: 03/25/1994	Reg #: <a href="#">2209326</a>	Reg. Dt: 12/08/1998
	Mark: BETACELL			

**Assignor**1 [MICELLE LABORATORIES, INC.](#)

Exec Dt: 01/15/2002

Entity Type: CORPORATION

Citizenship: CALIFORNIA

**Assignee**

1 [MICELLE PRODUCTS, INC.](#)  
 25131 ARTIC OCEAN  
 LAKE FOREST, CALIFORNIA 92630

Entity Type: CORPORATION

Citizenship: CALIFORNIA

**Correspondence name and address**

KLEIN & SZEKERES LLP  
 GABOR L. SZEKERES  
 4199 CAMPUS DRIVE  
 SUITE 700  
 IRVINE, C.A. 92612

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350. v2.5  
 Web interface last modified: July 25, 2014 v2.5

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