

ESTTA Tracking number: **ESTTA866113**

Filing date: **12/20/2017**

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	WellQor LLC		
Entity	Limited Liability Company	Citizenship	Delaware
Address	200 Park Avenue New York, NY 10166 UNITED STATES		

Attorney information	Bradley S. Rothschild, Esq. Law Offices of Bradley S. Rothschild, LLC 38 High Avenue, 4th Floor Nyack, NY 10960 UNITED STATES Email: brad@rothschildesq.com Phone: 8452870011
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Registration Subject to Cancellation

Registration No.	4464662	Registration date	01/14/2014
Registrant	Amy Wootton 1470 Response Road, #242 Sacramento, CA 95815 UNITED STATES		

Goods/Services Subject to Cancellation


Class 044. First Use: 2012/03/25 First Use In Commerce: 2012/06/29 All goods and services in the class are subject to cancellation, namely: Consulting in the field of health and wellness to bring about personal happiness; consulting services in the field of health; consulting services in the field of mental health and wellness; consulting services in the fields of health and nutrition; counseling services in the fields of health, nutrition, and lifestyle wellness; health care services, namely, wellness programs


Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act Sections 14(1) and 2(d)
Abandonment	Trademark Act Section 14(3)
Fraud on the USPTO	Trademark Act Section 14(3); In re Bose Corp., 580 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. 2009)

Marks Cited by Petitioner as Basis for Cancellation

U.S. Application	87169065	Application Date	09/13/2016
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No.			
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	WELLQOR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 044. First use: First Use: 0 First Use In Commerce: 0 psychiatric services and psychiatric consultation provided to older adults in senior living communities by licensed practitioners; clinical social work services, namely, psychological counseling for older adults in senior living communities provided by licensed social workers, psychological testing in the nature of social/emotional evaluation and assessment of older adults in senior living communities provided by licensed social workers		

U.S. Application No.	87502441	Application Date	06/23/2017
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	WELLQOR		
Design Mark			
Description of Mark	The mark consists of A flower like circle with petals to the left of WellQor.		
Goods/Services	Class 044. First use: First Use: 2016/10/01 First Use In Commerce: 2016/10/01 Management Service Organization partnering with Psychology practices nationwide. Clinical services are provided in Senior Living Communities. Geriatric health care management services		

Attachments	87169065#TMSN.png(bytes) 87502441#TMSN.png(bytes) PETITION FOR CANCELLATION - WELLCORE NETWORK.pdf(145885 bytes)
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Signature	/Bradley S. Rothschild/
Name	Bradley S. Rothschild
Date	12/20/2017

living communities by licensed practitioners; clinical social work services, namely, psychological counseling for older adults in senior living communities provided by licensed social workers, psychological testing in the nature of social/emotional evaluation and assessment of older adults in senior living communities provided by licensed social workers and Management Service Organization partnering with Psychology practices nationwide. Clinical services are provided in Senior Living Communities. Geriatric health care management services (collectively, "PETITIONER'S SERVICES") under the service marks WELLQOR and WELLQOR (LOGOMARK), since at least October 1, 2016.

2. Petitioner is the owner of valid and subsisting United States Trademark Application Serial Nos. 87/169,065 and 87/502,441 in the United States Patent and Trademark Office for the service marks WELLQOR and WELLQOR (LOGOMARK) (hereinafter the "WELLQOR Marks") for PETITIONER'S SERVICES in International Class 044.

3. Petitioner has used the WELLQOR Marks in interstate commerce in the United States continuously since at least October 1, 2016 in connection with the provision, offering for sale, sale, marketing, advertising, and promotion of PETITIONER'S SERVICES.

4. As a result of its widespread, continuous, and exclusive use of WELLQOR Marks to identify PETITIONER'S SERVICES and Petitioner as their source, Petitioner owns valid and subsisting federal statutory and common law rights to the WELLQOR Marks.

5. The WELLQOR Marks are distinctive to both the consuming public and Petitioner's trade.

6. Petitioner has expended substantial time, money, and resources marketing, advertising, and promoting PETITIONER'S SERVICES sold under the WELLQOR Marks including through Petitioner's marketing, advertising, and promotional efforts for services under Petitioner's WELLQOR Marks.

7. Petitioner has successfully marketed PETITIONER'S SERVICES under the WELLQOR Marks since at least October 1, 2016.

8. The Services Petitioner offers under the WELLQOR Marks are of high quality, and are sought after among the consuming public.

9. Respondent's mark WELLCORE NETWORK is phonetically identical and confusingly similar to Petitioner's WELLQOR Marks.

10. The services covered by Respondent's Trademark Registration No. 4,464,662 are nearly identical to Petitioner's Services.

11. Respondent's Registration No. 4,464,662 is unrestricted as to consumers and trade channels. As such, it is presumed that Respondent's goods and services identified in the challenged registration are sold to all ordinary consumers of goods and services, including consumers of Petitioner's services, and travel in all ordinary trade channels, including the Petitioner's trade channels through which Petitioner provides its services under its WELLQOR Marks.

12. On information and belief, Respondent has purposely claimed an earlier date of first use of the WELLCORE NETWORK mark than what can be substantiated by any facts or evidence, constituting a fraud in Respondent's registration. Petitioner has priority of use in

connection with its WELLQOR Marks by virtue of its earlier dates of first use of said mark over any date that can be established by Respondent in connection with dates of first use in commerce of its mark in connection with its goods and services identified above.

13. Respondent's registration should be cancelled because it consists of or comprises a mark which so resembles Petitioner's previously used WELLQOR Marks as to be likely, when used in connection with Respondent's goods and services, to cause confusion, mistake, or deception within the meaning of 15 U.S.C. § 1052(d), and to cause damage to Petitioner thereby.

14. On information and belief, Respondent has abandoned its WELLCORE NETWORK Trademark Registration, and is not presently using the mark in interstate commerce.

WHEREFORE, for the foregoing reasons, Petitioner WELLQOR LLC respectfully prays that Registration No. 4,464,662 for the mark "WELLCORE NETWORK" be cancelled.

Respectfully submitted,

LAW OFFICES OF BRADLEY S. ROTHSCHILD, LLC.,

By: s/Bradley S. Rothschild /
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Attorneys for Petitioner

Dated: December 20, 2017

CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the foregoing Petition for Cancellation was served via first class mail on the Registrant, Amy Wootton, with an address at 1470 Response Road, #242, Sacramento, CALIFORNIA UNITED STATES 95815, on this 20th day of December, 2017.

/s/ Bradley S. Rothschild /

BRADLEY S. ROTHSCHILD, ESQ.

LAW OFFICES OF BRADLEY S. ROTHSCHILD, LLC

Attorneys for Petitioner