

ESTTA Tracking number: **ESTTA884654**

Filing date: **03/21/2018**

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	Morinaga Nyugyo Kabushiki Kaisha, TA Morinaga Milk Industry Co., Ltd.		
Entity	kabushiki kaisha	Citizenship	Japan
Address	33-1, Shiba 5-chome Minato-ku, Tokyo, 0 JAPAN		

Attorney information	Theodore R. Remaklus Wood, Herron & Evans, L.L.P. 441 Vine Street 2700 Carew Tower Cincinnati, OH 45202 UNITED STATES Email: tremaklus@whe-law.com Phone: 5132412324		
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Registration Subject to Cancellation

Registration No.	2325469	Registration date	03/07/2000
Registrant	Econugenics, Inc. 396 Tesconi Court Santa Rosa, CA 95401 UNITED STATES		

Goods/Services Subject to Cancellation

Class 005. First Use: 1998/06/18 First Use In Commerce: 1998/06/18 All goods and services in the class are subject to cancellation, namely: Dietary and nutritional supplements
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Grounds for Cancellation

Abandonment	Trademark Act Section 14(3)
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Attachments	Petition for cancellation.pdf(17629 bytes)
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Signature	/theodore r remaklus/
Name	Theodore R. Remaklus
Date	03/21/2018

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_____))
Morinaga Nyugyo Kabushiki Kaisha,)
TA Morinaga Milk Industry Co., Ltd.) Cancellation No. _____
))
Petitioner,)
))
v.) Registration No. 2325469
) Registered: March 7, 2000
))
Econugenics, Inc.) Mark: IMMUNOGENICS
))
Respondent.)
_____)

PETITION FOR CANCELLATION

Petitioner, Morinaga Nyugyo Kabushiki Kaisha, TA Morinaga Milk Industry Co., Ltd., a Japanese kabushiki kaisha having a place of business at 33-1, Shiba 5-chome Minato-ku, Tokyo, Japan ("Petitioner"), believes that it is and will continue to be damaged by the registration for the trademark IMMUNOGENICS of Registration No. 2325469 and hereby petitions to cancel said registration.

GROUNDS FOR PETITION

As grounds for this petition, Petitioner alleges as follows:

1. Petitioner is the owner of intent-to-use United States Trademark Application Serial No. 87522928 (hereinafter "the '928 Application"), filed July 11, 2017, under Section 1(b) of the Trademark Act, 15 U.S.C. §1051(b), for the mark **Immunogenics** for use in connection with a variety of goods in International Class 1.

2. On October 16, 2017, the Examining Attorney of the '928 Application issued an Office Action refusing to register Petitioner's mark **Immunogenics** under Section 2(d) of the

Trademark Act, 15 U.S.C. §1052(d), on the grounds that the Examining Attorney concluded there was a likelihood of confusion with the mark IMMUNOGENICS of U.S. Registration No. 2325469, which is registered for use with "Dietary and nutritional supplements" in International Class 5.

3. As a result of the Office Action in the '928 Application refusing to register Petitioner's **Immunogenics** mark in International Class 1 under Section 2(d) of the Trademark Act, 15 U.S.C. §1052(d), Petitioner is being damaged by U.S. Registration No. 2325469 within the meaning of 15 U.S.C. § 1064.

4. On information and belief, Respondent Econugenics, Inc. is the owner of Registration No. 2325469, and is a California corporation with an address of 396 Tesconi Court, Santa Rosa, California 95401. The correspondence address with the United States Patent and Trademark Office for Registration No. 2325469 is:

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5. On information and belief, Respondent is not currently using the IMMUNOGENICS mark of Registration No. 2325469 in connection with the recited goods, it ceased using that mark some time ago in connection with the recited goods, and it has no intent to use/resume use of the mark with those goods. As a result, Respondent has abandoned the IMMUNOGENICS mark of Registration No. 2325469 within the meaning of 15 U.S.C. § 1064(3).

6. WHEREFORE, Petitioner prays that the Petition for Cancellation be sustained in favor of Petitioner and that U.S. Registration No. 2325469 for the IMMUNOGENICS mark be canceled.

Respectfully submitted,

MORINAGA NYUGYO KABUSHIKI KAISHA,
TA MORINAGA MILK INDUSTRY CO., LTD.

Date: March 21, 2018

By: /s/ Theodore R. Remaklus
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