

ESTTA Tracking number: **ESTTA943722**

Filing date: **12/24/2018**

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	Principle Business Enterprises, Inc.		
Entity	Corporation	Citizenship	Ohio
Address	Pine Lake Industrial Park Dunbridge, OH 43414 UNITED STATES		

Attorney information	David C. Purdue Purdue Law Offices, LLC 2735 N Holland-Sylvania Rd., Ste. B-2 Toledo, OH 43615 UNITED STATES DPURDUE@PURDUE-LAW.COM, kharper@purdue-law.com, bpurdue@purdue-law.com 419-531-0599
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Registration Subject to Cancellation

Registration No.	4454254	Registration date	12/24/2013
Registrant	Attends Healthcare Products, Inc. 1029 Old Creek Road Greenville, NC 27834 UNITED STATES		

Goods/Services Subject to Cancellation

Class 005. First Use: 2013/04/24 First Use In Commerce: 2013/04/24 All goods and services in the class are subject to cancellation, namely: Diapers for incontinence; disposable diapers for incontinence; incontinence diapers; Incontinence garments

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act Sections 14(1) and 2(d)
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Mark Cited by Petitioner as Basis for Cancellation

U.S. Application No.	87812230	Application Date	02/27/2018
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	THE HOME-CARING BRAND		

Design Mark	<h1>The Home-Caring Brand</h1>
Description of Mark	NONE
Goods/Services	Class 005. First use: First Use: 2005/10/14 First Use In Commerce: 2005/10/14 Incontinence diapers; Incontinence garments; Incontinence pads

Attachments	87812230#TMSN.png(bytes) 00059638.PDF(111575 bytes)
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Signature	/David C. Purdue/
Name	David C. Purdue
Date	12/24/2018

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

Registration No. 4,454,254

Issued December 24, 2013

Principle Business Enterprises, Inc.
Plaintiff

v.

Attends Healthcare Products, Inc.
Defendant

Mark: HOMECARE BY ATTENDS

Cancellation No.: _____

PETITION TO CANCEL

Principle Business Enterprises, Inc. (Plaintiff), a corporation organized under the laws of the State of Ohio, having a principal place of business at Pine Lake Industrial Park, Dunbridge OHIO 43414, United States of America, is being damaged by US Trademark Registration No. 4,454,254 and hereby petitions for its cancellation. The grounds for cancellation are as follows:

1. On information and belief, Attends Healthcare Products, Inc. (“Defendant”) is a Delaware corporation having a place of business at 1029 Old Creek Road, Greenville, NORTH CAROLINA 27834.
2. The Defendant is the owner of record of US Trademark Registration No. 4,454,254 (‘254 Registration) for the mark HOMECARE BY ATTENDS which is registered for “Diapers for incontinence; disposable diapers for incontinence; incontinence diapers; Incontinence garments”

in International Class 005. The '254 Registration issued on December 24, 2013 on US Trademark Application Serial No. 85/920,106 ('106 Application).

3. In its '106 Application, the Defendant claimed that it first used its mark HOMECARE BY ATTENDS at least as early as April 24, 2013.

4. The Plaintiff owns US Trademark Application Serial No. 87/812,230('230 Application) filed February 27, 2018 for the mark THE HOME-CARING BRAND for "Incontinence diapers; Incontinence garments; Incontinence pads."

5. On June 17, 2018, registration of the Plaintiff's mark THE HOME-CARING BRAND was refused on the ground that its mark so resembled the Defendant's mark HOMECARE BY ATTENDS, Registration No. 4,454,254 as to be likely to cause confusion.

6. The Plaintiff began using its mark THE HOME-CARING BRAND in commerce on October 14, 2005.

7. The Plaintiff's goods and the Defendant's goods are incontinence products.

8. The US Patent and Trademark Office has taken the position that the Plaintiff's mark The Home-Caring Brand so resembles the Defendant's mark Homecare by Attends as to be likely to cause confusion and so the '254 Registration is causing damage to the Plaintiff.

WHEREFORE, Plaintiff prays that the U.S. Patent and Trademark Office Trademark Trial and Appeal Board issue an order directing the Commissioner for Trademarks to cancel Defendant's Registration No. 4,454,254 in its entirety.

This Petition to Cancel is submitted with a fee of \$400 (37 CFR 2.6(a)(16)) for filing a petition to cancel a registration of a mark registered for goods in one International Class.

Respectfully submitted,

/David C. Purdue/
Attorney for Plaintiff
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Toledo, Ohio 43615
(419) 531-0599
Date: December 24, 2018