

ESTTA Tracking number: **ESTTA1052194**

Filing date: **04/29/2020**

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	Sundaze LLC		
Entity	Limited Liability Company	Citizenship	California
Address	8605 Santa Monica Boulevard, No. 94973 West Hollywood, CA 90069 UNITED STATES		

Attorney information	Allison Hagey BraunHagey & Borden LLP 351 California Street, 10th Floor San Francisco, CA 94104 UNITED STATES tadmin@braunhagey.com, shadow@braunhagey.com 415-599-0210		
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Registration Subject to Cancellation

Registration No.	5624600	Registration date	12/11/2018
International Registration No.	NONE	International Registration Date	NONE
Registrant	CAPSUM 126 boulevard bara, Heliopolis II F-13013 Marseille FRANCE		

Goods/Services Subject to Cancellation

Class 003. First Use: 0 First Use In Commerce: 0 All goods and services in the class are subject to cancellation, namely: Skin whitening preparations; laundry detergents; degreasing preparations for household purposes; abrasive preparations; dentifrices; preservatives for leather, namely, polishes; creams for leather

Grounds for Cancellation

Abandonment	Trademark Act Section 14(3)
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Attachments	Petition for Cancellation 5624600 JULY.pdf(113850 bytes) ExhA-88618233 JULY SKY.pdf(19015 bytes) ExhB-88844873 JULY SKY.pdf(17222 bytes)
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Signature	/Allison Hagey/
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Name	Allison Hagey
Date	04/29/2020

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

In the Matter of Registration No. 5624600

Mark : JULY
Applicant : CAPSUM
Registration Date : December 11, 2018

SUNDAZE LLC,
a California limited liability company,

Petitioner,

v.

CAPSUM,

a French joint stock company (société par actions
simplifiée),

Defendant.

Cancellation No. TBA

PETITION FOR CANCELLATION

Opposer, Sundaze LLC (“Opposer” or “Sundaze”), a California limited liability company with a business address of 8605 Santa Monica Boulevard, No. 94973, West Hollywood, California, believes it is and will continue to be damaged by Registration No. 5624600 (the “Registration”), and hereby petitions to cancel said registration pursuant to Trademark Act Section 14(3).

As grounds for cancellation, Petitioner alleges that:

1. Sundaze is an innovative skincare company with a business address of 8605 Santa Monica Boulevard, No. 94973, West Hollywood, California. Sundaze is a duly registered limited

liability company organized under California law and is the registered owner of two U.S. trademark applications for JULY SKY (U.S. Apps. No. 88618233 and No. 88844873).

FACTUAL BACKGROUND

A. Petitioner and its JULY SKY Mark

2. Launched in June 2018, Sundaze Skincare is a modern sunscreen-focused brand that creates thoughtfully made and innovative sun protection products.

3. Founded with the goal of creating products to help prevent skin cancer and premature skin aging, Sundaze manufactures and sells SPF products that are easy to use and cleanly formulated without harmful ingredients, including parabens, sulfates, phthalates, synthetic fragrances, silicones, and PEGs. Its sunscreens also go beyond sun protection to deliver lasting hydration and healthy skin benefits through the addition of high quality, potent antioxidant ingredients. In addition, all products are created without animal testing and made in the US.

4. In the crowded skincare and cosmetics space, Sundaze is one of the few brands solely focused on sun protection and aspires to make the best SPF products for consumers to enjoy using everyday.

5. Sundaze products are sold across the United States with orders in all 50 states, and through its extensive efforts, Sundaze has developed a loyal customer following.

6. Sundaze filed an application to register the “JULY SKY” mark on September 16, 2019 (see Exhibit A) for use on the following goods:

After-sun gels; After-sun lotions; After-sun milks; After-sun oils; After sun creams; After sun moisturizers; Sun-tanning oils; Sun-tanning oils and lotions; Sun-tanning preparations; Sun tan gel; Sun tan lotion; Sun tan oil; Tanning and after-sun milks, gels and oils (in Class 005).

7. On December 16, 2019, Petitioner received an Office Action refusing registration of its “JULY SKY” application based on a perceived likelihood of confusion with Registrant’s registered mark for “JULY” (U.S. Trademark Registration No. 5624600) (the “Registered Mark”).

8. Sundaze filed a second application to register the “JULY SKY” mark on March 23, 2020 (see Exhibit B) for use on the following goods:

Cosmetic preparations for protecting the skin from the sun's rays; Non-medicated sun care preparations; SPF sun block sprays; SPF sun block towelettes; Sun-block lotions; Sun block; Sun block preparations; Sun care lotions; Sun creams; Sun screen; Sunscreen creams; Sunscreen preparations; Waterproof sunscreen (in Class 005).

B. Registrant’s Abandonment of the JULY Mark

9. Upon information and belief, Defendant, CAPSUM, is a French joint stock company (société par actions simplifiée) with an address of 126 boulevard bara, Heliopolis II, F-13013 Marseille, France.

10. Applicant filed an Application No. 79210731 on March 24, 2017, for the mark “JULY”, under the Madrid Protocol, with a Section 66(a) filing basis, describing the goods at issue as:

Skin whitening preparations; laundry detergents; polishing preparations; degreasing preparations; abrasive preparations; soaps; perfumes; essential oils; cosmetics; hair lotions; dentifrices; depilatories; make-up removing products; lipstick; beauty masks; shaving products; preservatives for leather (polishes); creams for leather. (in Class 005).

11. On December 11, 2018, Registrant received Registration No. 5624600 (the “CAPSUM Registration”), which described the goods as:

Skin whitening preparations; laundry detergents; degreasing preparations for household purposes; abrasive preparations;

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Mark: JULY SKY

JULY SKY

US Serial Number: 88618233

Application Filing Date: Sep. 16, 2019

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Trademark

TM5 Common Status Descriptor:



LIVE/APPLICATION/Under Examination

The trademark application has been accepted by the Office (has met the minimum filing requirements) and that this application has been assigned to an examiner.

Status: A non-final Office action has been sent (issued) to the applicant. This is a letter from the examining attorney requiring additional information and/or making an initial refusal. The applicant must respond to this Office action. To view all documents in this file, click on the Trademark Document Retrieval link at the top of this page.

Status Date: Dec. 16, 2019

Mark Information

Mark Literal Elements: JULY SKY

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Goods and Services

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: After-sun gels; After-sun lotions; After-sun milks; After-sun oils; After sun creams; After sun moisturisers; Sun-tanning oils; Sun-tanning oils and lotions; Sun-tanning preparations; Sun tan gel; Sun tan lotion; Sun tan oil; Tanning and after-sun milks, gels and oils

International Class(es): 003 - Primary Class

U.S Class(es): 001, 004, 006, 050, 051, 052

Class Status: ACTIVE

Basis: 1(b)

Basis Information (Case Level)

Filed Use: No

Currently Use: No

Filed ITU: Yes

Currently ITU: Yes

Filed 44D: No

Currently 44E: No

Filed 44E: No

Currently 66A: No

Filed 66A: No

Currently No Basis: No

Filed No Basis: No

Current Owner(s) Information

Owner Name: Sundaze LLC

Owner Address: 8605 Santa Monica Boulevard, No. 94973
West Hollywood, CALIFORNIA UNITED STATES 94103

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country CALIFORNIA
Where Organized:

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Allison Hagey

Attorney Primary Email Address: tmadmin@braunhagey.com

Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: ALLISON HAGEY
BRAUNHAGEY & BORDEN LLP
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SAN FRANCISCO, CALIFORNIA UNITED STATES 94104

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Correspondent e-mail: tmadmin@braunhagey.com shadow@braunhagey.com

Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Dec. 16, 2019	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Dec. 16, 2019	NON-FINAL ACTION E-MAILED	6325
Dec. 16, 2019	NON-FINAL ACTION WRITTEN	92825
Dec. 16, 2019	ASSIGNED TO EXAMINER	92825
Sep. 24, 2019	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Sep. 19, 2019	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information

TM Attorney: BURKE, JUSTINE N

Law Office Assigned: LAW OFFICE 121

File Location

Current Location: TMO LAW OFFICE 121 - EXAMINING ATTORNEY ASSIGNED

Date in Location: Dec. 16, 2019

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Mark: JULY SKY

JULY SKY

US Serial Number: 88844873

Application Filing Date: Mar. 23, 2020

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Trademark

TM5 Common Status Descriptor:



LIVE/APPLICATION/Awaiting Examination

The trademark application has been accepted by the Office (has met the minimum filing requirements) and has not yet been assigned to an examiner.

Status: New application will be assigned to an examining attorney approximately 3 months after filing date.

Status Date: Mar. 26, 2020

Mark Information

Mark Literal Elements: JULY SKY

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Goods and Services

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: Cosmetic preparations for protecting the skin from the sun's rays; Non-medicated sun care preparations; SPF sun block sprays; SPF sun block towelettes; Sun-block lotions; Sun block; Sun block preparations; Sun care lotions; Sun creams; Sun screen; Sunscreen creams; Sunscreen preparations; Waterproof sunscreen

International Class(es): 003 - Primary Class

U.S Class(es): 001, 004, 006, 050, 051, 052

Class Status: ACTIVE

Basis: 1(b)

Basis Information (Case Level)

Filed Use: No

Currently Use: No

Filed ITU: Yes

Currently ITU: Yes

Filed 44D: No

Currently 44E: No

Filed 44E: No

Currently 66A: No

Filed 66A: No

Currently No Basis: No

Filed No Basis: No

Current Owner(s) Information

Owner Name: Sundaze LLC

Owner Address: 8605 Santa Monica Boulevard, No. 94973
West Hollywood, CALIFORNIA UNITED STATES 94103

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country: CALIFORNIA
Where Organized:

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Allison Hagey

Attorney Primary Email Address: tmadmin@braunhagey.com

Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: ALLISON HAGEY
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Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Mar. 26, 2020	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Mar. 26, 2020	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: NEW APPLICATION PROCESSING

Date in Location: Mar. 26, 2020