

ESTTA Tracking number: **ESTTA1174211**

Filing date: **11/22/2021**

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	Nexus Products Group, LLC		
Entity	Limited Liability Company	Citizenship	Florida
Address	801 BRICKELL AVENUE, SUITE 1970 MIAMI, FL 33131 UNITED STATES		
Attorney information	MUZAMIL HUQ MORRISON & FOERSTER LLP 425 MARKET STREET SAN FRANCISCO, CA 94105 UNITED STATES Primary Email: TMDocket@mofo.com Secondary Email(s): MHuq@mofo.com, SGuerra@mofo.com, CBurns@mofo.com 415-268-7810		
Docket Number	740416002501		

**Registration Subject to Cancellation**

Registration No.	5709289	Registration date	03/26/2019
Registrant	Nexis Medical Offices SCOTT ZIMMERMAN 25201 CHAGRIN BLVD SUITE 390 BEACHWOOD, OH 44122 UNITED STATES		


**Goods/Services Subject to Cancellation**

Class 035. First Use: 2018/09/01 First Use In Commerce: 2018/10/06 All goods and services in the class are subject to cancellation, namely: Providing office support staff services
Class 036. First Use: 2018/09/01 First Use In Commerce: 2018/10/06 All goods and services in the class are subject to cancellation, namely: Leasing of office space

**Grounds for Cancellation**

Priority and likelihood of confusion	Trademark Act Sections 14(1) and 2(d)
No use of mark in commerce before application, amendment to allege use, or statement of use was filed	Trademark Act Sections 14(1) and 1(a), (c), and (d)

## Mark Cited by Petitioner as Basis for Cancellation

U.S. Application No.	90071937	Application Date	07/24/2020
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	NEXUS WORKSPACES		
Design Mark			
Description of Mark	<p>The mark consists of an incomplete polygon shape made up of three identical inward pointing chevrons with two positioned at the top of the polygon shape and one at the bottom. Underneath the incomplete polygon shape is the stylized word "NEXUS" with the word "WORKSPACES" appearing further below.</p>		
Goods/Services	<p>Class 035. First use: First Use: 2013/03/00 First Use In Commerce: 2013/03/00          Providing co-working facilities equipped with private offices, flexible space facilities, office suites, office equipment, receptionist, conference rooms, mail and package handling services, print services, kitchen, parking, and other office amenities, all for business meeting purposes; providing virtual on-line office support staff services for businesses; providing facilities for business meetings and business events in the nature of business networking events featuring food and beverage offerings; providing facilities containing shared office space containing business equipment for start-ups, existing businesses, enterprise-size businesses, and non-profits, all for business meetings and use in business incubation; providing facilities containing private offices and co-working facilities, all for business meetings</p> <p>Class 036. First use: First Use: 2013/03/00 First Use In Commerce: 2013/03/00          Leasing of office space; rental of office space; leasing and rental of offices for co-working; real estate property management services for others, namely, real estate management of co-working facilities equipped with private offices, conference and meeting spaces, customized office suites, and food and beverage spaces</p>		

Attachments	90071937#TMSN.png( bytes ) Petition to Cancel NEXIS WELLNESS final.pdf(1099004 bytes )
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Signature	/MHuq/
Name	Muzamil Huq
Date	11/22/2021

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

NEXUS PRODUCTS GROUP, LLC,

Petitioner,

v.

NEXIS MEDICAL OFFICES,

Respondent.

Cancellation No.: To Be Assigned

Registration No.: 5,709,289

Issued: March 26, 2019

Mark: NEXIS WELLNESS

**PETITION FOR CANCELLATION**

Trademark Trial and Appeal Board  
Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

Dear Commissioner:

Nexus Products Group, LLC (“Petitioner”), a Florida limited liability company with offices at 801 Brickell Avenue, Suite 1970, Miami, FL 33131, believes that it is and will continue to be injured if the mark in Registration No. 5,709,289 is not cancelled, and hereby petitions to cancel the same.

To the best of Petitioner’s knowledge, the name and address of the current owner of the registration is Nexis Medical Offices (“Respondent”), an Ohio limited liability company with an address of 25201 Chagrin Blvd, Suite 390, Beachwood, OH 44122.

The grounds for cancellation are as follows:

**Factual Background**

1. Respondent owns U.S. Registration No. 5,709,289 for the trademark NEXIS WELLNESS (the “NEXIS Mark”) for “[p]roviding office support staff services for others” in

International Class 35 and “[l]easing of office space” in International Class 36. The application for Respondent’s U.S. Registration No. 5,709,289 was filed on July 26, 2018, and an Amendment to Allege Use was filed on November 27, 2018 with a claimed first use anywhere date of September 1, 2018 and first use-in-commerce date of October 6, 2018.

2. On information and belief, Respondent provides fully furnished office spaces in Beachwood, Ohio, a suburb of Cleveland, Ohio to health and wellness professionals. See Exhibit A, Respondent’s website. Cleveland, Ohio is located on the south shore of Lake Erie and is over 240 miles from the Pennsylvania state line and over 210 miles from the Michigan state line. Accordingly, and on information and belief, all of the health and wellness professionals to whom Respondent provides office spaces and support personnel are located within the state of Ohio.

3. Petitioner provides co-working office spaces and related office amenities as a unique alternative to traditional office spaces. Beginning in March 2013, Petitioner has provided consumers with such services under the mark NEXUS WORKSPACES.

4. Petitioner owns Application Serial No. 90/071,937 for NEXUS WORKSPACES and Design (the “NEXUS Mark”) for “[p]roviding co-working facilities equipped with private offices, flexible space facilities, office suites, office equipment, receptionist, conference rooms, mail and package handling services, print services, kitchen, parking, and other office amenities, all for business meeting purposes; providing virtual on-line office support staff services for businesses; providing facilities for business meetings and business events in the nature of business networking events featuring food and beverage offerings; providing facilities containing shared office space containing business equipment for start-ups, existing businesses, enterprise-size businesses, and non-profits, all for business meetings and use in business incubation;

providing facilities containing private offices and co-working facilities, all for business meetings” in International Class 35 and “[l]easing of office space; rental of office space; leasing and rental of offices for co-working; real estate property management services for others, namely, real estate management of co-working facilities equipped with private offices, conference and meeting spaces, customized office suites, and food and beverage spaces” in International Class 36, based on a first use anywhere and first use-in-commerce date of March 2013. Petitioner’s first use date of March 2013 is prior to Respondent’s filing date, alleged first use anywhere date, and alleged first use-in-commerce date in Registration No. 5,709,289.

5. The Examining Attorney has concluded that Petitioner’s NEXUS Mark is likely to be confused with Respondent’s registered NEXIS Mark and has issued an office action under Section 2(d) of the Lanham Act refusing registration of the NEXUS Mark.

6. Since at least as early as March 2013, and prior to Respondent’s filing date, alleged first use anywhere date, and alleged first use-in-commerce date in Registration No. 5,709,289, Petitioner has continuously offered and promoted its services under the NEXUS Mark.

7. Petitioner owns the goodwill and reputation of the services connected with and symbolized by the NEXUS Mark. As a result of extensive marketing, promotion, and sales of Petitioner’s services offered under the NEXUS Mark, Petitioner has built up highly valuable goodwill in the NEXUS Mark, and said goodwill has become closely and uniquely identified and associated with Petitioner and Petitioner’s services. These common law rights are prior to Respondent’s filing date, alleged first use anywhere date, and alleged first use-in-commerce date for Registration No. 5,709,289.

**Claim 1: Priority and Likelihood of Confusion with Petitioner’s Trademark**

8. Petitioner hereby incorporates the facts and allegations contained in paragraph nos. 1-7 by reference herein.

9. Petitioner has used its NEXUS Mark since at least as early as March 2013. Petitioner's use of the NEXUS Mark was therefore prior to Respondent's application to register the NEXIS Mark and Respondent's alleged first use anywhere and first use-in-commerce dates for the NEXIS Mark.

10. Petitioner's and Respondent's marks are confusingly similar in sight, sound, and meaning. In particular, the distinctive and most memorable elements of the respective marks, NEXUS and NEXIS, is essentially identical. The differences in the other elements of the respective marks are merely descriptive and do not make a significant impact on the commercial impression of the respective marks.

11. The services in Registration No. 5,709,289 are identical, complementary or otherwise closely related to the services offered under Petitioner's NEXUS Mark.

12. On information and belief, consumers of Respondent's services offered under the NEXIS Mark are likely to consist of many of the same consumers who are familiar with the NEXUS Mark used in connection with Petitioner's services.

13. On information and belief, Respondent offers and distributes the services with which it uses the NEXIS Mark through channels of trade that overlap with those used by Petitioner to offer and distribute its services under the NEXUS Mark.

14. In view of the fact that Respondent's NEXIS Mark is confusingly similar to Petitioner's NEXUS Mark, that Respondent's and Petitioner's respective services are identical, complementary, and/or closely related, and that the customers for Respondent's and Petitioner's respective services will be the same or overlapping, Respondent's NEXIS Mark is likely to cause

confusion with Petitioner's NEXUS Mark, or to cause mistake or to deceive as to the origin, sponsorship, or approval of Respondent's services. Petitioner therefore has been injured, and will continue to be injured, by the continuing registration of Respondent's NEXIS Mark.

**Claim 2: No Use of Respondent's Mark in Interstate Commerce**

15. Petitioner hereby incorporates the facts and allegations contained in paragraph nos. 1-14 by reference herein.

16. Respondent filed an Amendment to Allege Use on November 27, 2018 based on alleged actual use of the NEXIS Mark in interstate commerce. Respondent's specimen referred to a single medical office in Beachwood, Ohio, a suburb of Cleveland, and to planned future locations in two other Cleveland suburbs. Nearly three years later, Respondent's website still refers to the single Beachwood, Ohio location and planned future locations in two other Cleveland suburbs. On information and belief, Respondent had not made use of the mark in interstate commerce prior to the filing of the Amendment to Allege Use. For this reason, Registration No. 5,709,289 is void ab initio for lack of use in interstate commerce.

WHEREFORE, Petitioner prays that Registration No. 5,709,289, currently owned by Respondent, be canceled.

Filing Fee: The Patent & Trademark Office is authorized to charge \$1,200.00 for the Petition for Cancellation to Morrison & Foerster's Deposit Account 03-1952 (Reference No. 74041-6002.501).

Respectfully submitted,

Dated: November 22, 2021

/mhuq/  
By: Muzamil Huq  
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## EXHIBIT A

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# The freedom of a solo practice with the power of a group

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Looking for someone to speak with?

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Looking for someone to speak with?

FIND A PROVIDER

## The center of all your practice needs

Nexis Wellness supports health and wellness professionals with fully furnished offices, month-to-month agreements that allow you to pay only for the time you need, and a thoughtful array of membership benefits. Offering affordable workspaces, intuitive client service tools and a supportive community of peers, we help you

keep your expenses down, your focus sharp and your goals in sight for the continuing success of your independent practice.

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## The center of all your practice needs

Nexis Wellness supports behavioral health and wellness professionals with fully furnished offices, month-to-month agreements that allow you to pay only for the time you need, and a thoughtful array of membership benefits. Offering affordable workspaces, intuitive client service tools and a supportive community of peers, we help you keep your expenses down, your focus sharp and your goals in sight for the continuing success of your independent practice.

LEARN MORE





## Convenience

- Space when you need it, not when you don't
- Simple online bookings for you and digital check-in kiosks for your clients
- Generous onsite amenities

## Peace of Mind

- Comfortable surroundings with fellow providers
- Automatic client arrival notifications
- Controlled suite and treatment area access

## Flexibility

## Community

- Easy month-to-month agreements for the hours you need
- Range of office layouts to suit your needs
- New locations coming soon
- Access to networking opportunities
- Client/patient referrals within a community of providers
- Support of your peers

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walk through the door, allowing me to focus on what's most important, my clients."

**Laurel Greene Kaiser, LISW-S**

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