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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	Nootrix Inc.		
Entity	Corporation	Citizenship	Arizona
Address	4400 N SCOTTSDALE RD. UNIT 9 #734 SCOTTSDALE, AZ 85251 UNITED STATES		

Attorney information	ANDREA SELKREGG IDEALEGAL 2240 N INTERSTATE AVE., STE 100 PORTLAND, OR 97227 UNITED STATES Primary email: aselkregg@idealegal.com Secondary email(s): abrinfo@idealegal.com, trademarks@idealegal.com, docketing@idealegal.com 5039025780		
Docket no.			

Registration subject to cancellation

Registration no.	5108966	Registration date	12/27/2016
Register	Principal		
International registration no.	NONE	International registration date	NONE
Registrant	HBX-GLOBAL ENTERPRISE, S.A.P.I. DE C.V. BLVD. PARQUE INDUSTRIAL 4057-B COL PARQUE INDUSTRIAL RAMOS ARIZPE RAMOS ARIZPE, 25900 MEXICO		

Goods/services subject to cancellation

Class 005. First Use: None First Use In Commerce: None 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)
Mark never used in commerce	Trademark Act Section 14(6)

Attachments	Petition for Cancellation of NUTRIX.pdf(86466 bytes)
Signature	/s/ Andrea Selkregg
Name	Andrea Selkregg
Date	02/24/2022

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

Nootrix Inc.,

Petitioner,

v.

HBX-GLOBAL ENTERPRISE, S.A.P.I. DE
C.V.,

Registrant.

Cancellation No. _____

Registration No. 5108966

Mark: NUTRIX

Registration Date: 12/27/2016

PETITION FOR CANCELLATION

Nootrix Inc. (“Petitioner”) believes that it will be damaged by the registered mark NUTRIX (“the NUTRIX Mark”), which is the subject of U.S. Registration No. 5108966 (“the NUTRIX Registration”), owned by HBX-GLOBAL ENTERPRISE, S.A.P.I. DE C.V (“Registrant”). The grounds for cancellation are as follows:

1. Petitioner is a corporation organized under the laws of the State of Arizona, with its principal place of business in Scottsdale, Arizona.
2. On information and belief, HBX-GLOBAL ENTERPRISE, S.A.P.I. DE C.V is a company organized under the laws of Mexico, with its principal place of business in Ramos Arizpe, Coahuila, Mexico.

3. Petitioner owns the U.S. Trademark Application Serial No. 90433741 for NOOTRIX (“the NOOTRIX Mark”) for, “*dietary and nutritional supplements; vitamins*” (“the NOOTRIX Goods”) in Class 5 (“the NOOTRIX Application”).

4. Petitioner has used the NOOTRIX Mark in interstate commerce in the United States since at least September 2020, in connection with the NOOTRIX Goods.

5. The Patent and Trademark Office issued an Office Action on June 29, 2021, in connection with the NOOTRIX Application refusing to register the NOOTRIX Mark on the ground that the mark is confusingly similar, pursuant to 15 U.S.C. § 1052(d), to the NUTRIX Mark, which is registered for, “*dietary and nutritional supplements*” (“the NUTRIX Goods”).

6. Registrant applied for the NUTRIX mark in 2016 based on A purported registration for the same mark in Mexico (44(e)) and therefore has not offered any proof of use of the mark in U.S. commerce. Petitioner is unable to locate any evidence that the NUTRIX Mark was ever used by Registrant in the United States.

7. An online search of “Nutrix” and/or “HBX-GLOBAL ENTERPRISE, S.A.P.I. DE C.V., respectively, produces only publicly available USPTO records for the NUTRIX Registration, but does not identify any NUTRIX branded products for sale at any time, within the United States.

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FIRST GROUND FOR CANCELLATION – NONUSE

8. On information and belief, Registrant has not used the NUTRIX Mark for the goods recited in the NUTRIX Registration, within the meaning of “use in commerce” in 15 U.S.C. §§ 1051 and 1127. Specifically, on information and belief, Registrant has not used the NUTRIX Mark in connection with the NUTRIX Registration, in the United States. The entire registration should thus be void *ab initio*

9. If the NUTRIX Mark is permitted to remain on the Principal Register for the NUTRIX Goods, and with all the rights and privileges conferred on it by its status as a Principal Registration, Petitioner will be damaged, including its inability to secure a registration for the NOOTRIX Mark, and Registrant will enjoy unlawful gain and advantage to which it is not entitled under the Lanham Act, 15U.S.C. §§ 1051 et seq.

SECOND GROUND FOR CANCELLATION – ABANDONMENT

10. On information and belief, by reason of the facts set forth above, and that Registrant has failed to use the NUTRIX Mark for the NUTRIX Goods in the United States, Registrant has abandoned the NUTRIX Mark with regard to the NUTRIX Goods within the meaning 15 U.S.C. §§ 1064(3) and 1127.

11. If the NUTRIX Mark is permitted to remain on the Principal Register for the NUTRIX Goods, and with all the rights and privileges conferred on it by its status as a Principal Registration, Petitioner will be damaged, including its inability to secure a registration for the NUTRIX Mark, and Registrant will enjoy unlawful gain and advantage to which it is not entitled under the Lanham Act, 15U.S.C. §§ 1051 et seq.

WHEREFORE, Petitioner respectfully requests that this Petition be granted and that the NUTRIX Registration be cancelled.

DATED this 24th day of February, 2022.

/s/ Andrea Selkregg
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Attorneys for Petitioner, Nootrix Inc.