

ESTTA Tracking number: **ESTTA1203384**

Filing date: **04/15/2022**

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	LINDA ZUÑIGA		
Entity	Individual	Citizenship	UNITED STATES
Address	5215 ORRVILLE AVENUE WOODLAND HILLS, CA 91367 UNITED STATES		
Attorney information	MICHAEL A. DINARDO KELLY & KELLEY, LLP 6320 CANOGA AVE, SUITE 1650 WOODLAND HILLS, CA 91367 UNITED STATES Primary email: mike@kelly-kelleylaw.com 818-347-7900		
Docket no.	PETRAB-61162		

Registration subject to cancellation

Registration no.	6252639	Registration date	01/19/2021
Register	Principal		
Registrant	PTB TOURS DE MEXICO S.A DE C.V. AGUASCALIENTES 116, COLONIA ROMA CIUDAD DE MEXICO, 06760 MEXICO		

Goods/services subject to cancellation


Class 039. First Use: Jun 18, 2012 First Use In Commerce: Jun 18, 2012
All goods and services in the class are subject to cancellation, namely: Arranging and coordinating travel arrangements for individuals and groups

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. registration no.	4264448	Application date	05/11/2012
Register	Principal		
Registration date	12/25/2012	Foreign priority date	NONE

Word mark	PETRABAX
Design mark	
Description of mark	NONE
Goods/services	Class 039. First use: First Use: Mar 4, 1986 First Use In Commerce: Mar 4, 1986 Travel agency services, namely, making reservations and bookings for transportation

Attachments	85622862#TMSN.png(bytes) 61162_CancellationPetition.pdf(24842 bytes)
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Signature	/Michael A. DiNardo/
Name	Michael A. DiNardo
Date	04/15/2022

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of:

LINDA ZUÑIGA

Petitioner,

v.

PTB TOURS DE MEXICO S.A. DE C.V.

Registrant.

Petition for Cancellation

Cancellation No. _____

Trademark Registration No. 6,252,639

For the mark: **TRABAX**

Date registered: January 19, 2021

Trademark Trial and Appeal Board
Commissioner for Trademarks
Via E-File

PETITION FOR CANCELLATION

LINDA ZUÑIGA, an individual, residing at 5215 Orrville Avenue, Woodland Hills, California (hereinafter Petitioner), believes that she is and will be damaged by U.S. Trademark Registration No. 6,252,639, believed to be owned by PTB TOURS DE MEXICO S.A. DE C.V., a Mexican company, having an address of Aguascalientes 116, Colonia Roma, Ciudad de Mexico, Mexico 06760 (hereinafter Registrant), and hereby requests that the Registration be cancelled.

The grounds for cancellation are as follows:

Cause of Action for Cancellation

1. Petitioner owns U.S. Trademark Registration No. 4,264,448 for the mark PETRABAX, which was registered on December 25, 2012 (“PETRABAX mark”).
2. The PETRABAX mark was initially registered to Petrabax West, Inc., a California corporation. In February 2018, Petrabax West, Inc. assigned the PETRABAX mark to Jose Zuñiga, the owner of Petrabax West, Inc. In December 2020, Jose Zuñiga passed away and the PETRABAX mark was assigned to his heir, PETITIONER, as indicated by the assignment recorded in March 18, 2021.
3. Petitioner and her predecessors-in-interest have been using the PETRABAX mark in interstate commerce since at least as early as March 4, 1986 in association with: “travel agency services, namely making reservations and bookings for transportation” in International Class 39.
4. According to U.S. Patent and Trademark Office TESS Database, Registrant is the owner of U.S. Trademark Registration No. 6,252,639 for the mark TRABAX, which was registered on January 19, 2021 (“TRABAX mark”).
5. On information and belief, the registration for TRABAX alleges a date of first use in interstate commerce of June 18, 2012 in connection with “arranging and coordinating travel arrangements to individuals and groups” in International Class 39.
6. Petitioner and her predecessors-in-interest have been continuously using the PETRABAX mark in association with the identified services for at least thirty-six (36) years, or more than twenty-six (26) years longer than Registrant alleges it has been using its TRABAX mark in association with its services.

7. Petitioner believes that she will be damaged by the continued registration of the TRABAX mark as currently registered, and hereby petitions to cancel the same due to the likelihood of confusion between Petitioner's PETRABAX mark and Registrant's TRABAX mark, both allegedly used in association with travel agency services.

This Petition for Cancellation is being filed with the filing fee requested by 37 CFR §2.6(a)(17). WHEREFORE, Petitioner prays that the Board sustain this Petition for Cancellation and that U.S. Registration No. 6,252,639 be cancelled and for such other and further relief as may be deemed proper.

Date: April 13, 2022

Respectfully submitted,

KELLY & KELLEY, LLP

/Michael A. DiNardo, Reg.No. 42487/
Michael A. DiNardo, Reg. No. 42487

Attorneys for Petitioner, LINDA ZUÑIGA

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