

ESTTA Tracking number: **ESTTA1214297**

Filing date: **06/08/2022**

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	1908 Brands, Inc.		
Entity	Corporation	Citizenship	Colorado
Address	2100 CENTRAL AVE. #201 BOULDER, CO 80301 UNITED STATES		

Attorney information	DANIEL M. CISLO, ESQ. CISLO & THOMAS LLP 12100 WILSHIRE BLVD., SUITE 1700 LOS ANGELES, CA 90025 UNITED STATES Primary email: ttab@cislo.com Secondary email(s): stephanie@cislo.com, kristin@cislo.com, dan@cislo.com 310-979-9190		
Docket no.	22-45429		

Registration subject to cancellation

Registration no.	6134344	Registration date	08/25/2020
Register	Principal		
Registrant	Everclean International, LLC SUITE 209 3801 MCKELVEY RD. BRIDGETON, MO 63044 UNITED STATES		

Goods/services subject to cancellation

Class 003. First Use: Dec 2010 First Use In Commerce: Dec 2010
All goods and services in the class are subject to cancellation, namely: Cleaning preparations in the nature of detergents for dish washing and cleaningpots and pans

Grounds for cancellation

Priority and likelihood of confusion	Trademark Act Sections 14(1) and 2(d)
--------------------------------------	---------------------------------------

Related proceedings	TTAB Ex Parte Appeal No. 90650899
---------------------	-----------------------------------

Mark cited by petitioner as basis for cancellation

U.S. application	90650899	Application date	04/16/2021
------------------	----------	------------------	------------

no.			
Register	Principal		
Registration date	NONE	Foreign priority date	NONE
Word mark	BCLEAN		
Design mark			
Description of mark	NONE		
Goods/services	Class 003. First use: First Use: None First Use In Commerce: None all-purpose cleaning preparations, cleaning preparations for cleaning surfaces, glass cleaner, granite and stainless steel cleaner, bathroom cleaner in the nature of spray cleaners for use on tile, floors, mirrors, sinks, bathtubs and showers, dish soap, laundry soap, and hand soap, all in the form of a tablet preparation for reconstitution in water to create the cleaning preparations, all sold for use by retail consumers		

Attachments	90650899#TMSN.png(bytes) Petition to Cancel.pdf(105102 bytes)
-------------	---

Signature	/Daniel M. Cislo/
Name	Daniel M. Cislo, Esq.
Date	06/08/2022

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

IN THE MATTER OF TRADEMARK REGISTRATION NO. 6,134,344

1908 Brands, Inc., a Colorado Corporation,)
)
 Petitioner,)
)
 v.)
)
 Everclean International, LLC, a Missouri Limited)
 Liability Company,)
)
 Registrant.)
)
 _____)

Cancelation No.: _____

PETITION TO CANCEL

Petitioner 1908 Brands, Inc., a Colorado Corporation, having an office at 2100 Central Ave. #201, Boulder, Colorado 80301, U.S.A., believes that it will be damaged by the continued registration of the trademark shown in Registration No. 6,134,344 owned by Registrant Everclean International, LLC, a Missouri Limited Liability Company, having a listed business address 3801 McKelvey Rd., Suite 209, Bridgeton, Missouri 63044 U.S.A. Petitioner therefore petitions to cancel the Registration.

The grounds for the petition are as follows:

1. Registrant is the listed owner of Registration No. 6,134,344 (the “Registration”), which was registered on the Principal Register on August 25, 2020 from an application filed on October 1, 2019. The registration is for BE-CLEAN (“Registrant’s Mark”) for use in connection with “Cleaning preparations in the nature of detergents for dish washing

- and cleaning pots and pans” in International Class 003 (“Registrant’s Goods”). The Registration alleges a date of first use of December 2010 and a date of first use in commerce of December 2010. The Registration issued on August 25, 2020.
2. Petitioner is the owner U.S. Trademark Application No. 90/650,899 for BCLEAN for “all-purpose cleaning preparations, cleaning preparations for cleaning surfaces, glass cleaner, granite and stainless steel cleaner, bathroom cleaner in the nature of spray cleaners for use on tile, floors, mirrors, sinks, bathtubs and showers, dish soap, laundry soap, and hand soap, all in the form of a tablet preparation for reconstitution in water to create the cleaning preparations, all sold for use by retail consumers” in International Class 003 (“Petitioner’s Application” or “the ‘899 Application”).
 3. During prosecution of Petitioner’s Application, the Examining Attorney issued a refusal to register the ‘899 Application in view of the Registrant’s Mark based upon a likelihood of confusion under Section 2(d). In addition, the Examining Attorney also denied the Request for Reconsideration After Final Action. In view of the outstanding refusal, Petitioner has filed a Notice of Appeal and a First Request for Extension of Time to File Applicant’s Brief due to the need to continue to investigate the priority over the cited Registration at issue.
 4. Since at least as early as December 2008, Petitioner, its predecessors, its assignors, or its licensees have continuously used the term BCLEAN (“Petitioner’s Trademark”) in interstate commerce as an identifier of a variety of goods, including cleaning products and services (“Petitioner’s Goods”).

5. Additionally, Petitioner is the owner of the domain www.bclean.com which was created on June 1998 and Petitioner has acquired all rights in and to the domain, and its associated trademark rights, and upon information and belief, Petitioner's predecessors, its assignors, or its licensees have continuously used this domain and its associated trademark rights in connection with Petitioner's Goods since then.
6. Petitioner's Trademark has also continuously appeared in substantial advertising and promotion of Petitioner's Goods, such that the mark is closely identified with Petitioner's Goods and has gained valuable public recognition. Petitioner's Trademark is inherently distinctive or has become distinctive through acquisition of secondary meaning. By virtue of its sales of high-quality products bearing Petitioner's Trademark in interstate commerce, its expenditures of considerable sums for promotional activities, and the excellence of its products, Petitioner developed significant goodwill in Petitioner's Trademark and a valuable reputation.
7. Petitioner its predecessors, its assignors, or its licensees have continuously used Petitioner's Trademark in interstate commerce for goods related to Registrant's Goods since prior to any date upon which Registrant can rely.
8. Registrant's Mark so resembles Petitioner's Trademark, as it has been used and currently is being used, as to be likely to cause confusion, or cause mistake, or to deceive, in violation of Section 2(d) of The Trademark Act, 15 U.S.C. §1052(d), when used on or in connection with Registrant's Goods. Registrant's Mark is substantially the same as Petitioner's Trademark, including in visual appearance and in pronunciation.

9. Under the circumstances, registration of Registrant's Mark will injure Petitioner by causing the trade or purchasing public to be confused or deceived into believing that Registrant's Goods are those of Petitioner or are sponsored by Petitioner, and will place a cloud over Petitioner's title to its BCLEAN mark, in violation of Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

10. The Registration should be canceled because Petitioner's ability to obtain registration of its BCLEAN's mark is threatened by the Registration and will continue to be a source of damage and injury to the Petitioner.

WHEREFORE, Petitioner prays that Registration No. 6,134,344 be canceled.

Petitioner enclosed the required filing fee. If any additional fees are required, the Patent and Trademark Office is authorized to charge Petitioner's attorney's deposit account no. 03-2030.

Respectfully submitted,

CISLO & THOMAS LLP

Dated: June 8, 2022

12100 Wilshire Blvd., Suite 1700
Los Angeles, CA 90025
Tel: (310) 451-0647
Fax: (310) 394-4477

/Daniel M. Cislo/
Daniel M. Cislo, Esq.
Kristin B. Kosinski, Esq.
CISLO & THOMAS LLP

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Petition to Cancel was served upon Everclean International, LLC and its attorney of record, by electronic mail, to the address listed on the date given below.

Morris E. Turek, Esq.
YOURTRADEMARKATTORNEY.COM
167 LAMP AND LANTERN VILLAGE #220
CHESTERFIELD, MISSOURI U.S.A. 63017-8208
pto@yourtrademarkattorney.com

Dated: June 8, 2022

/Daniel M. Cislo/
Daniel M. Cislo, Esq.
Kristin B. Kosinski, Esq.

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being filed with the United States Patent and Trademark Office via the Electronic System for Trademark Trials and Appeals (ESTTA) on the date shown below.

Dated: June 8, 2022

/Daniel M. Cislo/
Daniel M. Cislo, Esq.
Kristin B. Kosinski, Esq.

CISLO & THOMAS LLP
12100 Wilshire Blvd., Suite 1700
Los Angeles, CA 90025
Tel: (310) 451-0647
Fax: (310) 394-4477
www.cislo.com

\\SRV-SQL\TMDocs\22-45429\Petition to Cancel.docx