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Filing date: **04/24/2023**

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	Algix, LLC		
Entity	Limited Liability Company	Citizenship	Nevada
Address	168 WATER TOWER ROAD MERIDIAN, MS 39301 UNITED STATES		
Attorney information	MIKHAIL MURSHAK LOOMIS, EWERT, PARSLEY, DAVIS & GOTTING, PC 124 WEST ALLEGAN SUITE 700 LANSING, MI 48933 UNITED STATES Primary email: mmurshak@loomislaw.com Secondary email(s): mlsutterer@loomislaw.com 5174822400		
Docket no.	Aglix 4.1-7		

Registration subject to cancellation

Registration no.	5292541	Registration date	09/19/2017
Register	Principal		
Registrant	MATERIAL INNOVATIONS, LLC 1001 N. US HIGHWAY 1 SUITE 702 JUPITER, FL 33477 UNITED STATES		

Goods/services subject to cancellation

Class 017. First Use: Mar 2017 First Use In Commerce: Mar 2017
Goods and services in the class that are subject to cancellation: and other organic filler

Grounds for cancellation

Abandonment	Trademark Act Section 14(3)
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Attachments	RISE Petition for Cancellation_2023APR24.pdf(119908 bytes)
Signature	/mikhail murshak/
Name	Mikhail Murshak

Date	04/24/2023
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Registration of Material Innovations, LLC

Mark: RISE
Reg. No.: 5292541
Date of Registration: September 19, 2017

Algix, LLC :
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 v. Petitioner, : CANCELLATION NO. _____
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 Material Innovations, LLC :
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 Registrant. :

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

PETITION FOR PARTIAL CANCELLATION

Algix, LLC (hereinafter “Petitioner”), a limited liability company duly organized and existing under the laws of the State of Nevada, with a principal place of business at 5168 Water Tower Road, Meridian, Mississippi, believes it is damaged and will continue to be damaged by U.S. Registration No. 5292541, issued September 19, 2017, for the mark “RISE” in Class 017, registered to Material Innovations, LLC (hereinafter “Registrant”), a corporation duly organized and existing under the laws of Florida, with a principal place of business at 1001 N. U.S. Highway 1, Suite 702, Jupiter, Florida 33477, and hereby petitions for a partial cancellation of the Class 017 goods, pursuant to 15 U.S.C.A. §§ 1067 and 1068.

As grounds in support of its petition for partial cancellation, Petitioner asserts as follows:

1. Petitioner is a producer/manufacturer of proprietary algae-based masterbatch and powdered additives for making plastic or rubber foamed and non-foamed products

2. Petitioner is the owner of United States Trademark Application Serial No. 90711869, filed May 14, 2021, on the Principal Register for the trademark “RISE”, covering “Pellets and powders of masterbatch additives containing algae for making plastic or rubber foams incorporated into the plastic or rubber for use in the manufacture of footwear, luggage, eyewear, kneepads, wetsuits, equestrian stable mats, toys, sporting goods, packaging case inserts, automotive interior padding, automotive mats, automotive coverings or accessories, flooring, mats, and construction components; pellets and powders of masterbatch additives containing algae for making plastic or rubber non-foamed solid goods incorporated into the plastic or rubber for use in the manufacture of footwear, luggage, eyewear, kneepads, wetsuits, equestrian stable mats, toys, sporting goods, packaging case inserts, automotive interior padding, automotive mats, automotive coverings or accessories, flooring, mats, and construction components,” in International Class 017 (hereinafter “Petitioner's Goods”). See Exhibit A, attached hereto.

3. Since at least as early as January 9, 2020, Petitioner has used the “RISE” mark as a trademark. See Exhibit B, attached hereto.

4. Registrant is the owner of record of U.S. Registration No. 5292541 for “RISE”, covering, in relevant part, “Composite materials consisting of compressed polymeric fibers, bonding agents, with or without mineral, polymer, cellulosic *and other organic filler*, to form sheet and for use in building material products, packaging, automotive, industrial and other commercial products,” International Class 012. (*Emphasis added*).

5. Petitioner's exclusive and continuous use of its “RISE” trademark in connection with Petitioner's Goods, combined with significant expenditures in promoting the mark, has

resulted in the “RISE” mark acquiring extensive goodwill, developing a high degree of distinctiveness, and being well known and recognized among sophisticated consumers in the bicyclist market.

6. Upon information and belief, Registrant is in the business of manufacturing and selling building materials made from compressed polymers. See Exhibit D, attached hereto.

7. On October 24, 2022, despite Petitioner's efforts to achieve registration for its “RISE” mark, the PTO issued a Final Office Action, which among other things, stated that there was a likelihood of confusion under Trademark Act Section 2(d), on grounds that the “RISE” mark is confusingly similar to Registrant's prior registration for “RISE” in Class 017.

8. Upon information and belief, Registrant is not currently using, has not, for at least the past three years, used the “RISE” mark in connection with materials consisting of polymeric compressed polymeric fibers with “other organic filler.”

9. Upon information and belief, Registrant does not currently sell or distribute polymer materials with organic filler.

10. Upon information and belief, Registrant has not demonstrated any intention to resume use of the RISE mark for use with polymers with organic filler.

12. Petitioner is damaged and will continue to be damaged because Registrant's continued registration of “RISE” covering materials with organic filler in Class 017, stands as a bar to Petitioner's ability to federally register and protect its “RISE” mark.

