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Filing date: **04/29/2011**

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 requests to cancel indicated registration.

Petitioner Information

| | | | |
|---------|---|-------------|--------|
| Name | Kinesys Pharmaceutical, Inc. | | |
| Entity | Corporation | Citizenship | Canada |
| Address | 415-3771 Jacombs Road Richmond, BC V6V 2L9 CANADA | | |

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|----------------------|--|--|--|
| Attorney information | J. Scott Gerien Dickenson, Peatman & Fogarty 809 Coombs Street Napa, CA 94559 UNITED STATES tmdept@dpf-law.com Phone:707-252-7122 | | |
|----------------------|--|--|--|

Registration Subject to Cancellation

| | | | |
|--------------------------------|---|---------------------------------|------------|
| Registration No | 3671954 | Registration date | 08/25/2009 |
| International Registration No. | NONE | International Registration Date | NONE |
| Registrant | Chapman, Sarah No. 2 Queensmill Road Fulham, London, SW66JS UNITED KINGDOM | | |

Goods/Services Subject to Cancellation

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| Class 003. All goods and services in the class are cancelled, namely: Perfumes; soaps; cosmetics; non-medicated toilet preparations, namely, hand creams, body gels, body washes, shower gels, body exfoliants; body lotions; sun-tanning preparations; sunscreens; non-medicated massage preparations, namely, massage oils, massage lotions, massage creams; bath additives, namely, bubble bath, bath oils, and bath salts, not for medicated purposes; beauty masks; facial packs, namely, skin cleansing lotions, skin cleansing gels, toning preparations; skincare products, namely, skin exfoliants, moisturizers, oils, line plumper serums, eye-serums, creams, day creams, day creams with SPF, night creams, eye-creams, neck creams, lotions, cleansers, milks, balms, make-up removers, and anti-aging beauty treatments, namely, anti-aging serums; anti-aging cream, anti-aging lotion, anti-aging gel, anti-aging oils, anti-aging facial masks |
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Grounds for Cancellation

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| Priority and likelihood of confusion | Trademark Act section 2(d) |
| Other | Lack of bona fide intent to use the mark at time of filing; Trademark Act section 44(e). |

Mark Cited by Petitioner as Basis for Cancellation

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|-----------------------|---|-----------------------|------------|
| U.S. Registration No. | 2008906 | Application Date | 06/28/1994 |
| Registration Date | 10/15/1996 | Foreign Priority Date | NONE |
| Word Mark | KINESYS | | |
| Design Mark | | | |
| Description of Mark | NONE | | |
| Goods/Services | Class 003. First use: First Use: 1994/07/01 First Use In Commerce: 1996/02/21 skin and body care products, namely sunscreens, [after sun sprays], moisturizers, [hair shampoos, and body washes] Class 005. First use: First Use: 1994/07/01 First Use In Commerce: 1996/02/21 anti-fungal foot sprays, analgesic sticks, [and pharmaceuticals, ointments, liniments, soaps, disinfectants anesthetics, antibiotics, and nonsteroidal anti-inflammatories for sports medical applications] | | |

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|-------------|---|
| Attachments | Petition for Cancellation - SKINESIS.pdf (4 pages)(255699 bytes) |
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Certificate of Service

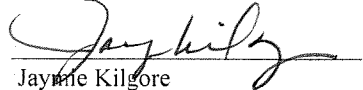
The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

| | |
|-----------|-------------------|
| Signature | /J. Scott Gerien/ |
| Name | J. Scott Gerien |
| Date | 04/29/2011 |

Certificate of Electronic Filing

I hereby certify that this correspondence is being electronically filed with the Trademark Trial and Appeal Board through the ESTTA system located at <<http://estta.uspto.gov>>.

Dated: 4/29/11

By 
Jaymie Kilgore

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

Kinesys Pharmaceutical, Inc.,

Petitioner,

vs.

Sarah Chapman,

Registrant.

CANCELLATION NO.

PETITION FOR CANCELLATION

TO THE COMMISSIONER OF TRADEMARKS:

Kinesys Pharmaceutical, Inc., a corporation organized under the laws of Canada and located at 415-3771 Jacombs Road, Richmond, British Columbia V6v 2L9, Canada (“Petitioner”), believes it is being damaged by registration of the mark SKINESIS for “perfumes; soaps; cosmetics; non-medicated toilet preparations, namely, hand creams, body gels, body washes, shower gels, body exfoliants; body lotions; sun-tanning preparations; sunscreens; non-medicated massage preparations, namely, massage oils, massage lotions, massage creams; bath additives, namely, bubble bath, bath oils, and bath salts, not for medicated purposes; beauty masks; facial packs, namely, skin cleansing lotions, skin cleansing gels, toning preparations; skincare products, namely, skin exfoliants, moisturizers, oils, line plumper serums, eye-serums, creams, day creams, day creams with spf, night creams, eye-creams, neck creams, lotions, cleansers, milks, balms, make-up removers, and anti-aging beauty treatments, namely, anti-aging

1 serums; anti-aging cream, anti-aging lotion, anti-aging gel, anti-aging oils, anti-aging facial
2 masks,” shown in Registration No. 3,671,954, registered on August 25, 2009, by Sarah Chapman,
3 a United Kingdom citizen (“Registrant”), and hereby petitions to cancel such registration.

4 Solely for the purpose of this proceeding, Petitioner alleges the following as grounds for
5 cancellation:

- 6 1. Petitioner is the owner of incontestable U.S. Trademark Registration No. 2,008,906
7 for KINESYS in International Class 3 for “skin and body care products, namely
8 sunscreens, moisturizers,” issued October 15, 1996 and based on use in commerce as
9 early as July 1994.
- 10 2. Registrant’s trademark SKINESIS (Registration No. 3,671,954), also for skin and
11 body care products in Class 3, was registered on August 25, 2009. Registrant’s U.S.
12 application for SKINESIS was filed on September 4, 2008 based on Registrant’s bona
13 fide intention to use the mark in commerce and foreign registration pursuant to
14 Section 44(e).
- 15 3. Petitioner’s first use of the KINESYS mark on skin and body care products in U.S.
16 commerce precedes any known date of first use or constructive filing date for
17 Registrant’s SKINESIS mark for skin and body care products.
- 18 4. Petitioner alleges that Registrant’s mark is likely to cause confusion, mistake or to
19 deceive the public. Petitioner’s KINESYS mark for skin and body care products is
20 virtually identical to Registrant’s SKINESIS mark for skin and body care products
21 and the respective goods on which the marks are used are identical, substantially
22 similar or related and said products are purchased by the same group of consumers.
23 Accordingly, Registrant’s mark is confusingly similar to Petitioner’s mark such that
24 Registrant is not entitled to the continued registration of its mark and Registrant’s
25 mark should therefore be cancelled in accordance with Section 2(d) of the Trademark
26 Act of 1946, 15 U.S.C.A §1052(d).
- 27 5. Upon information and belief, Petitioner avers that Registrant lacked a bona fide intent
28 to use the SKINESIS mark in U.S. commerce for all the specified goods in U.S.

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Registration No. 3,671,954 when the application for such mark was filed. Specifically, upon information and belief, the SKINESIS mark is not being used in U.S. commerce on or in connection with perfumes, soaps, shower gels, sun-tanning preparations, non-medicated massage preparations, namely, massage oils, massage lotions, massage creams, bath additives, namely, bubble bath, bath oils, and bath salts, not for medicated purposes, oils, milks, and balms. Accordingly, Registrant's mark should be cancelled in accordance with Section 44(e) of the Trademark Act of 1946, 15 U.S.C.A §1126(e).

6. Petitioner avers that if Registrant's registration is maintained, it will interfere with Petitioner's exclusive right to use its KINESYS mark herein relied upon, all to the detriment and damage of Petitioner. Therefore, Petitioner avers for the reasons aforesaid that it will be damaged by the continued registration of Registrant's mark that is the subject of Registration No. 3,671,954.

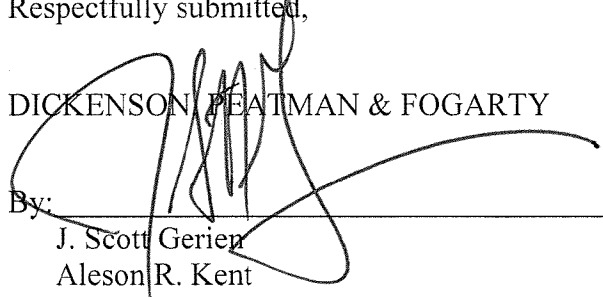
WHEREFORE, Petitioner prays as follows:

1. That this petition be sustained; and
2. That registration of the trademark SKINESIS shown and specified in Registration No. 3,671,954 be cancelled.

Dated: 4/29/11

Respectfully submitted,

DICKENSON PEATMAN & FOGARTY

By: 
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Aleson R. Kent

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Attorneys for Petitioner
Kinesys Pharmaceutical, Inc.

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