

ESTTA Tracking number: **ESTTA884390**

Filing date: **03/20/2018**

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	Bootcamp Prep, LLC		
Entity	Limited liability company	Citizenship	Florida
Address	5196 Isleworth Country Club Drive Windermere, FL 34786 UNITED STATES		

Attorney information	Allison R. Imber, Esq. Allen, Dyer, Doppelt & Gilchrist, P.A. 255 S. Orange Ave., Suite 1401 Orlando, FL 32801 UNITED STATES Email: <a href="mailto:aimber@allendyer.com">aimber@allendyer.com</a> , <a href="mailto:odsierra@allendyer.com">odsierra@allendyer.com</a> Phone: 407-841-2330
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### Registration Subject to Cancellation

Registration No.	4783634	Registration date	07/28/2015
Registrant	Orgoman LLC 80 Bay Street Landing, #3H Staten Island, NY 10301 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 041. First Use: 2010/09/12 First Use In Commerce: 2010/09/12 All goods and services in the class are subject to cancellation, namely: Education services, namely, providing live and on-line classes, seminars, workshops, and presentations in the field of test preparation for academic and achievement aptitude tests, academic course work, and standardized tests for collegiate and graduate levels of education
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### 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. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	DAT BOOTCAMP		
Goods/Services	Educational test preparation services; providing a website featuring information in the field of test preparation, biology, chemistry, organic		

	chemistry, perceptual ability, quantitative reasoning and reading comprehension; Providing an online test preparation study guide and schedule; Educational services, namely, providing practice test questions and practice tests in preparation for test taking; Educational services, namely, providing online test questions in the fields of biology, chemistry, organic chemistry, perceptual ability, quantitative reasoning and reading comprehension; Providing a website featuring non-downloadable videos in the field of test preparation, biology, chemistry, organic chemistry, perceptual ability, quantitative reasoning and reading comprehension
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Attachments	Petition to Cancel.pdf(149019 bytes )
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Signature	/Allison R. Imber/
Name	Allison R. Imber
Date	03/20/2018

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

In the Matter of Supplemental Trademark Registration No. 4,783,634  
for the Mark **DAT BOOTCAMP**

Bootcamp Prep, LLC,

Petitioner,

Cancellation No: \_\_\_\_\_

vs.

Orgoman LLC,

Respondent.

\_\_\_\_\_/

**PETITION TO CANCEL**

Bootcamp Prep, LLC (“Petitioner”), a Florida limited liability company located at 5196 Isleworth Country Club Drive, Windermere, FL 34786, believes that it will be damaged by the continued registration of the mark **DAT BOOTCAMP** as shown in U.S. Supplemental Trademark Registration No. 4,783,634 owned by Orgoman LLC (“Respondent”), which is purportedly used in connection with services in International Class 41, and hereby petitions to cancel the registration.

The grounds for the petition are as follows:

**PETITIONER’S MARK**

1. Petitioner is a limited liability company duly incorporated under the laws of Florida. Petitioner provides educational test preparation services online through a website at the domain name <datbootcamp.com>.

2. Since at least as early as January of 2013, Petitioner has used the mark **DAT BOOTCAMP** in interstate commerce in connection with the provision of its test preparation services (“Petitioner’s Mark”).

3. Petitioner has expended significant resources in promoting its services offered under the mark **DAT BOOTCAMP**. As a result of Petitioner's efforts and continuous use, the mark **DAT BOOTCAMP** has acquired secondary meaning in the minds of consumers as a designation of source for Petitioner's educational services. Consumers have come to rely on the mark **DAT BOOTCAMP** to identify Petitioner's services and to distinguish them from the services of its competitors. As such, Petitioner maintains valuable trademark rights in the mark **DAT BOOTCAMP** and the goodwill it symbolizes.

#### **RESPONDENT'S REGISTRATION**

4. Based on information and belief, Respondent is a New York limited liability company located at 80 Bay Street Landing, #3H Staten Island, New York 10301.

5. Respondent owns United States Supplemental Trademark Registration No. 4,783,634 ("Respondent's Registration") for the mark **DAT BOOTCAMP** ("Respondent's Mark") as used on "education services, namely, providing live and on-line classes, seminars, workshops, and presentations in the field of test preparation for academic and achievement aptitude tests, academic course work, and standardized tests for collegiate and graduate levels of education."

6. The application that matured into Respondent's Registration was filed for on May 30, 2014 based on an alleged first use date of September 12, 2010.

#### **GROUND FOR CANCELLATION** **PRIORITY AND LIKELIHOOD OF CONFUSION**

7. Petitioner incorporates paragraphs 1-6 above.

8. Petitioner's use of Petitioner's Mark in commerce pre-dated Respondent's first use of Respondent's Mark in commerce, as well as the filing date upon which Respondent filed its

application for Respondent's Registration. Upon further information and belief, Petitioner's Mark has acquired distinctiveness while Respondent's Mark remains merely descriptive. Therefore, Petitioner has priority of use of its Mark over that of Respondent's use of its Mark.

9. Respondent's Mark is confusingly and deceptively similar to Petitioner's Mark. Respondent's Mark is identical in sight, connotation, and commercial impression to Petitioner's Mark.

10. Respondent's services are identical to or closely related to the services provided by Petitioner. Consumers are likely to believe that Respondent and its services are somehow sponsored by, affiliated with and/or related to Petitioner and its services.

11. Respondent's channels of trade and class of purchasers are identical to or very similar to those of Petitioner.

12. Due to the similarity between Petitioner's Mark and Respondent's Mark, as well as their respective services, not to mention the similarity of the channels of trade and classes of purchasers, the continued registration of Respondent's Mark will cause great damage and injury to Petitioner. Persons familiar with Petitioner's Mark and services would likely confuse Respondent's services with the services provided by Petitioner. Any defect, objection or fault found with Respondent's services offered under its Mark may reflect upon and expose Petitioner to liability, and injure the reputation that Petitioner has established for its services.

WHEREFORE, Petitioner respectfully requests that this petition be sustained, and U.S. Supplemental Trademark Registration No. 4,783,634 for the mark **DAT BOOTCAMP** be cancelled in its entirety.

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