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Filing date: **08/23/2018**

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	Peak Health Center		
Entity	Corporation	Citizenship	California
Address	100 Los Gatos Saratoga Rd Ste A Los Gatos, CA 95032 UNITED STATES		

Attorney information	Allen J. Baden Edge Law Group 100 Los Gatos Ave Saratoga Rd. Ste B Los Gatos, CA 95032 UNITED STATES docket@edgelawgroup.com 6504608050		
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Registration Subject to Cancellation

Registration No.	4411518	Registration date	10/01/2013
Registrant	ISO INTERNATIONAL, LLC 1712 PIONEER AVE. - STE. 201 CHEYENNE, WY 82001 UNITED STATES		

Goods/Services Subject to Cancellation

Class 003. First Use: 2012/10/00 First Use In Commerce: 2012/10/00 All goods and services in the class are subject to cancellation, namely: Cosmetic preparations; cosmetics and make-up; non-medicated preparations all for the care of skin; all of the foregoing made primarily from natural ingredients
Class 005. First Use: 2012/10/00 First Use In Commerce: 2012/10/00 All goods and services in the class are subject to cancellation, namely: Dietary and nutritional supplements; food supplements; health food supplements;herbal supplements; herbal topical creams, gels, salves, sprays, powder, balms, liniment and ointments for the relief of aches and pain; homeopathic supplements; liquid nutritional supplement; mineral nutritional supplements; mineral supplements; natural herbal supplements; nutraceuticals for use as a dietary supplement; nutritional and dietary supplements formed and packaged as bars; nutritional supplements; protein supplements; vitamin and mineral supplements; all of the foregoing made primarily from natural ingredients

Grounds for Cancellation

Fraud on the USPTO	Trademark Act Section 14(3); In re Bose Corp.,
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	580 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. 2009)
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Attachments	Cancellation Petition CBD NATURALS 4835-7935-1406 v.1.pdf(136454 bytes) 1 Office Action.pdf(3622866 bytes) 2 Response to Office Action.pdf(594516 bytes) 3 CBDNaturals.com home page.pdf(1079252 bytes) 4 Cannabidiol Wikipedia.pdf(1229755 bytes)
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Signature	/allen j baden/
Name	Allen J. Baden
Date	08/23/2018

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

In the matter of:

Peak Health Center, a California Not For
Profit Corporation,

Petitioner

v.

ISO International, LLC,

Registrant.

Cancellation No.

U.S. Trademark Registration No. 4,411,518
for CBD NATURALS in Classes 3 and 5

Registration Date: October 1, 2013

Petitioner Peak Health Center ("Petitioner") believes that it is or will be damaged by ISO INTERNATIONAL, LLC's ("Registrant") registration of CBD NATURALS (the "Mark") for "Cosmetic preparations; cosmetics and make-up; non-medicated preparations all for the care of skin; all of the foregoing made primarily from natural ingredients," in Class 003, and "Dietary and nutritional supplements; food supplements; health food supplements; herbal supplements; herbal topical creams, gels, salves, sprays, powder, balms, liniment and ointments for the relief of aches and pain; homeopathic supplements; liquid nutritional supplement; mineral nutritional supplements; mineral supplements; natural herbal supplements; nutraceuticals for use as a dietary supplement; nutritional and dietary supplements formed and packaged as bars; nutritional supplements; protein supplements; vitamin and mineral supplements; all of the foregoing made primarily from natural ingredients," in Class 05 as described in U.S. Trademark Registration No. 4,411,518 dated October 1, 2013 (the "Registration"), and petitions to cancel the same under Section 14(3) of the Lanham Federal Trademark Act, 15 U.S.C. § 1064(3).

As grounds for cancellation, Peak Health states and alleges the following, with knowledge about its own acts and on information and belief on all other matters:

STATEMENT OF THE PETITION

1. Petitioner is a not-for-profit corporation organized under the laws of California and maintains an office at 100 Los Gatos Saratoga Road, Suite A, Los Gatos, California 95032.

2. Registrant is a limited liability company organized under the laws of Wyoming and maintains an office at 1712 Pioneer Avenue, Suite 201, Cheyenne, Wyoming 82001.

3. Registrant acquired by assignment and is the record owner of the Registration.

4. In an office action dated March 15, 2012 (attached as Exhibit 1 to this Petition), the Examining Attorney stated,

“Applicant must explain whether “CBD” has any meaning or significance in the industry in which the goods are manufactured/provided, or if such wording is a “term of art” within applicant’s industry. See 37 C.F.R. §2.61(b); TMEP §814. Further, applicant must provide additional information about this wording to enable proper examination of the application. Specifically, applicant must respond to the following questions: What is the significance of “CBD” in relation to the recited goods in Classes 3 and 5? Do any of the applicant’s goods recited in Classes 3 and 5 contain the ingredient Cannabidiol (CBD) or its derivatives?”

5. In a Response to Office Action dated September 1, 2012 (attached as Exhibit 2), Registrant falsely stated to mislead the Examining Attorney, *“cbd appearing in the mark has no significance nor is it a term of art in the relevant trade or industry or as applied to the goods/services listed in the application, or any geographical significance.”* Separately, using the Miscellaneous Statement portion of the response form, Registrant stated, *“CBD is an abbreviation for the word ‘Cannabidiol’. The term has no significance in the relevant trade or*

industry; however, a non-synthetic component of Cannabidiol has been extracted and is present in small quantities in the goods.”

6. Contrary to Registrant’s assertion, the term CBD has significance and is a term of art in the industry and channels of trade in which Registrant operates (and operated when it made the assertion). Indeed, Registrant’s CBDNaturals.com website contains multiple references to its products containing cannabidiol. (See printout from the website attached as Exhibit 3.) CBD is a well-known abbreviation for cannabidiol. (See printouts from *Wikipedia* and *High Times* attached as Exhibit 4.)

7. Registrant also purposefully omitted information regarding the source of its cannabidiol at the time it responded to the office action, namely, marijuana plants, with the express purpose of avoiding a refusal of its application on the grounds that Registrant’s CBD (cannabidiol) was derived from marijuana. Under USPTO practice, such an admission would have prevented registration of the Mark since the trademark applicant cannot show that the goods or services are being lawfully used in commerce because the Controlled Substances Act (“CSA”) considers marijuana a Schedule I illegal drug. (The CSA makes it unlawful to sell, offer for sale, or use any facility of interstate commerce to transport drug paraphernalia, including, “any equipment, product, or material of any kind which is primarily intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance, possession of which is unlawful under the CSA.” 21 U.S.C. § 863(d).)

8. Registrant’s misleading statement to the Examining Attorney regarding the significance of the term CBD to the industry and channels of trade in which it operates and its

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