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Filing date: **08/29/2019**

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    | Fortitude Health, LLC   |             |            |
| Entity  | limited liability company   | Citizenship | New Jersey |
| Address | 101 US Highway 46<br>Suite 122<br>Pine Brook, NJ 07058<br>UNITED STATES |             |            |

|                      |  |  |  |
|----------------------|--|--|--|
| Attorney information | Kevin Haynie<br>YourTrademarkAttorney.com<br>167 Lamp and Lantern Village<br>#220<br>Chesterfield, MO 63017-8208<br>UNITED STATES<br>kevin@yourtrademarkattorney.com, morris@yourtrademarkattorney.com<br>(314) 479-3668 |  |  |
|----------------------|--|--|--|

**Registration Subject to Cancellation**

|                  |   |                   |            |
|------------------|---|-------------------|------------|
| Registration No. | 5570232   | Registration date | 09/25/2018 |
| Registrant       | JUSTIN SAMRA<br>3555 29TH STREET APT. 4F<br>LONG ISLAND CITY, NY 11106<br>UNITED STATES |                   |            |

**Goods/Services Subject to Cancellation**


|   |
|---|
| Class 005. First Use: 2017/01/11 First Use In Commerce: 2017/01/11<br>All goods and services in the class are subject to cancellation, namely: Amino acids for nutritional purposes; Anti-inflammatories; Mineral supplements; Probiotic supplements; Vitamins; Food supplements, namely, anti-oxidants |
|---|

**Grounds for Cancellation**

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

**Mark Cited by Petitioner as Basis for Cancellation**

|                      |          |                       |            |
|----------------------|----------|-----------------------|------------|
| U.S. Application No. | 88438062 | Application Date      | 05/20/2019 |
| Registration Date    | NONE     | Foreign Priority Date | NONE       |

|                     |  |
|---------------------|--|
| Word Mark           | HEALFAST   |
| Design Mark         |    |
| Description of Mark | NONE   |
| Goods/Services      | Class 003. First use: First Use: 2011/09/01 First Use In Commerce: 2011/09/01<br>Non-medicated skin care preparations, namely, creams, lotions, gels, shampoos, oils |

|             |  |
|-------------|--|
| Attachments | 88438062#TMSN.png( bytes )<br>HEALFAST Petition for Cancellation FINAL with Exhibit.pdf(114386 bytes ) |
|-------------|--|

|           |              |
|-----------|--------------|
| Signature | /kmh355/     |
| Name      | Kevin Haynie |
| Date      | 08/29/2019   |

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

**Fortitude Health, LLC** )  
Petitioner, )  
v. ) Cancellation No. \_\_\_\_\_  
**Justin Samra** )  
Registrant. )  
\_\_\_\_\_ )

**PETITION FOR CANCELLATION**

Fortitude Health, LLC (“Petitioner”) is a New Jersey limited liability company with a mailing address of 101 US Highway 46, Suite 122, Pine Brook, New Jersey 07058.

According to the USPTO records, the name and address of the current owner of U.S. Registration No. 5,570,232 is Justin Samra, 3555 29th St., Apt. 4F, Long Island City, New York 11106 (“Registrant”).

Pursuant to 15 U.S.C. §1064, Petitioner believes it is damaged by Registration No. 5,570,232 and hereby petitions to cancel the same.

The grounds for cancellation are as follows:

1. Registrant is the owner of U.S. Registration No. 5,570,232 for the mark HEALFAST for “amino acids for nutritional purposes; anti-inflammatories; mineral supplements; probiotic supplements; vitamins; food supplements, namely, anti-oxidants,” in International Class 5.

2. Registration No. 5,570,232 issued on the Principal Register on September 25, 2018. As such, Registration No. 5,570,232 is not incontestable.

3. The underlying application filing date of Registration No. 5,570,232 is February 19, 2018.

4. Registration No. 5,570,232 states that Registrant's first use of his HEALFAST mark occurred at least as early as January 11, 2017, and that Registrant's first use of his HEALFAST mark in interstate commerce occurred at least as early as January 11, 2017.

5. Long before any date on which Registrant could reasonably rely, Petitioner adopted and commenced use of the mark HEALFAST in the United States in connection with the advertising and sale of skin care products.

6. Petitioner has continuously used its HEALFAST mark in commerce ever since it first adopted the mark.

7. As a result of Petitioner's continuous use of its HEALFAST mark in connection with its products, the relevant segment of the purchasing public has come to exclusively associate the HEALFAST mark with Petitioner's products. As such, the HEALFAST mark is extremely valuable to Petitioner and has developed a substantial amount of goodwill and recognition among the relevant segment of the purchasing public.

8. Petitioner's HEALFAST mark has been used, and continues to be used, by the relevant segment of the purchasing public to identify the source of Petitioner's products and to distinguish such products from the products and services offered by others.

9. Petitioner is the owner of all right, title, and interest in and to the HEALFAST mark as used in connection with its products.

10. Petitioner's first use of its HEALFAST mark precedes the underlying application filing date of Registration No. 5,570,232, as well as Registrant's first use dates as indicated in Registration No. 5,570,232.

11. Petitioner is the owner of Application Serial No. 88438062 for the mark HEALFAST for “non-medicated skin care preparations, namely, creams, lotions, gels, shampoos, oils,” in International Class 3. Petitioner has attached a status and title copy of its application as **Exhibit A**.

12. On July 31, 2019, the Trademark Examining Attorney assigned to review Petitioner’s application for HEALFAST cited Registration No. 5,570,232 as a basis for refusing registration of Petitioner’s HEALFAST mark under Trademark Act §2(d), thereby causing harm and damage to Petitioner.

13. Registrant’s HEALFAST mark is identical in appearance, sound, and commercial impression to Petitioner’s HEALFAST mark.

14. The products recited in Registration No. 5,570,232 for HEALFAST are similar and related to the products offered under Petitioner’s HEALFAST mark.

15. Petitioner is damaged by Registration No. 5,570,232 since Registrant’s HEALFAST mark, when used on or in connection with its products, so resembles Petitioner’s HEALFAST mark as to be likely to cause confusion, to cause mistake, or to deceive as to the affiliation, connection, or association of Registrant with Petitioner, or as to the origin, sponsorship, or approval of Registrant’s products by Petitioner.

16. Petitioner is further damaged by Registration No. 5,570,232 because such registration gives color of exclusive statutory rights to Registrant in violation and derogation of the prior superior rights of Petitioner.

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