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Filing date: **01/09/2020**

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	Pado, Inc.		
Entity	Corporation	Citizenship	California
Address	28340 Avenue Crocker, #100 Valencia, CA 91355 UNITED STATES		

Attorney information	Joel Voelzke IP Law Offices of Joel Voelzke, APC 24772 W. Saddle Peak Road Malibu, CA 90265 UNITED STATES joel@voelzke.com 3103174466		
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Registration Subject to Cancellation

Registration No.	4925190	Registration date	03/29/2016
Registrant	SG TRADEMARK HOLDING CO. 5421 NEW UTRECHT AVE. BROOKLYN, NY 11219 UNITED STATES		

Goods/Services Subject to Cancellation

Class 010. First Use: 2013/10/18 First Use In Commerce: 2013/10/18 All goods and services in the class are subject to cancellation, namely: device for non-surgical cosmetic treatments, namely, an electric massage apparatus

Grounds for Cancellation

Abandonment	Trademark Act Section 14(3)
Registrant not rightful owner of mark for identified goods or services	Trademark Act Sections 14(1) and 1
Other	Illegal assignment-in-gross, 15 U.S.C. 1060 (Trademark Act Section 10)

Attachments	Petition to Cancel PURWAVE with Exhibits 1-3.pdf(2955859 bytes)
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Signature	/Joel D. Voelzke73/
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Name	Joel D. Voelzke
Date	01/09/2020

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

Pado, Inc.

Petitioner

v.

SG Trademark Holding Co LLC

Registrant

Cancellation No.: _____

Registration No.: 4925190

Mark: PURWAVE

PETITION FOR CANCELLATION

Pursuant to 15 U.S.C. § 1064(1), Petitioner Pado, Inc, (“Pado”) a California corporation having an address of 28340 Crocker Ave. #100, Valencia, California 91355, by and through its undersigned counsel, believes it will be damaged by Registration No. 4,925,190 (the “Registration”) and hereby petitions to cancel the same.

As grounds for this Petition, Petitioner alleges:

1. Respondent’s mark, PURWAVE (the “Mark”), was registered on March 29, 2016. The Mark was registered to Sigma Instruments, Inc., a Pennsylvania corporation, for the goods of “device for non-surgical cosmetic treatments, namely, an electric massage apparatus.”
2. The current putative owner of Registration No. 4,925,190 is SG Trademark Holding Co LLC (“SG Trademark”) a New York Corporation having an address of 5421 New Utrecht Ave., Brooklyn, New York 11219.
3. The current correspondent for Registration No. 4,925,190 is Tuvia Rotberg of the law firm Amster, Rothstein & Ebenstein LLP, 90 Park Avenue, New York, New York 10016.

Petitioner and its PUREWAVE Mark, and Trademark Application

4. Petitioner, Pado Inc., is a California corporation, with a place of business at 28340 Crocker Ave. #100, Valencia, California 91355.

5. Since at least approximately June 6, 2015, Petitioner has sold hand-held electric massagers in IC 010 under the mark PUREWAVE, including under the cognate “Pure Wave,” and has otherwise used “PUREWAVE” and cognates thereof in commerce for electric hand-held massagers.

6. Petitioner sells its PUREWAVE electric massagers at both its online retail store located at www.padousa.com as well as on the online marketplace Amazon.com, and has done so since 2015.

7. On June 12, 2019 Petitioner filed trademark application serial no. 88/470,482 for the mark PUREWAVE for the goods in International Class 10 of:

Hand-held electric massage apparatus for therapeutic non-cosmetic purposes, namely, hand-held electric massagers for massaging the back, neck, feet, arms, and legs.

8. On November 26, 2019 the PTO rejected Petitioner’s application for confusing similarity with Reg. No. 4,925,190.

The Original Registrant Sigma Instruments, Inc.

9. The original Registrant, Sigma Instruments, Inc. (“Sigma Instruments”) is a Pennsylvania corporation having a business address of 506 Thomson Park Drive, Cranberry Twp., Pennsylvania 16066.

10. On January 14, 2014 Sigma Instruments posted a video on the video sharing website Youtube.com promoting the PURWAVE device for non-surgical cosmetic treatments, at the URL <https://www.youtube.com/watch?v=cmM7QdU7C3s>. Screen shots showing and promoting

that cosmetic treatment device are attached collectively as **Exhibit 1**. Since January 14, 2014 that video has received two (2) “Likes” and zero (0) comments. (Exhibit 1, last page).

Non-Use of The PURWAVE Mark, and Lack of Policing by Sigma Instruments

11. Pado’s investigation indicates that Sigma Instruments has not used its PURWAVE Mark in commerce for several years. On information and belief, Sigma Instruments abandoned its Mark by non-use.

12. On information and belief, Sigma Instruments had not used its PURWAVE mark for a period of more than (3) years , creating a *prima facie* case of abandonment under 15 U.S.C. § 1127.

13. On information and belief, for years Sigma Instruments made no efforts to police its Mark.

14. Sigma Instruments made no efforts to police its mark against Petitioner despite the open and notorious use by Petitioner of its PUREWAVE trademark for more than four (4) years.

15. On November 27, 2019 Pado wrote to Sigma Instruments’ then attorney of record, Thomas Dunlap of the firm Dunlap Bennet & Ludwig PC and asked whether Sigma Instruments would consent to Pado’s registration of its PUREWAVE mark, and noted that “it appears that Sigma Instruments has not sold the PURWAVE product for several years.”

16. Mr. Dunlap never responded. Another attorney at that firm responded, but not substantively.

The Putative Current Owner SG Trademark and Its Infringing MIGHTY BLISS Massager

17. The current putative owner of the Registration, SG Trademark, began selling a massager in approximately July 2018 which it called the MIGHTY BLISS massager.

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