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Filing date: **09/04/2020**

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	Brio Nutrition LLC		
Entity	Limited Liability Company	Citizenship	Texas
Address	230 AERO COUNTRY ROAD MCKINNEY, TX 75240 UNITED STATES		

Correspondence information	KEITH E. TABER 5801 BENT CREEK TRAIL DALLAS, TX 75252 UNITED STATES Primary Email: keithetaber@gmail.com Secondary Email(s): uspto@ipparalegals.com (214) 354-1428
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Registration Subject to Cancellation

Registration No.	3921712	Registration date	02/22/2011
Registrant	Nouriche Nutrition Ltd 21 NORMANDY DRIVE LAKE ST. LOUIS, MO 63367 UNITED STATES		

Additional Registrant Information

Additional registrant information provided by the petitioner	NOURICHE NUTRITION LTD 2977 HIGHWAY K, SUITE 305 O'FALLON, MO 63368 UNITED STATES No email provided. No phone number provided.
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Goods/Services Subject to Cancellation

Class 005. First Use: 2007/09/14 First Use In Commerce: 2007/09/14 All goods and services in the class are subject to cancellation, namely: Non-medicated additives for animal feedfor use as nutritional supplements in milk replacers, excluding fertilizers

Grounds for Cancellation

Abandonment	Trademark Act Section 14(3)
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Related Proceedings	Cancellation No. 92074608
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Attachments	JWNU-L003CAN_PetitionCancel.pdf(25767 bytes) JWNU-L003CAN_Exhibits.pdf(2602211 bytes)
Signature	/Keith E. Taber/
Name	Keith E. Taber
Date	09/04/2020

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

In the matter of:

Registration No. 3921712

For the mark BRIO (Stylized)

Registered on February 22, 2011

BRIO NUTRITION LLC)
)
)
Petitioner)
)
v.)
)
NOURICHE NUTRITION LTD..)
)
Registrant)
)
)
)

Cancellation No.

PETITION TO CANCEL

Brio Nutrition LLC (Petitioner), a limited liability company organized under the laws of the State of Texas, with a business address of 230 Aero Country Road, McKinney, Texas 75071, believes that it will be damaged by continued registration of the mark shown in the above-identified registration, and hereby petitions to cancel such registration.

The 5th year anniversary of the registration was February 22, 2016. However, Petitioner asserts that this registration has been abandoned, and thus, under 15 U.S.C. §1064(3), this Petition is timely.

Grounds for Cancellation

1. Petitioner is the owner of U.S. trademark application No. 88/433612, filed on May 16, 2019 for the mark BRIO CBD for “Dietary Supplements” in International Class 005, which was filed as an Intent to Use application. A copy of the details of the ‘612 application from the website of the U.S. Trademark Office is attached as Exhibit A.
2. Petitioner is the owner of U.S. trademark application No. 88/707920 filed on November 26, 2019 for the mark BRIO* for “Animal feed” in International Class 031. A copy of the details of the ‘920 application from the website of the U.S. Trademark Office is attached as Exhibit B.
3. Petitioner’s Applications have been refused by the United States Patent and Trademark Office under Trademark Act Section 2(d) based upon Registration No. 3921712 for the mark BRIO (Stylized), registered on February 22, 2011 for “Non-medicated additives for animal feed for use as nutritional supplements in milk replacers, excluding fertilizers” in International Class 005. A copy of the registration details from the U.S. PTO website is attached as Exhibit C.
4. Upon information and belief, the cited registration is owned by Nouriche Nutrition Ltd., of 2977 Highway K, Suite 305, O’Fallon, MO 63368.
5. Upon information and belief, Nouriche Nutrition Ltd’s BRIO (stylized) mark has not been in use for at least three years in connection with the goods for which they are registered.
6. Upon information and belief, Nouriche Nutrition Ltd has abandoned the BRIO (Stylized) mark. Attached as Exhibit D is a printout of Registrant’s website. Petitioner has reviewed every page in the website and the word BRIO does not appear on any of the pages.
7. Exhibit E is a printout of a Google web search for the terms “brio animal feed additive”. The search result did not result in any hit including Nouriche Nutrition’s BRIO (Stylized) mark.
8. Upon information and belief, Nouriche Nutrition Ltd has taken no affirmative steps to resume use of the BRIO (Stylized) mark in connection with “Non-medicated additives

for animal feed for use as nutritional supplements in milk replacers, excluding fertilizers”.

9. Petitioner is being damaged by continuation of Registration No. 3921712 in that Petitioner is unable to obtain registration of the mark BRIO CBD in Application Serial No. 88/433612 or BRIO* in Application Serial No. 88/707920.

WHEREFORE, Petitioner respectfully requests that the Board sustain this Petition and cancel Nouriche Nutrition Ltd ‘s registration for BRIO (Stylized).

Respectfully submitted,

Brio Nutrition LLC

By: /Keith E. Taber/

Date: September 4, 2020

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