

ESTTA Tracking number: **ESTTA887668**

Filing date: **04/04/2018**

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	HS Cosmetics, LLC		
Entity	LLC	Citizenship	Delaware
Address	820 South Main Street Suite 103 Greenville, SC 29601 UNITED STATES		

Attorney information	Brian M. Gaynor Parker Ibrahim & Berg LLP 270 Davidson Avenue Somerset, NJ 08873 UNITED STATES Email: brian.gaynor@piblaw.com, trademark@piblaw.com Phone: 908-333-4045		
----------------------	---	--	--

Registration Subject to Cancellation

Registration No.	4735377	Registration date	05/12/2015
Registrant	Biocentris Pharmaceuticals 24 Executive Pkwy. Ringwood, NJ 07456 UNITED STATES		

Goods/Services Subject to Cancellation

Class 003. First Use: 2010/11/17 First Use In Commerce: 2011/03/01 Goods and services in the class that are subject to cancellation: Non-medicated skin care preparations; Skin moisturizer; Soaps
Class 005. First Use: 2010/11/17 First Use In Commerce: 2011/03/01 Goods and services in the class that are subject to cancellation: Antibacterial handwash; Antimicrobial handwash; Antiseptics; Medicated skin care preparations; Topical first aid gel

Grounds for Cancellation

No use of mark in commerce before application, amendment to allege use, or statement of use was filed	Trademark Act Sections 14(1) and 1(a), (c), and (d)
Abandonment	Trademark Act Section 14(3)

Attachments	Petition for.pdf(17926 bytes)
-------------	--------------------------------

Signature	/brian gaynor/
-----------	----------------

Name	Brian M. Gaynor
Date	04/04/2018

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

HS COSMETICS, LLC,

Petitioner,

v.

BIOCENTRIS PHARMACEUTICALS,

Registrant.

In re Reg. No. 4735377

Mark: AQUACIL

PETITION FOR CANCELLATION
PURSUANT TO 15 U.S.C. SECTION 1064

In the matter of trademark Reg. No. 4735377, for AQUACIL as a trademark for “non-medicated skin care preparations; skin moisturizer; soaps,” in International Class 3, and “antibacterial handwash; antimicrobial handwash; antiseptics; medicated skin care preparations; topical first aid gel,” in International Class 5, registered on May 12, 2015 (“Registrant’s Mark”); and said registration owned by Registrant, Biocentris Pharmaceuticals (“Registrant”), a New Jersey limited liability company with an address of 24 Executive Parkway, Ringwood, New Jersey 07456;

HS Cosmetics, LLC, (“Petitioner”), a Delaware limited liability company with an address of 820 South Main Street, Suite 103, Greenville, South Carolina 29601, believes that it will be damaged by the continued registration of AQUACIL, as Registrant’s Mark, and hereby petitions to cancel said registration pursuant to 15 U.S.C. Sec. 1064 (Trademark Act of 1946, Sec. 14).

As grounds for cancellation, it is alleged that:

COUNT I
ABANDONMENT/NON-USE OF MARK IN COMMERCE BEFORE APPLICATION
WAS FILED

1. Petitioner is the owner of the mark AQUASIL (“Petitioner’s Mark”) as a trademark, as applied to a wide range of goods, including, but not limited to “anti-aging creams; cosmetics; lotions for face and body care; non-medicated skin care creams and lotions; non-medicated skin care preparations” and “acne medications; acne treatment preparations; anti-inflammatory ointments; medicated ointments for treating dermatological conditions.”

2. Reg. No. 4735377, for AQUACIL, issued to Registrant on May 12, 2015.

3. Registrant claims a date of first use of March 1, 2011, for each of the goods listed in its trademark registration certificate.

4. Upon information and belief, Registrant has abandoned the trademark AQUACIL. The Petition for Cancellation is therefore, appropriate under Section 14(3) of the Lanham Act, 15 U.S.C. Section 1064(3), and Trademark Act Sections 14(1) and 1(a), (c), and (d).

5. Upon information and belief, Registrant does not now use and has never used the AQUACIL mark for non-medicated skin care preparations, skin moisturizer, medicated skin care preparations, or topical first aid gel.

6. Upon information and belief, Registrant was not making bona fide use of its mark in connection with one or more of the goods set forth in Paragraph 5 above as of the filing date of its Statement of Use

7. Upon information and belief, Registrant has discontinued use of the mark covered by Reg. No. 4735377, AQUACIL, for at least three (3) years.

8. Upon information and belief, Registrant intends not to resume use of the mark AQUACIL, covered by Reg. No. 4735377.

9. Registrant's failure to make use of the Mark in the United States for a period of three (3) years is prima facie evidence of abandonment.

10. Registrant has therefore abandoned the Mark AQUACIL, covered by Reg. No. 4735377, in the United States.

11. Petitioner filed a U.S. trademark application, Ser. No. 87605302, to register AQUASIL for "anti-aging creams; cosmetics; lotions for face and body care; non-medicated skin care creams and lotions; non-medicated skin care preparations" and "acne medications; acne treatment preparations; anti-inflammatory ointments; medicated ointments for treating dermatological conditions" with the United States Patent and Trademark Office ("USPTO").

12. The application filed on behalf of Petitioner to register AQUASIL was refused registration by the USPTO on the grounds that the mark of Petitioner so resembles Registrant's Mark for Registrant's Goods, as shown in Reg. No. 4735377, as to be likely to cause confusion, or to cause mistake, or to deceive [Section 2(d) of the Trademark Act of 1946, 15 U.S.C. Sect. 1052(d)].

13. The continued existence of the Mark creates a serious cloud on Petitioner's continued right to use its mark AQUASIL, or any other variations thereof, for the goods set forth in its application, namely "anti-aging creams; cosmetics; lotions for face and body care; non-medicated skin care creams and lotions; non-medicated skin care preparations" and "acne medications; acne treatment preparations; anti-inflammatory ointments; medicated ointments for treating dermatological conditions."

14. Petitioner believes that it is and will be damaged by the continued registration of the Mark to Registrant.

WHEREFORE, Petitioner HS Cosmetics, LLC prays that Registrant's Mark AQUACIL, Reg. No. 4735377, be canceled in its entirety.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.