

debate, sexual politics and health issues. The magazine also provides news excerpts from other media, including newspapers, radio and television, and provides a forum for quality journalism, dependable research, issue-focused public interest content and passionate advocacy to enable readers to be better equipped to make informed decisions.

- 2) Registrant is in the business of, *inter alia*, broadcasting local, national and international news through television stations that it owns or with which it is associated.
- 3) The phrase "fair & balanced" is so widely used by third parties in describing news, irrespective of the medium through which the news is transmitted, as to have no particular association with Registrant. As a result, Registrant's mark is merely descriptive of the production and distribution of news programs and, accordingly, Registrant's Registration No. 2,213,427 should be canceled under 15 U.S.C. § 1064, ¶ 1.
- 4) In addition, the above-described wide use of "fair & balanced" by third parties is so prevalent as to render that phrase a generic adjective for news that is presented in an unbiased manner. Therefore, Registration No. 2,213,427 should be canceled under 15 U.S.C. § 1064, ¶3.
- 5) Registrant's own use of the phrase "fair & balanced" is reported in various new media as being so notoriously misdescriptive of Registrant's presentation of news content as to require cancellation of Registration No. 2,213,427 under 15 U.S.C. § 1064, ¶ 1.
- 6) Registrant, which has large financial resources at its disposal, has a record of attempting to use those resources to enforce the FAIR & BALANCED mark in at least one law suit described by many as "frivolous". As a result of Registrant's highly publicized actions, Petitioner and others, to their damage and detriment, are being intimidated by Registrant against legally using the phrase "fair & balanced" in its commonly descriptive and generic contexts in connection with providing local, national and international news.

For the above reasons, Petitioner is damaged by Registration No. 2,213,427 and requests that a judgment be entered sustaining the cancellation of Registration No. 2,213,427.


The filing fee for this Cancellation Petition in the amount of \$300.00 is enclosed.

All correspondence in this matter should be addressed to:

Ira C. Edell
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Rockville, Maryland 20850

INDEPENDENT MEDIA INSTITUTE,
Petitioner

Date: 12/22/03

By: 
Ira C. Edell
Attorney for Petitioner

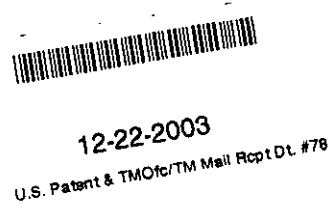
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THE UNITED STATES PATENT AND TRADEMARK OFFICE

_____)
Independent Media Institute)
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Petitioner)
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v.)
)
Fox News Network, LLC)
)
Registrant)
_____)

Cancellation No.: _____
(Registration No. 2,213,427)



TRANSMITTAL

Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3514

Sir:

Enclosed herewith for filing in the U.S. Patent and Trademark Office is a Cancellation Petition and check #7347 for payment of filing fee of \$300.00.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to Deposit Account No. 05-0460.

Respectfully submitted,

Ira C. Edell
Attorney for Applicant

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