

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

INDEPENDENT MEDIA INSTITUTE)	
)	
Petitioner)	
)	
v.)	Cancellation No.: _____
)	
FOX NEWS NETWORK, LLC,)	
)	
Registrant)	Registration No. 2,213,427
)	FAIR & BALANCED
)	
)	

Commissioner for Trademarks
2900 Crystal Drive, Arlington, Virginia 22202-3513

Sir:

CANCELLATION PETITION

In the matter of Registration No. 2,213,427 for the mark FAIR & BALANCED, for use in connection with ENTERTAINMENT SERVICES IN THE NATURE OF PRODUCTION AND DISTRIBUTION OF TELEVISION NEWS PROGRAMS, granted to FOX NEWS NETWORK, LLC, with a last known place of business at 1211 Avenue of the Americas, New York, NY 10036 (referred to as "Registrant" herein):

INDEPENDENT MEDIA INSTITUTE, a non-profit corporation organized under the laws of California, having an address at 77 Federal Street, San Francisco, California 94107 (referred to as "Petitioner" herein) believes that it will be damaged by Registration No. 2,213,427 and hereby petitions to cancel said registration.

As grounds for cancellation, Petitioner alleges:

- 1) Petitioner publishes an online magazine (at www.alternet.org) containing a mix of news, opinion and investigative journalism on subjects ranging from the environment, the drug war, technology and cultural trends to policy

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
Edell, Shapiro & Finnan, LLC
1901 Research Blvd., Suite 400
Rockville, Maryland 20850

INDEPENDENT MEDIA INSTITUTE,
Petitioner

Date: _____

By: _____
Ira C. Edell
Attorney for Petitioner