

ESTTA Tracking number: **ESTTA377110**

Filing date: **11/05/2010**

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

Proceeding	91193133
Party	Plaintiff Piggyback Interactive Limited
Correspondence Address	Mark H. Tidman Baker & Hostetler LLP Washington Square, Suite 1100, 1050 Connecticut Avenue, N.W. Washington, DC 20036 UNITED STATES mtidman@bakerlaw.com
Submission	Other Motions/Papers
Filer's Name	Mark H. Tidman
Filer's e-mail	trademarks@bakerlaw.com
Signature	/Mark H. Tidman/
Date	11/05/2010
Attachments	PiggybackInteractiveLtdvRevells.pdf (3 pages)(82031 bytes)

circumvent the Board's rules, but that issue is irrelevant.¹

At any rate, Counterclaim-Petitioner specifically does not withdraw its prior filing, and Counterclaim-Petitioner has admitted that its withdrawal should be treated on a with prejudice basis. To the extent Counterclaim-Petitioner's response is in some fashion construed such that the cancellation continues to proceed, which it clearly should not, Piggyback Interactive Limited requests that discovery be extended for a period of sixty (60) days to permit it to adequately defend the proceeding.

Respectfully submitted,

November 5, 2010


By: Mark H. Tidman
BAKER & HOSTETLER LLP
1050 Connecticut Ave. N.W.
Suite 1100
Washington, D.C. 20036
(202) 861-1500

¹ Counterclaim-Petitioner also complains about the inclusion of communications it characterizes as improper under Rule 408. The exclusion of certain evidence under Rule 408 is limited in purpose, namely, if offered to prove liability for, invalidity of, or amount of the claim in dispute. There is nothing improper about attaching communications for other purposes (FRE 408(b)) such as to demonstrate lack of consent in the context of seeking a withdrawal prohibited by rule. Thus, Counterclaim-Petitioner's request that these materials be stricken or filed under seal is not understood.

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of November, 2010 a true copy of the foregoing Reply to Response of Communication Regarding Withdrawal of Counterclaim for Cancellation without Prejudice was served via first-class mail postage prepaid upon the following:

Rod S. Berman, Esq.
Jeffer Mangels Butler & Mitchell LLP.
1900 Avenue of the Stars, 7th Floor
Los Angeles, CA 90067



Mark H. Tidman