

ESTTA Tracking number: **ESTTA569770**

Filing date: **11/08/2013**

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

Proceeding	91208750
Party	Plaintiff U.S. Marine Corps
Correspondence Address	PHILIP GREENE OFFICE OF THE COUNSEL FOR THE COMMANDANT THE PENTAGON, ROOM 4B548 WASHINGTON, DC 20350-3000 UNITED STATES philip.greene@usmc.mil
Submission	Withdrawal of Opposition
Filer's Name	Philip Greene
Filer's e-mail	Philip.Greene@usmc.mil
Signature	/Philip Greene/
Date	11/08/2013
Attachments	petition to withdraw opposition.pdf(35619 bytes ) settlement signed all.pdf(1243597 bytes )

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

In the Matter of Trademark Application Serial No. 85977181  
TTAB Proceeding No. 91208750  
For the mark: MCX

UNITED STATES MARINE CORPS  
3000 MARINE CORPS PENTAGON  
ROOM 4B548  
WASHINGTON, DC 20350-3000

v.

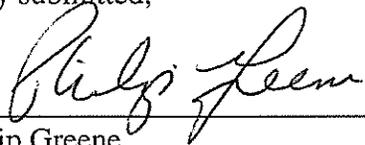
MERCHANT CUSTOMER EXCHANGE, LLC  
1221 S. BELT LINE ROAD  
SUITE 600  
COPPELL, TEXAS 75019

WITHDRAWAL OF NOTICE OF OPPOSITION

The above-identified Petitioner hereby requests that its Notice of Opposition be withdrawn with prejudice, inasmuch as the Parties in this matter have reached an amicable settlement.

Respectfully submitted,

By:

  
\_\_\_\_\_  
Philip Greene  
Attorney for Petitioner

Date:

11/8/2012

Marine Corps Trademark Licensing Office  
Room 4B548, Pentagon  
Washington, D.C. 20350-3000  
703-614-2173  
Fax: 703-697-5362

## CERTIFICATE OF SERVICE

I hereby certify that a copy of this Withdrawal of Notice of Opposition was served on this 8th day of November, 2013 by postage pre-paid, first-class mail to the following:

Applicant:

MERCHANT CUSTOMER  
EXCHANGE, LLC  
1221 S. BELT LINE ROAD  
SUITE 600  
COPPELL, TEXAS 75019

Correspondent:

Mark A. Niede, Esq.  
IpHorgan Ltd  
1130 Lake Cook Road  
Suite #240  
Buffalo Grove, IL 60089



---

Philip Greene  
Attorney for Petitioner

Marine Corps Trademark Licensing Office  
Room 4B548, Pentagon  
Washington, D.C. 20350-3000  
703-614-2173  
Fax: 703-697-5362

## CONSENT AGREEMENT

THIS CONSENT AGREEMENT, executed as of November 7, 2013, is entered into by and between Merchant Customer Exchange, LLC, a Delaware limited liability company (“Applicant”), having its principal place of business at 1221 S. Belt Line Rd., Suite 600, Coppell, TX 75019 and The United States Marine Corps (“USMC”), having its principal place of business at Office of the Counsel for the Commandant, Room 4B548 Pentagon, Washington, DC 20350

### RECITALS

A. Applicant has filed an application to register the mark MCX for:

Bill payment services; Bill payment services provided through a website; Credit card and payment card services; Credit card payment processing services; Electronic commerce payment services, namely, establishing funded accounts used to purchase goods and services on the Internet; Electronic payment, namely, electronic processing and transmission of bill payment data; Financial transaction services, namely, providing secure commercial transactions and payment options; Financial transaction services, namely, providing secure commercial transactions and payment options using a mobile device at a point of sale; Loyalty coupon payment processing services; Loyalty program payment processing services; Merchant services, namely, payment transaction processing services; Payment processing services, namely, credit card and debit card transaction processing services; Pre-paid purchase card services, namely, processing electronic payments made through prepaid cards; Pre-paid purchase card services, namely, processing electronic payments through pre-paid cards; Processing electronic payments made through prepaid cards; Providing electronic processing of ACH and credit card transactions and electronic payments via a global computer network; Providing electronic processing of credit card transactions and electronic payments via a global computer network; Providing electronic processing of electronic funds transfer, ACH, credit card, debit card, electronic check and electronic payments; Providing multiple payment options by means of customer-operated electronic terminals available on-site in retail stores; Redeeming the vouchers of others for payment of goods or services

and has applied to register this mark on the Principal Register of the United States Patent and Trademark Office, Serial No. 85977181 (“Applicant’s Application”). Applicant also has several other pending United States applications containing the mark MCX as further detailed in the attached Annex 1.

B. USMC has used the mark MCX in connection with various goods and services in commerce since at least as early as 1972 and has a number of Registrations and Pending Applications containing the MCX mark. See Applications and Registrations detailed in the attached Annex 2.

C. On January 8, 2013, USMC filed an Opposition to Registration of Applicant's Mark S/N 85977181 based on, among other grounds, that the marks are confusingly similar. That Opposition bears proceeding number 91208750.

D. The parties recognize the validity of each other's use and registration of and their respective marks in connection with their respective goods and services and wish to avoid any conflict with the other's use or registration of its mark.

E. The parties have concluded that confusion is not likely to arise from their use and registration of their respective marks in connection with their respective goods and services as set forth above because (i) the goods and services are different with the Applicant's being primarily related to financial and payment processing services whereas USMC's services are primarily related to retailing; and (ii) the goods and services are directed at two different consumer groups, with Applicant's services being marketed as business-to-business payment processing and financial services and USMC's mark is used in connection with retail sales primarily to members of the United States Marine Corps.

#### AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. The Recitals are an integral part of this Agreement.
2. Applicant agrees to limit its use of the MCX mark to those goods and services set forth in the Applications identified in Annex 1 and further agrees to limit such use to non consumer-facing uses. However, nothing in this Agreement shall prevent any informational, incidental or otherwise non-trademark use of MCX that consumers might encounter nor shall anything in this Agreement restrict or prevent use of MCX in connection with business to business services. USMC agrees to limit its use of the MCX mark to those goods and services set forth on the Applications and Registrations listed in the attached Annex 2 and further agrees to refrain from use in connection with retail payment processing services or other such retailing-related financial services, provided, however, that USMC may use "MCX" on or in association with any payment processing system or financial service to be used only within the Marine Corps Exchange system, and only for the benefit of the Marine Corps Exchange and Marine Corps Exchange customers.
3. USMC hereby consents to, and agrees that it will not take any action to interfere with or prevent the use or registration of the mark MCX by Applicant in connection with the goods and services set forth in Applicant's Applications as noted in the attached Annex or in any way challenge the validity of or seek to cancel any registrations of such marks.
4. Applicant hereby consents to, and agrees that it will not take any action to interfere with or prevent the use or registration of the mark MCX by USMC in connection with the goods and

services set forth in USMC's Applications and Registrations as noted in the attached Annex or in any way challenge the validity of or seek to cancel any registrations of such marks.

5. In exchange for the foregoing promises and commitments, USMC agrees to voluntarily withdraw Opposition No. 91208750, with prejudice.

6. The parties agree to execute and file with the United States Patent and Trademark Office any and all documents which may be necessary or proper to effectuate the terms of this Agreement, including the registration of the parties' respective marks.

7. The parties agree to continue to take reasonable action to prevent any confusion due to the coexistence and registration of their respective marks, and to notify each other of any instances of confusion.

8. This Agreement shall be binding upon and inure to the benefit of the parties, their respective successors and assigns and permitted licensees, and any corporation or partnership that owns or controls, or is owned or controlled by either party.

9. This Agreement contains the entire agreement of the parties related to the subject matter, and may not be varied, amended, or supplemented except by a writing executed by authorized representatives of all parties hereto.

10. The failure or delay of a party hereto to exercise any right or remedy provided for herein shall not be deemed a waiver of that right or remedy or of any other rights or remedies available hereunder.

11. This Agreement is in effect as to both Parties throughout the globe as of the date first written above.

12. If any part of this Agreement is held unenforceable or invalid, it shall not affect the enforceability of the other parts of the Agreement or the total Agreement which shall remain in full force and effect.

13. This Agreement may be executed in one or more identical counterparts, and shall become effective when one or more identical counterparts have been signed by each of the parties.

IN WITNESS WHEREOF, the parties hereto enter into this Agreement as of the date set forth above.

APPLICANT:

REGISTRANT:

Merchant Customer Exchange, LLC

United States Marine Corps

By: Dekkers L. Davidson  
Name: Dekkers Davidson

By: Philip Greene  
Name: PHILIP GREENE

Title: CEO

Title: TRADEMARK COUNSEL USMC

9/24/2013

**ANNEX 1  
MCX APPLICATIONS**

Mark	Serial/Reg. No.	Class	Goods/Services
MCX	85977181	35	Bill payment services; Bill payment services provided through a website; Credit card and payment card services; Credit card payment processing services; Electronic commerce payment services, namely, establishing funded accounts used to purchase goods and services on the Internet; Electronic payment, namely, electronic processing and transmission of bill payment data; Financial transaction services, namely, providing secure commercial transactions and payment options; Financial transaction services, namely, providing secure commercial transactions and payment options using a mobile device at a point of sale; Loyalty coupon payment processing services; Loyalty program payment processing services; Merchant services, namely, payment transaction processing services; Payment processing services, namely, credit card and debit card transaction processing services; Pre-paid purchase card services, namely, processing electronic payments made through prepaid cards; Pre-paid purchase card services, namely, processing electronic payments through pre-paid cards; Processing electronic payments made through prepaid cards; Providing electronic processing of ACH and credit card transactions and electronic payments via a global computer network; Providing electronic processing of credit card transactions and electronic payments via a global computer network; Providing electronic processing of electronic funds transfer, ACH, credit card, debit card, electronic check and electronic payments; Providing multiple payment options by means of customer-operated electronic terminals available on-site in retail stores; Redeeming the vouchers of others for payment of goods or services
MCX	85540949	9	Computer software, namely, electronic financial platform that accommodates multiple types of payment and debt transactions in an integrated mobile phone, PDA, and web based environment; Electronic and magnetic ID cards for use in connection with payment for services; Electronic payment terminal; Multi-functional computer terminals with payment function; Multi-functional electronic payment terminals
MCX	85977182	38	Providing electronic transmission of credit card transaction data and electronic payment data via a global computer network
MCX MERCHANT	85547124	9	Computer software, namely, electronic financial platform that accommodates multiple types of

CUSTOMER EXCHANGE and Design			payment and debt transactions in an integrated mobile phone, PDA, and web based environment; Electronic and magnetic ID cards for use in connection with payment for services; Electronic payment terminal; Multi-functional computer terminals with payment function; Multi-functional electronic payment terminals
MCX MERCHANT CUSTOMER EXCHANGE and Design	85977179	36	Bill payment services; Bill payment services provided through a website; Collecting license fees on behalf of independent writers and publishers and making payments to the copyright owners of the music; Credit card and payment card services; Credit card payment processing services; Electronic commerce payment services, namely, establishing funded accounts used to purchase goods and services on the Internet; Electronic payment, namely, electronic processing and transmission of bill payment data; Financial transaction services, namely, providing secure commercial transactions and payment options; Financial transaction services, namely, providing secure commercial transactions and payment options using a mobile device at a point of sale; Loyalty coupon payment processing services; Loyalty program payment processing services; Merchant services, namely, payment transaction processing services; Payment processing services, namely, credit card and debit card transaction processing services; Pre-paid purchase card services, namely, processing electronic payments made through prepaid cards; Pre-paid purchase card services, namely, processing electronic payments through pre-paid cards; Prepaid card services in the nature of making payment for adding airtime to prepaid or pay-as-you-go wireless services; Processing electronic payments made through prepaid cards; Providing electronic processing of ACH and credit card transactions and electronic payments via a global computer network; Providing electronic processing of credit card transactions and electronic payments via a global computer network; Providing electronic processing of electronic funds transfer, ACH, credit card, debit card, electronic check and electronic payments; Providing multiple payment options by means of customer-operated electronic terminals available on-site in retail stores. Providing vouchers for payment of transportation expenses; Redeeming the vouchers of others for payment of goods or services
MCX MERCHANT CUSTOMER EXCHANGE and Design	85977180	38	Providing electronic transmission of credit card transaction data and electronic payment data via a global computer network
MCX	85700016	9, 35, 36	Wireless communication device featuring voice,

		and 42	<p>data and image transmission including voice, text and picture messaging, a video and still image camera, also functional to purchase music, games, video and software applications over the air for downloading to the device; computer hardware, namely, bar code readers, optical readers, advertisement display monitors, keyboards, printers, scanners, radio transmitters, radio receivers; Near field communication (NFC) technology-enabled readers</p> <p>Marketing, advertising, and promoting the retail goods and services of others through wireless electronic devices; Promoting the sale of goods and services of others by distributing advertising material, coupons and discount offers via text messages, email, and the Internet; Promoting the goods and services of others, namely, providing coupons, rebates and vouchers for the goods of others via text messages, email, and the Internet; Promoting the goods of others, namely, providing information regarding discounts, coupons, rebates, vouchers and special offers for the goods of others via text messages, email, and the Internet; Promotional services, namely, promoting the goods of others by means of providing online coupons; Dissemination of advertising for others via public and private wireless networks for display on mobile devices; Promoting the goods and services of others by providing a website featuring coupons, rebates, price-comparison information, product reviews, links to the retail websites of others, and discount information; Online service for connecting social network users with retailers for the purpose of facilitating discounted purchases; Processing manufacturer's coupons; Providing incentive award programs for customers through the issuance and processing of loyalty coupons for frequent use of participating businesses; Advice and information about customer services and product management and prices on internet sites in connection with purchases made over the internet; Information, advisory, consulting, business research and planning services relating to publicity, marketing communications, reputation management or business administration, including such services provided online or via the internet. Business management consultancy in the field of purchases, namely, assisting businesses in improvement of purchasing functions; Consumer strategy business consulting in the fields of marketing, sales, operation, and product design particularly specializing in the use of analytic models for the understanding and predicting of consumer, business, and retail market trends and actions;</p>
--	--	--------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

		<p>Marketing and branding services, namely, performing consumer insight and brand strategy of company logos; Marketing services, namely, providing informational web pages designed to generate sales traffic via hyperlinks to other web sites; online retail store services featuring the goods and services of others provided via wireless communications and via the Internet</p> <p>Banking services provided by mobile telephone connections; Electronic banking via a global computer network; Credit union services provided by mobile telephone connections and via the Internet</p> <p>Computer software development in the field of mobile applications; Providing customer-defined generated content and content of others automatically selected and customized based on the known or estimated geographical location of an Internet, mobile telephone or other wired or wireless digital network based customer; Application service provider, namely, hosting, managing, developing, and maintaining applications, software, and web sites, in the fields of personal productivity, wireless communication, mobile information access, and remote data management for wireless delivery of content to handheld computers, laptops and mobile electronic devices; Hosting the web sites of others; Designing, creating, maintaining and hosting online retail and electronic commerce websites for others; Developing and implementing customized plans for improving computer security and preventing criminal activity for businesses and governmental agencies; Development of customized software for others for use in risk assessment, information security, business analysis, audit and audit planning, and sales management</p>
--	--	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

**ANNEX 1  
USMC APPLICATIONS  
AND REGISTRATIONS**

Mark	Serial/Reg. No.	Class	Goods/Services
MCX	85722042	35	Retail department store services
MCX FROM THE HALLS OF MONTEZUMA TO THE SHORES OF TRIPOLI.....	4173262	21	Coffee cups; Coffee mugs; Drinking cups sold with lids therefor; Insulated vacuum flasks; Plastic cups; Vacuum flasks
MCX RAZOR WATER	3903537	32	Bottled drinking water; Bottled water; Drinking water
MCX CORE BRANDS CORPS VALUES and Design	4194716	35	On-line retail store services featuring a wide variety of consumer goods of others; Retail apparel stores; Retail department store services
MCX CORE BRANDS CORPS VALUES	4190769	35	On-line retail store services featuring a wide variety of consumer goods of others; Retail apparel stores; Retail department store services