

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

Pillsbury Winthrop LLP)	PETITION FOR CANCELLATION
)	
Petitioner)	Cancellation No.: _____
)	Registration No.: 1,336,443
Calidus Systems, Ltd.)	Registration Date: May 21, 1985
)	
Registrant)	
_____)	

Petitioner, Pillsbury Winthrop LLP, a Delaware Limited Liability Partnership located and doing business at 2475 Hanover Street, Palo Alto, California 94304-1114, believes that it is or will be damaged by Registration No. 1,336,443 for the mark **MIRACLE** and hereby petitions to cancel the registration.

To the best of Petitioner's knowledge, the name and address of the current owner of the registration are Calidus Systems, Ltd., 79-83 Great Portland Street, London, W1N 5RA United Kingdom.

As grounds of this Petition, it is alleged that:

1. Petitioner believes that Registrant has abandoned the registered mark by discontinuing use of the mark with no intent to resume use of the mark.
2. Registrant's goods are described as "computer programs." To the extent Registrant has continued use of the mark, the description of services in the registration is overbroad.

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3. Petitioner is likely to be damaged by continuance of the registration in that Petitioner is using the mark **MIRACLE** for "computer software for managing continuing legal education programs for lawyers and legal assistants; electronic database in the field of legal education programs for lawyers and legal assistants recorded on computer media." Petitioner seeks to register the **MIRACLE** mark and registration has been denied in view of the registered mark of Registrant. Petitioner's use and registration of the **MIRACLE** mark will be impaired by continued registration of Registrant's registered mark.

WHEREFORE, Petitioner prays that Registration No. 1,336,443 be cancelled and that this Petition for Cancellation be sustained in favor of Petitioner.

Petitioner: PILLSBURY WINTHROP LLP

By:


David H. Jaffer
Attorney for Petitioner

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I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail No. EV 381999968 US in an envelope addressed to: Commissioner of Patents & Trademarks, Washington, D.C. 20231 on Feb. 23, 2004 by Judy Keeley.



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February 23, 2004

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Commissioner for Trademarks
BOX TTAB FEE
2900 Crystal Drive
Arlington VA 22202-3514

Re: Petition to Cancel U.S. Trademark Registration No. 1,336,443

Dear Sir:

Enclosed for filing are the following:

1. A Petition to Cancel U.S. Trademark Registration No. 1,336,443 for **MIRACLE** (International Class 9), submitted with the original and two copies by Petitioner Pillsbury Winthrop LLP, and;
2. A check for \$300.00 to cover the filing fee for the cancellation petition in one International Class.

Please acknowledge receipt of these materials by stamping the Office stamp on the enclosed, stamped self-addressed card. The Commissioner is authorized to charge any required additional fees or credit any overpayment to Deposit Account 03-3975.

Respectfully submitted,

David H. Jaffer
 David H. Jaffer
 Reg. No. 32,243

I hereby certify that this correspondence is being deposited with the U.S. Postal Service via Express Mail No. EV 381999968 US in an envelope addressed to: Commissioner for Trademarks, BOX TTAB FEE, 2900 Crystal Drive, Arlington, VA 22202-3514, on Feb. 23, 2004 by Judy Keeley.

Judy Keeley