

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

In Re Registration No.)	Atty. Ref.: 2802-37
2,827,351, issued March 30, 2004)	
eDeposit Corporation)	
)	
Petitioner)	Cancellation No. _____
)	
v.)	
)	
Skylight Financial, Inc.)	
)	
Registrant)	

PETITION FOR CANCELLATION

Petitioner, eDeposit Corporation, a corporation of Maryland, having its principal place of business at 1010 Wayne Avenue, Silver Spring, Maryland 20910, believes that it is being damaged by Registration No. 2,827,351, issued March 30, 2004, and hereby petitions to cancel the same.

As grounds for the present petition, it is alleged that:

1. Skylight Financial, Inc. (hereinafter "Registrant") is the record owner of United States Trademark Registration No. 2,827,351, issued March 30, 2004, of the trademark EPOSIT for *financial services, namely, providing ATM (automatic teller machine) direct deposit card services* (hereafter "Registrant's financial services").

2. Prior to the February 3, 2003 filing date and the September 10, 2000 date of first use and first use in commerce alleged in Registration No. 2,827,351, Petitioner adopted, used and is still using in commerce the service mark eDEPOSIT in connection with *financial services, namely, providing escrow account and customer deposit services through a global computer network* (hereafter "Petitioner's financial services").

3. Petitioner is the owner of the service mark eDEPOSIT, having continuously used said mark in connection with financial services since July 2000.

4. Petitioner duly registered eDEPOSIT as a service mark for *financial services, namely, providing escrow account and customer deposit services through a global computer network* in the U.S. Patent and Trademark Office, Registration No. 2,714,809, issued May 13, 2003.

5. Registration No. 2,714,809 is *prima facie* evidence of the validity thereof, Petitioner's ownership and exclusive right to use the mark eDEPOSIT in commerce, and is constructive notice of Petitioner's ownership thereof, all as provided by §§ 7(b) and 22 of the Trademark Act of 1946.

6. By virtue of Petitioner's prior use, advertising and rendering of financial services under the mark eDEPOSIT and its maintenance of high quality standards relating thereto, customers and users of such services, and others, have come to recognize the mark eDEPOSIT as an indication of origin in Petitioner, as a consequence of which Petitioner has established valuable goodwill and exclusive rights in this mark.

7. Registrant had actual knowledge of Petitioner's mark eDEPOSIT when Registrant adopted the mark EPOSIT.

8. Registrant made no use of EPOSIT as a service mark prior to September 10, 2000.

9. The mark EPOSIT shown in Registration No. 2,827,351 is virtually identical to Petitioner's mark eDEPOSIT.

10. The term EPOSIT differs from Petitioner's mark by only two letters.

11. Petitioner's financial services and Registrant's financial services are closely related and overlapping services which are or are likely to be offered through the same or overlapping channels of trade to the same or overlapping classes of customers or users so that customers, prospective customers, users and others are likely to be confused, mistaken or deceived into the belief, contrary to fact, that Registrant's financial services rendered under the mark EPOSIT emanate from and/or are in some way sponsored or approved by Petitioner or are otherwise related to Petitioner's services, thereby damaging Petitioner.

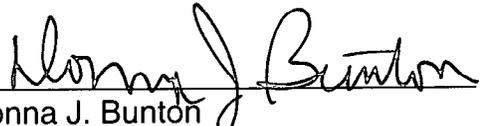
12. For the reasons set forth above, Petitioner is and will be damaged by the continued existence of Registration No. 2,827,351, and the business and goodwill of Petitioner is further damaged in that said registration tends to create or maintain statutory rights in Registrant in violation and derogation of the established rights of Petitioner.

WHEREFORE, Petitioner prays that judgment be entered herein canceling United States Trademark Registration No. 2,827,351 and for such other and further relief as may be just and proper.

The requisite filing fee for this Petition for Cancellation is submitted herewith.

eDeposit Corporation

Dated: January 7, 2005

By: 
Donna J. Buntun
Attorney for Petitioner
NIXON & VANDERHYE P.C.
1100 North Glebe Road, 8th Floor
Arlington, Virginia 22201-4714
(703) 816-4000

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BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

TTAB

EDEPOSIT CORPORATION,

Petitioner,

v.

SKYLIGHT FINANCIAL, INC.,

Registrant.



Cancellation No. _____

Our Account No. 14-1140

Our Order No. 2802-37
C# M#

In Re Registration No. 2,827,351
Issued March 30, 2004
For the Mark EPOSIT

Date: January 7, 2005

Box TTAB Fee
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Sir:
The document indicated below is attached for filing and is incorporated by reference. Fees are attached as calculated below:

<input type="checkbox"/>	NOTICE OF OPPOSITION in 0 class(es) (\$ 300.00 per class)	\$ 0.00
<input checked="" type="checkbox"/>	PETITION FOR CANCELLATION in 1 class(es) (\$ 300.00 per class) Fee Code: 6401	\$ 300.00
TOTAL FEE ENCLOSED		\$ 300.00

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this form) to our **Account No. 14-1140**. A duplicate copy of this sheet is attached.

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NIXON & VANDERHYE P.C.
By Atty: Donna J. Bunton

Signature: Donna J. Bunton

