

T TAB

**UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451**

Mailed: January 25, 2005

IMAGE2WEB, INC.  
505 MILLENNIUM  
ALLEN, TX 75013

**Cancellation No. 92044114**  
Reg. No. 2470564

MARC A. BERGSMAN  
DICKINSON WRIGHT PLLC  
1901 L STREET, N.W., SUITE 800  
WASHINGTON, DC 20036

**BEAUFORT SOLUTIONS, INC.**

v.

**IMAGE2WEB, INC.**

**Veronica White, Legal Assistant**

A petition, a copy of which is attached, has been filed to cancel the above-identified registration.

Proceedings will be conducted in accordance with the Trademark Rules of Practice.

**ANSWER IS DUE FORTY DAYS** after the mailing date hereof. (See Trademark Rule 2.196 for expiration date falling on Saturday, Sunday or a holiday).

Proceedings will be conducted in accordance with the Trademark Rules of Practice, set forth in Title 37, part 2, of the Code of Federal Regulations. The parties are reminded of the recent amendments to the Trademark Rules that affect the rules of practice before the TTAB. See Rules of Practice for Trademark-Related Filings Under the Madrid Protocol Implementation Act, 68 Fed. R. 55,748 (September 26, 2003) (effective November 2, 2003); Reorganization of Correspondence and Other Provisions, 68 Fed. Reg. 48,286 (August 13, 2003) (effective September 12, 2003). Notices concerning the rules changes, as well as the *Trademark Trial and Appeal Board Manual of Procedure* (TBMP), are available at [www.uspto.gov/web/offices/dcom/ttab/](http://www.uspto.gov/web/offices/dcom/ttab/).

The parties are particularly referred to Trademark Rule 2.126 pertaining to the form of submissions. Paper submissions, including but not limited to exhibits and depositions, not filed in accordance with Trademark Rule 2.126 may not be given consideration or entered into the case file.



02-03-2005

**Discovery and testimony periods are set as follows:**

Discovery period to open:	<b>February 14, 2005</b>
Discovery period to close:	<b>August 13, 2005</b>
30-day testimony period for party in position of plaintiff to close:	<b>November 11, 2005</b>
30-day testimony period for party in position of defendant to close:	<b>January 10, 2006</b>
15-day rebuttal testimony period for plaintiff to close:	<b>February 24, 2006</b>

A party must serve on the adverse party a copy of the transcript of any testimony taken during the party's testimony period, together with copies of documentary exhibits, within 30 days after completion of the taking of such testimony. See Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

**NOTE:** The Board allows parties to utilize telephone conferences to discuss or resolve many interlocutory matters that arise in inter partes cases. See the *Official Gazette* notice titled "Permanent Expansion of Telephone Conferencing on Interlocutory Matters in Inter Partes Cases Before the Trademark Trial and Appeal Board," 1235 TMOG 68 (June 20, 2000). The notice is available at <http://www.uspto.gov>. Interlocutory matters which the Board agrees to discuss or decide by phone conference may be decided adversely to any party which fails to participate.

If the parties to this proceeding are also parties to other Board proceedings involving related marks or, during the pendency of this proceeding, they become parties to such proceedings, they should notify the Board immediately, so that the Board can consider consolidation of proceedings.

**New Developments at the Trademark Trial and Appeal Board**

TTAB forms for electronic filing of extensions of time to oppose, notices of opposition, and inter partes filings are now available at <http://estta.uspto.gov>. Images of TTAB proceeding files can be viewed using TTABVue at <http://ttabvue.uspto.gov>.

ESTTA Tracking number: **ESTTA24111**

Filing date: **01/21/2005**

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

### Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

#### Petitioner Information

<b>Name</b>	Beaufort Solutions, Inc.		
<b>Entity</b>	Corporation	<b>Citizenship</b>	Canada
<b>Address</b>	140 Water Street, 8th Floor TD Place St. John's, New Foundland, A1C 6H6 CANADA		

<b>Attorney information</b>	Marc A. Bergsman Dickinson Wright PLLC 1901 L Street, N.W., Suite 800 Washington, DC 20036 UNITED STATES MBergsman@dickinsonwright.com Phone:(202) 659 - 6944		
-----------------------------	--	--	--

#### Registration Subject to Cancellation

<b>Registration No</b>	2470564	<b>Registration date</b>	07/17/2001
<b>Registrant</b>	IMAGE2WEB, INC. 505 Millennium Allen, TX 75013 UNITED STATES		
<b>Goods/Services Subject to Cancellation</b>	Class 009. First Use: 19991101, First Use In Commerce: 19991101 Goods/Services: computer software for the manipulation of graphics		

<b>Attachments</b>	Petition to cancel IMAGE2WEB.pdf ( 3 pages )
<b>Signature</b>	/Marc A. Bergsman/
<b>Name</b>	Marc A. Bergsman
<b>Date</b>	01/21/2005

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

BEAUFORT SOLUTIONS, INC., )  
)  
Petitioner, )  
)  
v. )  
)  
IMAGE2WEB, INC., )  
)  
Registrant. )

Cancellation No. 92044114

PETITION FOR CANCELLATION

In the matter of U.S. Trademark Registration No. 2,470,564 registered in the name of Image2Web, Inc., a Delaware corporation, located at 505 Millennium, Allen, Texas 75013 for the mark IMAGE2WEB for computer software for the manipulation of graphics: the Petitioner, Beaufort Solutions, Inc., a Canadian corporation, having its principal place of business at 140 Water Street, 8<sup>th</sup> Floor TD Place, St. John's, New Foundland, Canada A1C 6H6, believes it is and will be damaged by U.S. Registration No. 2,470,564 and petitions to cancel that registration.

The grounds for cancellation are as follows:

1. Petitioner is a software developer.
2. Petitioner's predecessor-in-interest filed trademark application Serial No.

76/475,083 in the U.S. Patent and Trademark Office for the mark IMAGE2PRINT for the following goods and services:

Digital kiosk software placed in photographic kiosks for editing, manipulating, printing, storing, and transmitting photographs, in Class 9; and,

Customization, implementation, and maintenance of software for others in the field of photographic editing, manipulating, printing, storing, and transmitting, in Class 42.

3. Petitioner has been using the mark in commerce in connection with the goods and services listed in Paragraph No. 2 since February, 2002.

4. Petitioner's application Serial No. 76/475,083 has been refused registration under Section 2(d) of the Lanham Act on the ground that Petitioner's mark IMAGE2PRINT so closely resembles Registration No. 2,470,564 for the mark IMAGE2WEB for "computer software for manipulation of graphics" as to be likely to cause confusion.

5. Registrant is the owner of U.S. Trademark Registration No. 2,470,564 for the mark IMAGE2WEB for "computer software for manipulation of graphics".

6. Upon information and belief, Registrant is not making, *bona fide* commercial use of the mark IMAGE2WEB.

7. Upon information and belief, Registrant has discontinued use of the mark IMAGE2WEB with intent not to resume such use.

8. Registration No. 2,470,564 for the mark IMAGE2WEB should be cancelled because Registrant has abandoned the use of the mark.

**WHEREFORE**, Petitioner requests that this Petition be granted and that Registration No. 2,470,564 be cancelled.

This Petition For Cancellation is filed electronically together with the required fee government fee of \$300. Please charge any fee deficiency to Deposit Account No. 04-1061.

**BEAUFORT SOLUTIONS, INC.**

Date: January 21, 2005



Samuel D. Littlepage, Esq.

Marc A. Bergsman, Esq.

Nicole M. Meyer, Esq.

Dickinson Wright PLLC

1901 L Street, N.W., Suite 800

Washington, D.C. 20036

Tel: (202) 659-6944

Fax: (202) 659-1559

Email: MBergsman@dickinsonwright.com

Attorneys For Petitioner

P.O. Box 1451  
Alexandria, VA, 22313-1451  
If Undeliverable Return in Ten Days

OFFICIAL BUSINESS  
PENALTY FOR PRIVATE USE, \$300

AN EQUAL OPPORTUNITY EMPLOYER

FIRST CLASS

AM 2605  
VA  
PRIVATE  
PB  
METER  
\* \* \*  
7249907



92044114

IMAGE2WEB, INC.  
505 MILLENNIUM  
ALLEN, TX 75013

*WVS*