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Filing date: **12/19/2005**

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

Proceeding	92044823
Party	Plaintiff M7 AEROSPACE LP
Correspondence Address	TIM HEADLEY GARDERE WYNNE SEWELL, LLP 1000 LOUISIANA, SUITE 3400 HOUSTON, TX 77002-5007 theadley@gardere.com, ggarza@gardere.com, msweeney@gardere.com
Submission	Motion to Compel Discovery
Filer's Name	Tim Headley
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Signature	/Tim Headley/
Date	12/19/2005
Attachments	2005 12 19 Motion to Compel Discovery.pdf (4 pages) 2005 10 18 M7's First Set of Interrogatories.pdf (12 pages) 2005 10 18 M7's First set of requests for documents.pdf (7 pages) 2005 12 19 Proposed Voluntary Cancellation.pdf (3 pages)

In The United States Patent And Trademark Office
Before The Trademark Trial And Appeal Board

M7 Aerospace LP	§	
	§	
Petitioner,	§	Cancellation No. 92044823
v.	§	
	§	Mark: VISUAL INTELLIGENCE
Pictometry International Corp.	§	
	§	Registration No. 2,837,858
Registrant	§	

Petitioner's Motion For An Order To Compel Discovery

On October 18, 2005, Petitioner served on Registrant's attorney-of-record document requests (attached as Exhibit 1), and interrogatories (attached as Exhibit 2). Petitioner has still received no objections and/or responses to those discovery requests. Petitioner requests that the TTAB rule that 1) all future objections (Registrant has made no objections) to those document requests and interrogatories have been waived, and 2) Registrant must produce all the requested documents, and answer fully all the interrogatories, by January 13.

On November 2 Registrant's attorney-of-record asked for a 30-day extension of time, "in light of the settlement discussions". Those alleged "settlement discussions" were merely Registrant's demand the day before that Petitioner pay it a large sum of money. After Petitioner duly considered the demand, it refused to pay the money. Then, on November 16, Registrant's attorney-of-record called and unilaterally stated, as

a prelude to more demands, that Registrant was going to voluntarily cancel its registration No. 2,837,858. Having now waited for more than a month for Registrant to fulfill its unilateral promise to cancel its registration, Petitioner today sent Registrant's attorney-of-record a voluntary surrender of Registrant's registration, already signed by Petitioner (attached as Exhibit 3). In response to that email, Registrant's attorney-of-record wrote back, "Thank you but if and when Pictometry files a disclaimer we shall prepare the document." (emphasis added) Thus, in light of Registrant's "change-of-heart" regarding voluntarily canceling its registration, Petitioner has no choice but to move forward with this proceeding, and thus respectfully requests that the TTAB order Registrant to produce all the requested documents, and answer fully all the interrogatories, by January 13.

Furthermore, Petitioner requests that the TTAB confirm that Registrant must comply with the following instruction in Petitioner's document requests:

15. The term "document" also includes electronic or magnetic data. You are requested to produce all electronic and/or magnetic data or media that is responsive to the requests in electronic or magnetic form. With reference to image files, please produce in their native formats, or in TIF, GIF, JPEG, or PDF formats. With reference to any documents existing in Adobe Acrobat, AutoCAD, Word Perfect, or in Microsoft Access, Excel, Outlook, PowerPoint, Word, or Visio, please produce in those native formats, on read-only media like a CD-R, DVD-R, WORM drive, or tape. Please image into pdf files all other electronic documents not covered by the above-mentioned formats.

As shown by the chronology of events detailed above, the undersigned has made a good faith effort, by conference or correspondence, to resolve with the other party or its attorney the issues presented in this motion, and has been unable to reach agreement.

Respectfully submitted,



Tim Headley
Attorney for Petitioner
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Gardere Wynne Sewell LLP
1000 Louisiana Street, Suite 3400
Houston Texas 77002-5007
Phone: 713-276 5320
Fax: 713-276-6320
Email: theadley@gardere.com

Certificate of Mailing

I certify that Petitioner's Motion For An Order to Compel Discovery, in Cancellation No. 92044823, is being filed electronically via ESTTA on December 19, 2005, with:

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



Tim Headley

Certificate Of Service

On December 19, 2005, I caused a copy of Petitioner's Motion For An Order to Compel Discovery, in Cancellation No. 92044823, to be served by first class mail, postage prepaid, on counsel for Registrant, with any noted attachments.



Tim Headley

**In The United States Patent And Trademark Office
Before The Trademark Trial And Appeal Board**

M7 Aerospace LP	§	
	§	
Petitioner,	§	Cancellation No. 92044823
v.	§	
	§	Mark: VISUAL INTELLIGENCE
Pictometry International Corp.	§	
	§	Registration No. 2,837,858
Registrant	§	

Petitioner’s First Set of Interrogatories

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure (Federal Rules), Petitioner M7 Aerospace LP (M7 Aerospace) serves this First Set of Interrogatories, requesting Registrant Pictometry International Corporation (“Pictometry”) to answer each of the following interrogatories separately and fully in writing, under oath, (unless it is objected to, in which event the reason for objection shall be stated in lieu of answer), identifying documents where requested, and serve the answers on M7 Aerospace’s attorney within thirty (30) days after service of these interrogatories.

In answering M7 Aerospace’s First Set of Interrogatories, Pictometry shall furnish all information available, including information in the possession of its attorneys, investigators, and all other persons acting on its behalf. If Pictometry cannot answer the interrogatories in full after exercising due diligence to secure the information, so state and answer to the extent possible, specifying the inability to answer the remainder, and

providing whatever information and/or knowledge Pictometry has concerning the unanswered portions.

Pursuant to the provisions of Fed. R. Civ. P. 26(e)(2), M7 Aerospace requests Pictometry to supplement the answers given to these discovery requests by providing (without the necessity for a request for supplementation) additional information as Pictometry, or any other person acting on its behalf, may hereafter obtain, and/or which augments or otherwise modifies its answers now given to the interrogatories below. Such supplementary responses, if any, shall be served upon M7 Aerospace's attorney immediately after Pictometry's receipt of such information.

Definitions

1. The terms "Pictometry", "Registrant," "you", and "your" include Pictometry International Corporation, its officers, directors, shareholders, agents, servants, employees, and former employees.
2. "M7 Aerospace" or "Petitioner" means M7 Aerospace LP, its officers, directors, shareholders, agents, servants, employees, and former employees.
3. The terms "and" or "or" as used herein shall be construed both conjunctively and disjunctively, and each shall include the other wherever such dual construction will serve to bring within the scope of these interrogatories information which would otherwise not be brought within their scope.
4. The use of the singular shall be deemed to include the plural, and the use of one gender shall include the other, as appropriate in the context.

5. "Document" means anything that may be considered a document or tangible thing, including, but not limited to, letters, emails, letter agreements, reports, memoranda, ledgers, appointment books, project files, diaries, notebooks, desk calendars, handwritten notes, agreements, contracts, contract drafts, sound or tape recordings of any kind or character, videos, audio visuals, computer tapes, discs, listings or electronically stored information of any type, logs, manuals, guides, newspaper or periodical pages or clippings, applications, certificates, shipping orders, business records, materials used during presentations at business meetings, invoices, leases, purchase orders, negotiable instruments of all kinds, and any and all notations and written materials which contain any information, or from which information can be derived or retrieved.
6. The term "document" also includes all non-identical copies or drafts of documents made by whatever means, including those copies bearing commentary, notations, or marginalia not appearing on the original or other copies of the document. If copies of a document are not identical by reason of handwritten notations, initials, identification marks, or any other modification, each such non-identical copy is a separate document within the meaning of this definition.
7. "Email" includes any electronic or computer mail transmissions, and any record, whether in printed or magnetic form, of any such transmission.
8. "Persons" means human beings, corporations, governmental departments and agencies, partnerships, groups, associations, organizations, and all other business or legal entities.

9. "Pertain" or "Pertaining to" means evidencing, supporting, refuting, comprising, memorializing, relating, referring to, or referred to.
10. The term "document" also includes electronic or magnetic data. You are requested to produce all electronic and/or magnetic data or media that is responsive to the requests in electronic or magnetic form. With reference to image files, please produce in their native formats, or in TIF, GIF, JPEG, or PDF formats. With reference to any documents existing in Adobe Acrobat, AutoCAD, Word Perfect, or in Microsoft Access, Excel, Outlook, PowerPoint, Word, or Visio, please produce in those native formats, on read-only media like a CD-R, DVD-R, WORM drive, or tape. Please image into pdf files all other electronic documents not covered by the above-mentioned formats.
11. The term "communication" or "communications" means the written or oral transmittal of information in the form of facts, ideas, inquiries, or otherwise.
12. The term "identify" or "identity," when used with respect to documents or communications, shall require Pictometry to state with respect to each such document or communication:
 - a. the date the document was prepared or dated, or when the communication took place;
 - b. the name and address of the person(s) who made the document or communication;
 - c. the names and addresses of the recipients of the documentation or communication;

- d. the nature of the document or communication, e.g., written or oral;
 - e. a description of the contents of the document or communication, including, but not limited to, the general subject matter, the number of pages the document contains, and all attachments to the original document;
 - f. the present location of the document, or the location of the communication; and,
 - g. the name, address, and telephone number of the document's custodian.
13. "Person" or "persons" means natural persons, proprietorships, corporations, partnerships, trusts, joint ventures, unions, governmental agencies, groups, associations, and any other kind of entity or organization.
14. The term "identify" or "identity," when used with respect to a:
- a. Natural person shall mean the person's (1) full name, nickname and aliases; (2) current home and employment address, including street name and number, city or town and state, post office box number, if any, and telephone number, and (3) his or her employment or position at the time in question.
 - b. Company, corporation, partnership or any other legal entity not a natural person shall mean the entity's (1) full name; (2) address or post office box number of principal place of business, if any, and telephone number; and, (3) business in which it is engaged.

15. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person.
16. The term "relating to" (or a form thereof) shall mean concerning, constituting, reflecting, respecting, supporting, contradicting, referring to, stating, describing, recording, noting, embodying, containing, mentioning, studying, analyzing, discussing, regarding to, or evaluating.
17. The "Mark" means the service mark "Visual Intelligence", owned by Pictometry International Corporation, for which an application was filed October 4, 2002, and for which a registration issued May 4, 2004.

Instructions

1. Knowledge or information requested includes all knowledge or information to which Pictometry has a superior right to compel from a third party, such as its agents, insurers, representatives, and, unless privileged, attorneys.
2. Please note that all answers are to be made separately and fully, and that an incomplete or evasive answer is a failure to answer. Where an interrogatory calls for an answer in more than one part, please separate the parts accordingly, so that each part is clearly set out and understandable.
3. To the extent Pictometry objects to any interrogatory, set forth all reasons for the objection. If Pictometry claims privilege as a ground for not answering any interrogatory, in whole or in part, describe the factual and legal basis for this claim of privilege, including relevant dates and persons involved, in sufficient

detail so as to permit a court to adjudicate the validity of the claim. If Pictometry objects to part of any interrogatory, answer the remainder completely.

4. If Pictometry does not identify a document which it is asked to identify in these interrogatories on the ground of attorney work-product or attorney-client privilege, or for any other reasons, please state the following:

- a. the title and/or date of the document;
- b. the name of the author(s);
- c. all recipients or distributees, and, where not apparent, the relation of the author and recipient or distributee to each other;
- d. the type of document, e.g., memorandum, letter, report;
- e. the general subject matter of the document;
- f. the basis in fact and law for withholding the identity of such document;
- g. the identity of each person who has been shown such document;
and
- h. the present location of the document.

5. If Pictometry does not identify oral communications which it is asked to identify in the interrogatories on the ground of attorney work-product or attorney-client privilege, or for any other reason, please state the following:

- a. the date of the communication;
- b. the name of the person making the communication;

- c. the names of persons present while the communication was made and, where not apparent, the relationship of the persons present to the person making the communication;
 - d. the location of the communication;
 - e. the general subject matter of the communication; and,
 - f. the basis in fact and law for not identifying that oral communication.
6. If a document that Pictometry is asked to identify is no longer in Pictometry's possession or control, or if any such document is no longer in existence, please state in each response identifying the document whether the document is:
- a. missing or lost;
 - b. destroyed and, with respect to each document so identified, please state the date of, authorization for, and circumstances surrounding the document's destruction; or
 - c. transferred voluntarily or involuntarily to any person or persons, and if so, the identity of person or persons to whom the document has been transferred.
7. Where facts set forth in any answer or portion thereof are supplied on information and belief, rather than actual knowledge, please state and specifically describe or identify the source or sources of such information and belief.

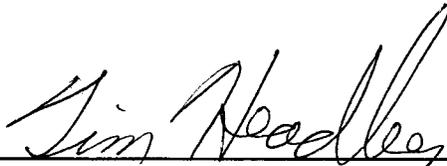
8. If any estimates can reasonably be made in place of unknown information, Pictometry is requested to set forth its best estimate, clearly designated as such, in place of unknown information, and describe the basis on which the estimate is made.
9. If Pictometry cannot answer an interrogatory in full after exercising due diligence to secure the information requested, state an answer to the fullest extent possible, explain Pictometry's inability to answer the remainder, and identify the person(s) who does or might have additional knowledge or information to complete an answer.
10. Pictometry may answer any interrogatory in whole or in part by attaching a document(s) which contains information sufficient to do so. Such document(s) may, if authenticated, be a copy of the original. Any document(s) used to answer an interrogatory may contain other information as well, however, the relevant portion of that document(s) must be so marked or indexed.
11. If the answer to any interrogatory may be derived or ascertained from Pictometry's business records, and the burden of deriving the answer would be substantially the same for M7 Aerospace and Pictometry, Pictometry may specify the records from which the answer may be obtained. However, that specification must be in sufficient detail to allow M7 Aerospace and its attorneys to locate and identify the answers as easily as Pictometry can, and must include a reasonable opportunity to examine, audit, or inspect such documents and make copies, compilations, abstracts, or summaries.

12. If Pictometry contends an interrogatory requests information that is unduly burdensome to compile, then identify in detail the records from which the answer to the interrogatory may be derived or ascertained, and afford M7 Aerospace an opportunity to examine, audit, and make copies, compilations and summaries of same.
13. Where a statement or description is requested, please provide a specific account of what is being stated or described, such as:
 - a. the date or time period involved;
 - b. the identity of persons from whom the information was learned, who have knowledge of that information, or who participated or were present;
 - c. the identity of any document which relates to that being described;
 - d. the context or circumstances in which the occurrence took place; and,
 - e. the identity of any communications that occurred.

Interrogatories

1. On what date(s) was the Mark a) selected, b) adopted, c) first used, and d) first used in commerce?
2. Identify all persons who participated in the selection, design, approval, adoption, first use, and/or first use in commerce of the Mark.
3. Identify all uses of the Mark, including, but not limited to, all products, product packaging, services, and advertisements used in conjunction with the Mark.
4. State the date when Pictometry International Corporation was incorporated.

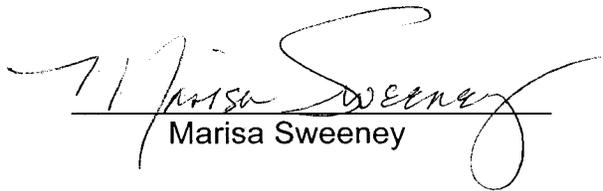
5. State the date when Pictometry achieved its first sale that generated any kind of revenue.
6. State the date the Mark was first used or displayed to advertise services.
7. Describe how the Mark was first used or displayed to advertise services, including, but not limited to, what documents were used, in what advertising media the Mark appeared, who was involved in the advertising, how the Mark was used to advertise services, and to whom advertisements using the Mark were directed.
8. State the date the Mark was first used or displayed in the sale of services.
9. Describe how the Mark was first used or displayed to sell services, including, but not limited to, what documents were used, who was involved in the sale or display, what services were provided, where those services were provided, and to whom those services were provided.
10. Has the Mark ever been used in interstate commerce? If so, identify the services with which the Mark was used.
11. State the date the Mark was first used in interstate commerce.
12. Was the Mark acquired by Registrant by assignment or otherwise? If so, describe in detail the circumstances of such acquisition or assignment.
13. Identify by title, issue date, page number, and any other relevant designation, all hardcopy and electronic media publications in which Registrant has advertised or displayed the Mark, and the corresponding dates of the publications.



Tim Headley
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Phone (713) 276-5320
Fax: (713) 276-6320
Email: theadley@gardere.com

Certificate Of Service

Pursuant to the Federal Rules of Civil Procedure, I certify that a true and correct copy of the foregoing instrument was served by U.S. certified mail, return receipt requested, on October 18, 2005, to the counsel of record.



Marisa Sweeney

In The United States Patent And Trademark Office Before The Trademark Trial And Appeal Board

M7 Aerospace LP	§	
	§	
Petitioner,	§	Cancellation No. 92044823
v.	§	
	§	Mark: VISUAL INTELLIGENCE
Pictometry International Corp.	§	
	§	Registration No. 2,837,858
Registrant	§	

Petitioner's First Set of Requests for Documents

Pursuant to Rule 34 of the Federal Rules of Civil Procedure, Petitioner M7 Aerospace LP serves this first request for production of documents on Registrant, Pictometry International Corporation. Please produce all requested documents, as they are kept in the ordinary course of business, and/or arranged according to each request, for inspection and copying, to Tim Headley, at the Houston offices of Gardere Wynne Sewell LLP, within thirty (30) days after this request. If there is to be a charge for copying, please state what it will be before the copies are made.

Definitions and Instructions

1. The words "and" and "or" shall be construed conjunctively when such construction would bring within the request information that would otherwise be outside of its scope, but shall be construed disjunctively when such construction would bring within the request information that would otherwise be outside of its scope.

2. "Petitioner" means M7 Aerospace LP, its representatives, employees, agents, and all other persons or business or legal entities purporting to act on its behalf.
3. "Persons" means human beings, corporations, governmental departments and agencies, partnerships, groups, associations, organizations, and all other business or legal entities.
4. "Pertain" or "Pertaining to" means evidencing, supporting, refuting, comprising, memorializing, relating, referring to, or referred to.
5. "Registrant" means Pictometry International Corporation (also referred to as merely "Pictometry"), its representatives, employees, agents, and all other persons or business or legal entities purporting to act on its behalf.
6. The "Mark" means the service mark "Visual Intelligence", owned by Pictometry International Corporation, for which an application was filed October 4, 2002, and for which a registration issued May 4, 2004.
7. "You," "your," and "Registrant" mean the Registrant in this opposition proceeding, and all other persons or business or legal entities purporting to act on its behalf, and also includes any person or entity from whom you have a right (including an agent or representative) to compel the production of documents.
8. If a claim of privilege is asserted as an objection to any request or subpart thereof, please identify the nature of the privilege asserted, and the rule upon which the claim of privilege is based. Furthermore, if a claim of privilege is asserted, please provide the following information (unless divulging such information would disclose the privileged information):

for documents: (i) the type of document; (ii) general subject matter of the document; (iii) the date of the document; and (iv) other information sufficient to identify the document for a subpoena duces tecum, including, the author, addressee, persons receiving a copy of the document, and their relationship.

for oral communications: (i) the name of the persons participating in the communication; (ii) the names of persons with knowledge of the communications; (iii) the date and place of the communication; and (iv) the general subject matter of the communication.

9. If Registrant contends that an answer to any document request, or request for information, is privileged in whole or in part, or if Registrant otherwise objects to any part of any document request or request for information, identify:

(a) The reason(s) for each objection, claim of privilege or immunity, or ground for exclusion;

(b) Each person having knowledge of the factual basis, if any, on which the claim, privilege, immunity, or other ground is based; and

(c) In the case of a document or communication, identify the document or communication with sufficient specificity (including, but not limited to, the document date, author, addressee(s), title and subject matter) to permit plaintiff to assess the claim of privilege.

10. "Document" means anything that may be considered a document or tangible thing, including, but not limited to, letters, emails, letter agreements, reports, memoranda, ledgers, appointment books, project files, diaries, notebooks, desk calendars, handwritten notes, agreements, contracts, contract drafts, sound or tape recordings of any kind or character, videos, audio visuals, computer tapes, discs, listings or electronically stored information of any type, logs, manuals,

guides, newspaper or periodical pages or clippings, applications, certificates, shipping orders, business records, materials used during presentations at business meetings, invoices, leases, purchase orders, negotiable instruments of all kinds, and any and all notations and written materials which contain any information, or from which information can be derived or retrieved.

11. The term "document" also includes all non-identical copies or drafts of documents made by whatever means, including those copies bearing commentary, notations, or marginalia not appearing on the original or other copies of the document. If copies of a document are not identical by reason of handwritten notations, initials, identification marks, or any other modification, each such non-identical copy is a separate document within the meaning of this definition.
12. "Email" includes any electronic or computer mail transmissions, and any record, whether in printed or magnetic form, of any such transmission.
13. "Persons" means human beings, corporations, governmental departments and agencies, partnerships, groups, associations, organizations, and all other business or legal entities.
14. "Pertain" or "Pertaining to" means evidencing, supporting, refuting, comprising, memorializing, relating, referring to, or referred to.
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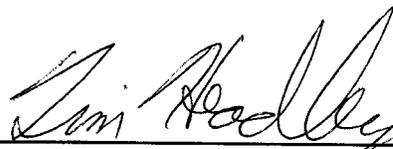
formats. With reference to any documents existing in Adobe Acrobat, AutoCAD, Word Perfect, or in Microsoft Access, Excel, Outlook, PowerPoint, Word, or Visio, please produce in those native formats, on read-only media like a CD-R, DVD-R, WORM drive, or tape. Please image into pdf files all other electronic documents not covered by the above-mentioned formats.

Requests For Production

Please produce the following documents:

1. All documents identified in response to Petitioner's interrogatories and/or requests for admission.
2. All documents which support Registrant's Answer to Petitioner's Petition To Cancel.
3. All documents that refer to the date of first use in the United States of the Mark a) as a service mark, b) in any use analogous to service mark use, c) as an advertisement, d) in any way related to the sale of services, or e) in any other way.
4. A sample of each different print or electronic media advertisement, catalog, direct mail piece, shelf talker, sign, brochure, web advertisement, or other printed or electronic promotional item bearing the Mark, that Registrant has used in connection with Registrant's services or products in the United States from the first use, extending in time until October 4, 2002.
5. A sample of each different manner, either in print or electronic, that the Mark was used or displayed to sell services from the first use, extending in time until October 4, 2002.

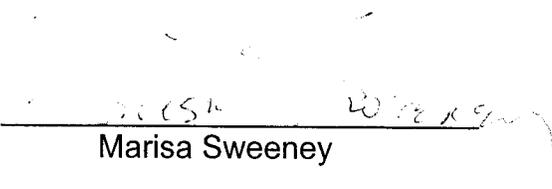
6. A sample of each use of the Mark as a trade name or analogous to a trade name, from the first use, and extending in time until October 4, 2002.
7. Copies of marketing plans that Registrant has utilized in relation to the services offered or intended to be offered under or by reference to the Mark from the first use, and extending in time until October 4, 2002.
8. All documents that refer to the dollar amounts that have been expended by Registrant in advertising the services provided by Registrant in connection with the Mark, for each calendar year from the first advertisement until the last date set for taking testimony.
9. All documents that refer to, substantiate, evidence, or incorporate the selection of the Mark by Registrant.
10. All documents that refer to, substantiate, evidence, or incorporate any communications or discussions about the selection of the Mark by Registrant.
11. To the extent not so understood by Registrant in previous requests, all emails that refer to the selection of the Mark by Registrant, or the first use or uses of the Mark by Registrant, or the first use or uses of the Mark by Registrant to advertise any of Registrant's products or services.



Tim Headley
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Houston, Texas 77002-5007
Phone (713) 276-5320
Fax: (713) 276-6320
Email: theadley@gardere.com

Certificate Of Service

Pursuant to the Federal Rules of Civil Procedure, I certify that a true and correct copy of the foregoing instrument was served by U.S. certified mail, return receipt requested, on October 18, 2005, to the counsel of record.



Marisa Sweeney

In The United States Patent And Trademark Office
Before The Trademark Trial And Appeal Board

M7 Aerospace LP	§	
	§	
Petitioner,	§	Cancellation No. 92044823
v.	§	
	§	Mark: VISUAL INTELLIGENCE
Pictometry International Corp.	§	
	§	Registration No. 2,837,858
Registrant	§	

Registrant's Application To Surrender Its Registration

Pursuant to 15 U.S.C. § 1057(e), 37 C.F.R. §§ 2.134, 2.172, and T.B.M.P. § 602.02(a), Registrant applies to surrender Registration No. 2,837,858 for its mark VISUAL INTELLIGENCE. Registrant's attorney-of-record has signed this application below, and Petitioner's attorney-of-record has also signed below, showing Petitioner's consent to this surrender.

Petitioner consents to this surrender.



Tim Headley
Attorney for Petitioner

WHEREFORE, Registrant prays that Registrant's Registration No. 2,837,858 for its mark VISUAL INTELLIGENCE be cancelled.

Respectfully submitted,

By: _____

Dated: December 19, 2005

Thomas R. FitzGerald, Attorney for Registrant

Hiscock & Barclay, LLP

2000 HSBC Plaza

Rochester, New York 14604-2404

Tel: 585-295-4469 Fax: 585-295-8456

E-mail: tfitzgerald@hiscockbarclay.com

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First-Class Mail in an envelope addressed to:

United States Patent and Trademark Office
Trademark Trial and Appeal Board
P. O. Box 1451
Alexandria, VA 22313-1451

On December 19, 2005.

Thomas R. FitzGerald, Attorney for Registrant

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Answer to Petition to Cancel has been served on attorney for Petitioner,

Tim Headley
Attorney for Petitioner
Texas State Bar No. 09325210
Gardere Wynne Sewell LLP
1000 Louisiana Street, Suite 3400
Houston, Texas 77002-5007
Phone: 713-276-5320
Fax: 713-276-6320
E-mail: theadley@gardere.com

By mailing said copy on December 19, 2005, via First-Class Mail, postage prepaid.

Thomas R. FitzGerald, Attorney for Registrant