

ESTTA Tracking number: **ESTTA52421**

Filing date: **11/08/2005**

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

Name	MetroQ		
Entity	Corporation	Citizenship	Texas
Address	4026 Lemmon Avenue Dallas, TX 75219 UNITED STATES		

Attorney information	Kenneth R. Glaser/ Thomas C. Wright Gardere Wynne Sewell LLP 1601 Elm Street Suite 3000 Dallas, TX 75201-4761 UNITED STATES ip@gardere.com, lhemphill@gardere.com Phone:214-999-3000		
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Registration Subject to Cancellation

Registration No	2119139	Registration date	12/09/1997
Registrant	Gay & Lesbian Yellow Pages, Inc. Ste. 480 4200 Montrose Blvd. Houston, TX 77006 UNITED STATES		
Goods/Services Subject to Cancellation	Class 016. First Use: 19910101, First Use In Commerce: 19910101 Goods/Services: telephone directories and related advertising services directed at various gay and lesbian communities and markets nationwide		

Grounds for Cancellation	The registered mark has become the generic name for the goods.
	The registration was obtained fraudulently.

Attachments	MctroQ.pdf (3 pages)
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Signature	/Kenneth R. Glaser/
Name	Kenneth R. Glaser
Date	11/08/2005

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

METROQ	§	
	§	
Petitioner,	§	CANCELLATION NO. _____
	§	
v.	§	In the matter of Registration No.
	§	2,119,139 (GAY YELLOW PAGES))
GAY & LESBIAN YELLOW PAGES, INC	§	
	§	
Respondent.	§	

PETITION FOR CANCELLATION OF
REGISTRATION 2,119,139

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

MetroQ, a Texas corporation, having a principal place of business at 4026 Lemmon Avenue, Dallas, Texas 75219 (“Petitioner”), believes and alleges that it is being damaged by Registration No. 2,119,139 and hereby petitions to cancel the same.

As grounds for cancellation, it is alleged that:

1. Based upon the records of the Patent and Trademark Office, Respondent Gay & Lesbian Yellow Pages, Inc. is the owner of Registration No. 2,119,139 of GAY YELLOW PAGES for telephone directories and related advertising services directed at various gay and lesbian communities and markets nationwide.

2. The term GAY YELLOW PAGES is a generic name for the goods and services for which it was registered. Therefore, it is not now, nor was it ever, subject to proper registration, and is subject to cancellation pursuant to 15 U.S.C. § 1064(3).

3. Registration No. 2,119,139 was fraudulently obtained, in that Respondent filed a series of false declarations in connection with its application for registration of the

GAY YELLOW PAGES mark which were relied upon by the Patent and Trademark Office. Specifically, on May 6, 1996, Respondent executed an erroneous Declaration which was filed on July 1, 1996 with the application for registration of the GAY YELLOW PAGES mark. The Declaration stated that to the best of Respondent's knowledge, "no other person, firm, corporation or association" had the right to use Gay Yellow Pages, in commerce, "either in the identical form thereof or such near resemblance thereto as to be likely...to cause confusion..." Respondent has now taken the position that "Gay Pages" is essentially identical to "Gay Yellow Pages." The Declaration was therefore false in that, contrary to Respondent's sworn representation, other business entities respectively named "Gay Pages" and "Gayellow Pages" were operating and known by Respondent at the time this Declaration was executed.

4. Additionally, following the rejection of the application for the present registration by the examining attorney, Respondent filed a second false Declaration, executed June 24, 1997, swearing under oath that Respondent's use of the Gay Yellow Pages had been substantially exclusive for a period of five years preceding the date of the second Declaration. Contrary to that assertion, however, Respondent was aware at the time of numerous business entities bearing the names "gay pages, *gayellow pages*", as well as names similar thereto.

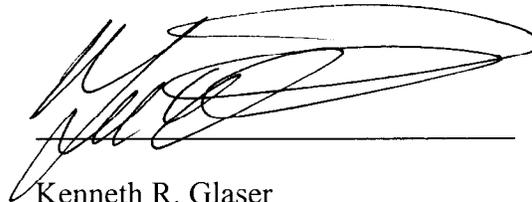
5. Upon information and belief, the Respondent has permitted the use of the GAY YELLOW PAGES mark by others, but has failed to adequately control the quality and nature of the goods and services with which it used. Accordingly, the Respondent has legally abandoned the GAY YELLOW PAGES mark.

WHEREFORE, by reason of the aforementioned grounds, Petitioner prays that, pursuant to the authority of 15 U.S.C. 1064, this cancellation petition be granted and that the above-identified registration of Respondent, Registration No. 2,119,139, be canceled.

Respectfully submitted,

Date:

November 8, 2009



Kenneth R. Glaser
Thomas C. Wright
GARDERE WYNNE SEWELL LLP
3000 Thanksgiving Tower
1601 Elm Street, Suite 3000
Dallas, Texas 75201-4761
Tel: 214-999-3000
Fax: 214-999-4667

ATTORNEYS FOR PETITIONER