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Filing date: **12/19/2006**

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	eSpeed, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	110 East 59th Street New York, NY 10022 UNITED STATES		

Attorney information	Georges Nahitchevansky Kilpatrick Stockton LLP 31 W. 52nd Street New York, NY 10019 UNITED STATES ghn@kilpatrickstockton.com Phone:212-775-8700		
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Registration Subject to Cancellation

Registration No	2912657	Registration date	12/21/2004
Registrant	eSpeedient Systems, LLC 225 West Huron Suite 217 Chicago, IL 60610 UNITED STATES		
Goods/Services Subject to Cancellation	Class 042. First Use: 2000/12/20 , First Use In Commerce: 2001/01/03 Goods/Services: Providing a financial software system integrating a browser based account management and Customer Relationship Management system within one central database to provide banking, debit card, stored value and digital currency products in a host system or proprietary deployment system		

Attachments	Petition to Cancel eSpeedient.pdf (6 pages)(206818 bytes)
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Signature	/Georges Nahitchevansky/
Name	Georges Nahitchevansky
Date	12/19/2006

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

In the matter of Trademark Registration No. 2,912,657

For the mark: ESPEEDIENT SYSTEMS

ESPEED, INC.,	-----X	
	:	
Petitioner,	:	Cancellation No.
	:	
v.	:	PETITION TO CANCEL
	:	
ESPEEDIENT SYSTEMS, LLC,	:	
	:	
Respondent.	:	
	-----X	

eSpeed, Inc., a corporation organized and existing under the laws of the state of Delaware with a principal place of business at 110 East 59th Street, New York, New York 10022, believes that it will be damaged by the above identified registration for the trademark ESPEEDIENT SYSTEMS shown in Registration No. 2,912,657 and hereby petitions to cancel that registration.

The grounds for this cancellation are as follows:

1. eSpeed, Inc., along with its affiliates (collectively “eSpeed” or “Petitioner”), is the largest broker of U.S. government securities, and is a well-known and respected provider of U.S. and international financial brokerage services and information throughout the world. Since at least as early as January, 1999, Petitioner has continuously used and promoted the trademarks ESPEED and E-SPEED (the “ESPEED Mark”) and the ESPEED trade name in connection with a wide variety of online brokerage, financial, information, technological, software, e-commerce and communication services. In particular, Petitioner uses its ESPEED Mark and trade name

for a network and internet-based communication and distribution system that provides customers with immediate access to real-time financial market information and to a global interactive electronic marketplace that enables the instantaneous trading of financial instruments and other products.

2. In addition, eSpeed uses its ESPEED Mark for its proprietary transaction software that can process millions of transactions in milliseconds and in connection with its telecommunication services to provide users with secure, point-to-point communication links for the delivery of data, the execution of transactions and access to the Internet. In total, the ESPEED service is not only a global interactive electronic trading network that can be adapted to virtually any market of any size, but a technological system that powers marketplaces for any type of tradable products.

3. Petitioner has invested a significant amount of time and effort promoting its ESPEED services and in developing goodwill associated with the ESPEED Mark and trade name. Further, Petitioner has obtained several federal registrations for its ESPEED Mark. It owns, *inter alia*, registration number 2,535,418, registered on February 5, 2002, for ESPEED for “computer software that enables trading in financial instruments, provides trade execution and trade confirmation capabilities, and provides access to financial information and financial market information, real time and otherwise” in International Class 9, “telecommunications services, namely, electronic transmission of data via computer terminals” in International Class 38, and for a variety of financial services in International Class 36, including, *inter alia*, “providing a trading network via an electronic private intranet network and global computer network” and “providing information relating to financial instruments, brokerage, trading investments, companies,

and financial markets through a global computer network.” Petitioner is also the owner of registration number 2,500,080, registered October 23, 2001, for ESPEED (stylized) for “telecommunication services, namely, electronic transmission of data; leasing telecommunications equipment and telecommunications lines; providing telecommunications connection to the global computer network” in International Class 38.

4. In addition, Petitioner also owns stylized registrations for ESPEED, including registration number 2,729,582, registered June 24, 2003, for “Computer software that enables trading in financial instruments, provides trade execution and trade confirmation capabilities, and provides access to financial information and financial market information, real time and otherwise,” and registration number 2,484,458, registered September 4, 2001, for ESPEED (stylized) for “providing multiple-user access to a global computer information network and providing electronic mail services” in International Class 38.

5. Petitioner is also the owner of registration number 2,424,609, registered January 30, 2001, for E-SPEED for “brokerage services for transacting financial securities via a global computer network” in International Class 36. This registration has become incontestable pursuant to Section 15 of the Lanham Act , 15 U.S.C. § 1065, and, as such, is conclusive evidence of the validity of the mark, of Petitioner’s exclusive ownership of the mark and of its right to the exclusive use of the mark

6. Petitioner has offered and continues to offer and make available its ESPEED and E-SPEED services to consumers and the trade online through the Internet and through a proprietary electronic network.

7. As a result of Petitioner's usage and promotion of its ESPEED Mark, a very valuable and inestimable goodwill has been built up in the ESPEED Mark.

8. On December 21, 2004, a date well after Petitioner first used the ESPEED Mark, eSpeedient Systems, LLC ("Respondent") obtained a registration for the mark ESPEEDIENT SYSTEMS, Registration No. 2,912,657, for "providing a financial system integrating a browser based account management and customer relationship management system within one central database to provide banking, debit card, stored value and digital currency products in a host system or proprietary deployment system" in International Class 42. Respondent claimed a date of first use in commerce of January 3, 2001, a date well after Petitioner had first used the ESPEED Mark.

9. Respondent has promoted and sold its ESPEEDIENT SYSTEMS products and/or services to financial services firms and/or to businesses, consumers and/or users in the financial services field.

10. Respondent's ESPEEDIENT SYSTEMS mark, the dominant component of which is ESPEED, is identical to Petitioner's ESPEED Mark. Further, the ESPEEDIENT portion of Respondent's ESPEEDIENT SYSTEMS mark is confusingly similar in sound to Petitioner's ESPEED Mark. With regard to commercial meaning, the ESPEEDIENT SYSTEMS mark is virtually indistinguishable from the ESPEED Mark, particularly as the mere addition of the word "Systems," and/or the suffix "ient," does not distinguish the mark in any meaningful way. Moreover, the goods and/or services described in Respondent's registration are closely related or similar to those offered by Petitioner under its ESPEED Mark.

11. The continued registration by Respondent of the mark ESPEEDIENT SYSTEMS, the overall commercial impression of which is similar to Petitioner's ESPEED Mark, used on goods and services closely related or similar to the goods and/or services of Petitioner, is likely to cause confusion or to cause mistake, or to deceive, and will tend to damage Petitioner's goodwill in its ESPEED Mark. Respondent's continued registration and use of the ESPEEDIENT SYSTEMS mark will cause the public to believe mistakenly that Respondent's goods and/or services originate with, or are approved or licensed by Petitioner, or are otherwise connected or associated with Petitioner or Petitioner's goods and services in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

12. Petitioner is and will be irreparably damaged by the continued registration of the mark ESPEEDIENT SYSTEMS in Class 42 based on its prior use of the ESPEED Mark.

WHEREFORE, Petitioner requests that Registration No. 2,912,657 be canceled.

The cancellation fee in the amount of \$300.00 for a cancellation in one class is filed herewith. If for any reason this amount is insufficient, it is requested that

Petitioner's attorneys' Deposit Account No. 11-0860 be charged with any deficiency.

This paper is filed electronically.

Dated: New York, New York
December 19, 2006

Respectfully submitted,

KILPATRICK STOCKTON LLP

By: 

Georges Nahitchevansky

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CERTIFICATE OF TRANSMITTAL

I hereby certify that a true copy of the foregoing PETITION TO CANCEL is being filed electronically with the TTAB via ESTTA on this day, December 19, 2006.



Georges Nahitchevansky