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Filing date: **10/15/2007**

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

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|---------------------------|--|
| Proceeding                | 92047013   |
| Party                     | Defendant<br>Internet FX, Inc.   |
| Correspondence<br>Address | Susan E. Hollander, Laura M. Franco<br>Manatt, Phelps & Phillips, LLP<br>1001 Page Mill Road, Bldg. 2<br>Palo Alto, CA 94304<br>UNITED STATES<br>patrademarks@manatt.com |
| Submission                | Other Motions/Papers   |
| Filer's Name              | Laura M. Franco, Esq.  |
| Filer's e-mail            | patrademarks@manatt.com  |
| Signature                 | /Laura M. Franco/  |
| Date                      | 10/15/2007   |
| Attachments               | Declaration in Support of Certificates of Service - NETTRAK.pdf ( 3 pages<br>) (68757 bytes )  |

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

In re Registration No. 3,064,820  
Mark: NETTRAK  
Registered: March 7, 2006

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NeTrack, Inc.,

Petitioner,

v.

Internet FX, Inc.,

Registrant.

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) Cancellation No. 92047013  
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**DECLARATION OF SUE HARRYMAN IN SUPPORT OF CERTIFICATES OF  
SERVICE FOR BRIEF IN REPLY TO PETITIONER'S RESPONSE TO MOTION TO  
REOPEN DISCOVERY PERIOD AND RESET TESTIMONY AND TRIAL PERIODS  
AND BRIEF IN OPPOSITION TO PETITIONER'S MOTION TO STRIKE**

I, Sue Harryman, declare:

1. I am a secretary of the law firm of Manatt, Phelps & Phillips, LLP (the "Firm"), attorneys for Registrant, Internet FX, Inc. ("Registrant"). I base the facts contained in this declaration upon my personal participation in the matters described, and upon my review of the file in preparation for this declaration. If called upon to testify to the matters stated herein, I would and could do so based upon my personal knowledge except where otherwise indicated.

2. On October 9, 2007, I signed the Certificates of Service for the pleadings titled *Brief in Reply to Petitioner's Response to Motion to Reopen the Discovery Period and Reset Testimony and Trial Periods* and *Brief in Opposition to Petitioner's Motion to Strike* (the "Pleadings"). After I signed the Certificates of Service for the Pleadings, I placed the Pleadings in a sealed envelope addressed to petitioner, NeTrack, Inc. ("Petitioner"), and deposited the Pleadings with the Firm's in-house mail service provider before the close of business that day,

for affixation of postage and first-class mailing of the parcel via the United States Postal Service, as per 37 CFR § 2.119(b)(4).

3. It is my understanding that upon depositing an unstamped addressed parcel with the Firm's in-house mail service provider before the close of business, the in-house mail service provider would affix appropriate first-class postage on the parcel for deposit with the United States Postal Service. It was my intention and belief that the Pleadings actually be deposited with the United States Postal Service and mailed as of October 9, 2007.

4. On October 15, 2007, I became aware for the first time through Petitioner's counsel's communications with Laura Franco of this Firm that the parcel containing the Pleadings bore a postage meter dated October 10, 2007. While I repeat that it was my intention and belief that the parcel be deposited with the United States Postal Service and mailed as of October 9, 2007, it appears that such may not have occurred until October 10, 2007.

5. I declare under penalty of perjury under the laws of the United States and of the State of California that the foregoing is true and correct.

Executed this 15th day of October, 2007 at Palo Alto, California.

  
Sue Harryman

**CERTIFICATE OF SERVICE**

I hereby certify that this Declaration of Sue Harryman in Support of Date for the Certificates of Service for the Brief in Reply to Petitioner's Response to Motion to Reopen Discovery Period and Reset Testimony and Trial Periods, and for the Brief in Opposition to Petitioner's Motion to Strike has been served upon the attorneys of record for Petitioner by causing it to be deposited with the United States Postal Service as first class mail, postage prepaid, in a sealed envelope addressed to:

Carl Oppedahl, Esq.  
Oppedahl Patent Law Firm, LLC  
P. O. Box 4850  
Frisco, CO 80443-4850

on this 15<sup>th</sup> day of October, 2007.

  
Christine M. Klenk