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July 6, 2007

VIA FIRST CLASS MAIL

TTAB

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

Re: Petition for Cancellation
of United States Trademark
Reg. No.: 2,495,729
Registrant: Modern Bank, N.A.
Mark: EXCEL BANK (and Design)
Class: 36

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Dear Madam:

The following documents are submitted in connection with U.S. Reg. 2,495,729, in the name of Modern Bank, N.A. of the mark EXCEL BANK (and Design) in International Class 36 on the Principal Register:

1. Petition for Cancellation;
2. Petition fee, \$300.00, by check No. 73518 for 1 class;
3. Certificate of Mailing dated July 6, 2007; and
4. Authorization to charge Deposit Account.

The Commissioner is authorized to charge any additional needed fees and to credit any overpayments to Account No. 50-0485, Hinckley Allen & Snyder LLP.

Sincerely,


Amy B. Spagnole

Enclosures

07-09-2007

U.S. Patent & TMO/TM Mail Rcpt Dt. #34

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

_____)	
Bancorp Rhode Island, Inc.)	
)	
Petitioner,)	
v.)	Cancellation No. _____
)	Reg. No.: 2,495,729
Modern Bank, N.A.,)	Reg. Date: October 9, 2001
)	Mark: EXCEL BANK (and Design)
Registrant.)	
_____)	

PETITION FOR CANCELLATION

Petitioner, Bancorp Rhode Island, Inc. ("Petitioner"), a corporation organized and existing under the laws of the State of Rhode Island having a place of business at One Turks Head Place, Providence, RI 02903, believes that it will be damaged by United States Trademark Registration No. 2,495,729, issued on October 9, 2001 to Excel Bank, National Association and subsequently assigned to Modern Bank, N. A. as shown by the records of the Assignment Division ("Respondent"), and hereby petitions to cancel same pursuant to Section 14(3) of the Lanham Trademark Act of 1946, 15 U.S.C. § 1064(3).

Respondent's registration for the mark EXCEL BANK (and Design) is registered on the Principal Register, in International Class 36 for "banking services; banking services conducted through a global communications network; providing banking and financial information via a global communications network." To the best of Petitioner's

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knowledge, the name and address of the current owner of the subject registration is:

Modern Bank, N.A., 400 Park Avenue, 9th Floor, New York, NY 10022.

As grounds for this Petition, Petitioner alleges as follows:

1. Petitioner is the owner of pending application Serial No. 78/580,640 for the mark XCEL (the "Application").
2. The mark EXCEL BANK (and Design) in Registration No. 2,495,729 has been cited under Section 2(d) of the Trademark Act as a basis for refusing registration of Petitioner's mark that is the subject of the Application.
3. Upon information and belief, the Respondent has abandoned the EXCEL BANK (and Design) mark which is the subject of Registration No. 2,495,729 by discontinuing use of said mark with no intent to resume said use.
4. The Petitioner has been and will continue to be damaged by continuance of said Registration No. 2,495,729, in that the Petitioner will be unable to obtain registration of the Application on the Principal Register and obtain the procedural and evidentiary advantages and presumptions that result therefrom so long as the registration sought to be cancelled herein is maintained on the Register, despite the abandonment of the mark EXCEL BANK (and Design) by the Respondent.
5. In addition, so long as Registration No. 2,495,729 sought to be cancelled herein is maintained, the Petitioner will be unable to effectively enforce its trademark rights and interests in the mark as shown in the Application against third parties and the Petitioner will be subjected to damage thereby.

WHEREFORE, the Petitioner requests that the Petition for Cancellation be sustained and that trademark Registration No. 2,495,729, issued October 9, 2001, be cancelled.

Dated: July 6, 2007

Respectfully submitted,

Bancorp Rhode Island, Inc.

By: 
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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 the Commissioner for Trademarks,
PO Box 1451, Alexandria, VA 22313-1451, on 7/6/07
Date 7/6/07 