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Filing date: **06/25/2008**

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	Grape Technology Group, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	3864 Courtney Street Suite 411 Bethlehem, PA 18017 UNITED STATES		

Attorney information	Joseph Sofer Sofer & Haroun, LLP 317 Madison Ave Suite 910 New York, NY 10017 UNITED STATES joesofer@soferharoun.com Phone:212-697-2800		
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### Registration Subject to Cancellation

Registration No	2797481	Registration date	12/23/2003
International Registration No.	NONE	International Registration Date	NONE
Registrant	Mirzikinian, Warwick 1C Beaconsfield Road Mossman, NSW, 2088 AUSTRALIA		

### Goods/Services Subject to Cancellation

Class 038. All goods and services in the class are cancelled, namely: providing wireless phone services; providing telephone services, leasing of mobile phones, leasing of telephones, leasing of telecommunications equipment, namely pagers, wireless data transmission cards
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### Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	Petition to Cancel.pdf ( 3 pages )(124884 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/joesofer/
Name	Joseph Sofer
Date	06/25/2008

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

Grape Technology Group, Inc.,	:	
	:	
Petitioner	:	In re the matter of:
	:	
vs.	:	MARK: M8
	:	Registration No.: 2797481
	:	Issued: December 12, 2003
	:	
	:	
Warwick Mirzikinian,	:	
	:	
Respondent	:	
	:	

PETITION TO CANCEL

Petitioner, Grape Technology Group, Inc., (hereinafter “Grape”), a corporation of the state of Delaware, having its principal place of business at 3864 Courtney Street, Bethlehem, PA 18017, believes that it has been and will continue to be damaged by the above-referenced U.S. registration for the mark M8 (hereinafter “the mark”) registered to Warwick Mirzikinian. (hereinafter “Mirzikinian”), an individual of Australia, having a place of residence at 1C Beaconsfield Rd, Mossman, Australia 2088.

1. Petitioner is the applicant of pending Serial No.77311252, seeking registration of the mark M8 in International Classes 35 and 45 for use in connection with telephone directory assistance services and personal concierge services. Serial No. 77311252 was filed by Grape on October 23, 2007 under Section 1(b) of the Trademark Act, 15

U.S.C. 1051(b).

2. Petitioner intends to use the mark in connection with telephone directory assistance services and personal concierge services.
3. Respondent is the registrant of U.S. Registration No. 2797481 for the mark M8. U.S. Registration No. 2797481 matured from Serial No. 78121322 filed on April 12, 2002 under Section 1(b) of the Trademark Act, 15 U.S.C. 1051(b), claiming an intent to use the mark M8 in International Class 38 in connection with wireless phone services and leasing of telecommunication equipment. Respondent later deleted its section 1(b) filing basis.
4. U.S. Registration No. 2797481 was issued December 23, 2003, claiming priority under 44(e) to foreign registration No. 884096 registered on July 27, 2001.
5. Registration of Grape's mark has been refused under section 2(d) in view of U.S. Registration 2797481.
6. Upon information and belief, there is no indication of actual use of the registered M8 mark in the United States. The Trademark Trial and Appeals Board has held that although it is not necessary for a foreign resident to use the mark in commerce in order to obtain registration, however within a reasonable time after registration the registrant must use the mark in commerce.
7. Upon information and belief, Registration 2797481 for M8 was registered in December 2003 and appears to have never been in use in U.S. commerce by the Respondent.

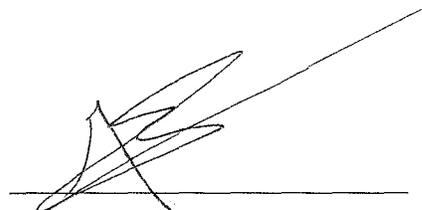
WHEREFORE, Petitioner prays that U.S. Registration No. 2797481 be cancelled, and that this Petition to Cancel be granted in favor of Petitioner.

The fee under 37 C.F.R. 2.6(a)(16) for filing this Petition to Cancel in one class, in the amount of \$300.00, is enclosed herewith.

Petitioner hereby appoints the law firm of Sofer & Haroun, LLP, and its members, to act as attorneys for Petitioner herein with full power to prosecute this Petition to Cancel and to

transact all relevant business with the United States Patent and Trademark Office and to receive all official communications in connection with this Petition to Cancel.

Dated this 24<sup>rd</sup> day of June, 2008.



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