

ESTTA Tracking number: **ESTTA276230**

Filing date: **04/06/2009**

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

Proceeding	92050760
Party	Plaintiff PCi Services, Inc.
Correspondence Address	Andrew L. Goldstein Freeborn & Peters LLP 311 S. Wacker Dr., Suite 3000 Chicago, IL 60606 UNITED STATES agoldstein@freebornpeters.com
Submission	Motion to Amend Pleading/Amended Pleading
Filer's Name	Andrew L. Goldstein
Filer's e-mail	agoldstein@freebornpeters.com
Signature	/alg/
Date	04/06/2009
Attachments	Amended Petition.PDF ( 6 pages )(185101 bytes )

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

In The Matter of Registration No. 3,153,688  
For the Service Mark THE MEDICI and Design, in International Class 035  
Registered on October 10, 2006

PCi SERVICES, INC.,	)	
	)	
Petitioner	)	
	)	
v.	)	Cancellation No.: 92050760
	)	
THE MEDICI, INC.,	)	
	)	
Registrant	)	

**AMENDED PETITION TO CANCEL**

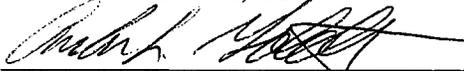
Petitioner, PCi Services, Inc., hereby moves to amend its Petition to Cancel in the above-captioned case, pursuant to Rules 2.107 of the Rules of Practice of the Patent and Trademark Office and Rule 15 of the Federal Rules of Civil Procedure.

Specifically, on April 3, 2009, Petitioner filed its Petition to Cancel in this matter. Said Petition to Cancel did not include the Certificate of Service. Attached hereto is a complete, true and accurate copy of the Petition to Cancel which includes the Certificate of Service.

Rule 15(a) of Fed. R. Civ. P. provides liberality in amending pleadings where justice so requires. It is the practice of the Patent and Trademark Office to liberally grant motions to amend. *Cool Ray v. Eye Care*, 183 U.S.P.Q. 618 (TTAB 1974). In view thereof, it is respectfully requested Petitioner's Motion to Amend be granted.

Respectfully submitted,

FREEBORN & PETERS, LLP

By: 

Dated: April 6, 2009

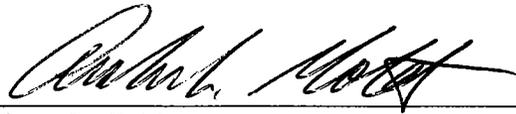
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Attorneys for Petitioner

**CERTIFICATE OF SERVICE**

The undersigned certifies that he served a copy of the Petitioner's Amended Petition to Cancel upon the Registrant by causing a copy of same to be sent via U.S. Mail, with proper postage prepaid, prior to 5:00 p.m. on April 6, 2009.

The Medici Inc.  
375 Greenwich St.  
New York, NY 10013



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Andrew L. Goldstein

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Registrant	)	

**PETITION TO CANCEL**

PCi Services, Inc., ("Petitioner"), a Delaware corporation, having its principal place of business at 30 Winter Street, 12<sup>th</sup> Floor, Boston, Massachusetts 02108, believes it is and will continue to be damaged by registration of the service mark shown in Registration No. 3,153,688, and hereby petitions to cancel the same in Class 35.

In support thereof, Petitioner states:

1. Petitioner has, since November 11, 1998, offered database management software for use by financial institutions and data processing services for financial institutions under the mark MEDICI.
2. Petitioner registered its MEDICI with the United States Patent and Trademark Office ("USPTO") as Registration No. 2,430,747. Said registration was issued on February 27, 2001 and was inadvertently allowed to be cancelled on December 1, 2007 for failure to file an affidavit under Section 8 of the Trademark Act.
3. On April 29, 2008, Petitioner filed a new application, Serial No. 77/460,844, for the mark MEDICI covering: "database management software for use by financial

institutions” in Class 9 and “data processing services for financial institutions” in Class 35 (the “Application”).

4. The USPTO has refused registration for the Application under Section 2(d) of the Trademark Act based on Registration No. 3,153,688 for THE MEDICI and Design (the “Registration”) covering, among other services: “Business marketing consulting services; agencies for advertising time and space; commercial and industrial management; computerized database management; computerized on-line ordering services in the field of arts, entertainment, crafts, home furnishing, fashion and accessories, gourmet foods; computerized on-line retail services in the field of arts, entertainment, crafts, home furnishing, fashion and accessories, gourmet foods; conducting marketing studies; consumer research; developing promotional campaigns for business; direct mail advertising; direct marketing advertising for others; displaying advertisements for others; dissemination of advertising for others via the Internet; electronic catalog services featuring arts, entertainment, crafts, home furnishing, fashion and accessories, gourmet foods; mailing list preparation; market analysis; market research; on-line retail store services in the field of arts, entertainment, crafts, home furnishing, fashion and accessories, gourmet foods; preparing and placing advertisements for others; preparing mailing list; promoting the goods and services of others by providing a web site at which user can link to buy Italian goods; providing consumer product information via the Internet; retail store services featuring a wide variety of consumer goods of others” in Class 35, owned by The Medici Inc. (the “Registrant”).

5. Registrant filed its application to register THE MEDICI and Design on October 14, 2005, and the Registration was issued by the USPTO on October 10, 2006.

6. The Registration states that Registrant first used its mark, THE MEDICI and Design, on August 2001.

7. To the extent that there is a likelihood of confusion under Section 2(d) between Petitioner's MEDICI mark and Registrant's mark, THE MEDICI and Design, Petitioner has priority given that Petitioner's date of first use of MEDICI is prior to Registrant's date of first use and the filing date of the Registration.

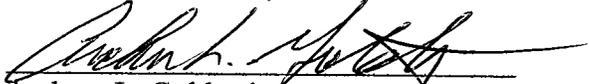
8. Accordingly, the Registration is damaging to Petitioner.

WHEREFORE, Petitioner prays that its petition be sustained and that Registration No. 3,153,688, be cancelled in Class 35.

Petitioner herein submits the requisite filing fee of \$300.00. Please debit any deficiency or credit any overpayment to Account No. 500830. Please address all correspondence to Andrew L. Goldstein, Freeborn & Peters LLP, 311 S. Wacker Drive, Suite 3000, Chicago, Illinois 60606.

Dated: April 2, 2009

FREEBORN & PETERS, LLP

By:   
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Chicago, IL 60606  
(312) 360-6000  
[agoldstein@freebornpeters.com](mailto:agoldstein@freebornpeters.com)

Attorneys for Petitioner

**CERTIFICATE OF SERVICE**

The undersigned certifies that he served a copy of the Petitioner's Petition to Cancel upon the Registrant listed below by causing a copy of same to be sent via U.S. mail, with proper postage prepaid, prior to 5:00 p.m. on April 3, 2009.

The Medici Inc.  
375 Greenwich St.  
New York, NY 10013



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David Ter Molen