

ESTTA Tracking number: **ESTTA277251**

Filing date: **04/09/2009**

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	Nartron Corporation		
Entity	Corporation	Citizenship	Michigan
Address	5000 North U.S. 131 Reed City, MI 49677 UNITED STATES		

Attorney information	Robert C.J. Tuttle and Hope V. Shovein Brooks Kushman P.C. 1000 Town Center, 22nd Floor Southfield, MI 48075 UNITED STATES rtuttle@brookskushman.com, ejbrooks@brookskushman.com, hshovein@brookskushman.com Phone:248-358-4400		
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**Registration Subject to Cancellation**

Registration No	3600880	Registration date	04/07/2009
Registrant	Hewlett-Packard Development Company, L.P. 11445 Compaq Center Drive West Houston, TX 77070 UNITED STATES		

**Goods/Services Subject to Cancellation**

Class 009. First Use: 2007/01/29 First Use In Commerce: 2007/01/29 All goods and services in the class are cancelled, namely: Personal computers, computer hardware, computer monitors, computer display screens
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**Grounds for Cancellation**

Priority and likelihood of confusion	Trademark Act section 2(d)
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**Mark Cited by Petitioner as Basis for Cancellation**

U.S. Registration No.	1681891	Application Date	05/22/1991
Registration Date	04/07/1992	Foreign Priority Date	NONE
Word Mark	SMART TOUCH		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 009. First use: First Use: 1986/12/17 First Use In Commerce: 1988/01/07 electronic proximity sensors and switching devices
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Attachments	HP Petition to Cancel Apr 9 09.pdf ( 12 pages )(2458508 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	/hope v shovein/
Name	Hope V. Shovein and Robert C.J. Tuttle
Date	04/09/2009



Class 9, claiming first use from January 29, 2007, and U.S. Registration No. 3,600,880 issued to HP for the same on April 7, 2009.

2. Petitioner has used the mark SMART TOUCH from a date at least as early as December 1986 in connection with its electronic products.

3. Petitioner is the owner of U.S. Trademark Registration No. 1,681,891 for the SMART TOUCH trademark for “electronic proximity sensors and switching devices” in International Class 9. This registration issued April 7, 1992, and is incontestable, valid and subsisting, uncancelled and unrevoked. **Exhibit 1.**

4. Petitioner has expended considerable effort and expense in promoting its mark SMART TOUCH and goods associated with this mark, with the result that the purchasing public has come to know and recognize Petitioner’s products by this mark. Moreover, Petitioner has an exceedingly valuable good will established in its SMART TOUCH mark.

5. There is no issue as to priority. Petitioner’s registration issued long prior – approximately twenty-five (25) years – to the filing of HP’s application and alleged date of first use.

6. The mark identified in HP’s registration, TOUCHSMART, is identical to Petitioner’s mark, SMART TOUCH, and the marks are used on related goods.

7. Since the mark and goods as described in HP’s registration are so closely related to Petitioner’s mark and goods, confusion and deception as to the origin of Respondent’s goods bearing the mark would occur, all to the damage and detriment of Petitioner. Such use would cause confusion in the trade resulting in damage and injury to Petitioner.

8. Respondent's use or registration of the mark TOUCHSMART in connection with its "personal computers, computer hardware, computer monitors, computer display screens," is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of Respondent with Petitioner, or as to the origin, sponsorship or approval of Respondent's goods by Petitioner.

9. In fact, Respondent's use of TOUCHSMART in connection with a computer monitor and display screens is identical to Petitioner's use of SMART TOUCH for electronic sensors, as evidenced by the attached documents – Narton's specimen of use submitted in conjunction with its application in 1991, and a printout from HP's website. **Exhibit 2.**

10. For the foregoing reasons, Petitioner will be damaged by continued registration of TOUCHSMART, as shown in Registration No. 3,600,880.

WHEREFORE, Petitioner, NARTRON CORPORATION, prays that HEWLETT-PACKARD DEVELOPMENT COMPANY L.P.'s Registration No. 3,600,880 for the mark TOUCHSMART be cancelled.

Respectfully submitted,

**BROOKS KUSHMAN P.C.**

By: 

ROBERT C.J. TUTTLE  
HOPE V. SHOVEIN  
1000 Town Center  
Twenty-Second Floor  
Southfield, Michigan 48075

*Attorneys for Petitioner*

Dated: April 9, 2009

**CERTIFICATE OF SERVICE**

I certify that I served:

**PETITION TO CANCEL**

on April 9, 2009:

delivering

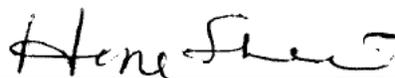
mailing (via First-Class mail)

e-mailing

a copy to:

John Tiedge (john.tiedge@hp.com)  
Assistant General Counsel  
Trademarks and Copyright  
Hewlett-Packard Company  
18110 SE 34<sup>th</sup> Street  
MS B2, Legal Department  
Vancouver, WA 98683

*Attorney for Respondent*



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Hope V. Shovein

**EXHIBIT 1**

Int. Cl.: 9

Prior U.S. Cl.: 21

**United States Patent and Trademark Office**

**Reg. No. 1,681,891**  
Registered Apr. 7, 1992

**TRADEMARK  
PRINCIPAL REGISTER**

**SMART TOUCH**

NARTRON CORPORATION (MICHIGAN COR-  
PORATION)  
5000 N. U.S. 131  
REED CITY, MI 49677

FIRST USE 12-17-1986; IN COMMERCE  
1-7-1988.

SER. NO. 74-168,921, FILED 5-22-1991.

FOR: ELECTRONIC PROXIMITY SENSORS  
AND SWITCHING DEVICES, IN CLASS 9 (U.S.  
CL. 21).

CORA ANN MOORHEAD, EXAMINING AT-  
TORNEY

Thank you for your request. Here are the latest results from the [TARR web server](#).

This page was generated by the TARR system on 2009-04-09 17:11:49 ET

Serial Number: 74168921 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 1681891

Mark (words only): SMART TOUCH

Standard Character claim: No

Current Status: [This registration has been renewed](#).

Date of Status: 2002-02-07

Filing Date: 1991-05-22

Transformed into a National Application: No

Registration Date: 1992-04-07

Register: [Principal](#)

Law Office Assigned: [LAW OFFICE 4](#)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov)

Current Location: [40S -Scanning On Demand](#)

Date In Location: 2007-12-28

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#### LAST APPLICANT(S)/OWNER(S) OF RECORD

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##### 1. [NARTRON CORPORATION](#)

**Address:**

[NARTRON CORPORATION](#)

[5000 N. U.S. 131](#)

[Reed City, MI 49677](#)

[United States](#)

**Legal Entity Type:** [Corporation](#)

**State or Country of Incorporation:** [Michigan](#)

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#### GOODS AND/OR SERVICES

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**International Class:** [009](#)

**Class Status:** [Active](#)

electronic proximity sensors and switching devices

**Basis:** 1(a)

**First Use Date:** 1986-12-17

**First Use in Commerce Date:** 1988-01-07

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#### ADDITIONAL INFORMATION

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(NOT AVAILABLE)

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#### MADRID PROTOCOL INFORMATION

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(NOT AVAILABLE)

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#### PROSECUTION HISTORY

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**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

2007-12-28 - Case File In TIGRS

2002-02-07 - First renewal 10 year

2002-02-07 - Section 8 (10-year) accepted/ Section 9 granted

2001-12-06 - Combined Section 8 (10-year)/Section 9 filed

1998-04-11 - Section 8 (6-year) accepted & Section 15 acknowledged

1997-11-24 - Section 8 (6-year) and Section 15 Filed

1992-04-07 - Registered - Principal Register

1992-01-14 - Published for opposition

1991-12-13 - Notice of publication

1991-09-09 - Approved for Pub - Principal Register (Initial exam)

1991-08-26 - Assigned To Examiner

1991-07-22 - Communication received from applicant

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#### ATTORNEY/CORRESPONDENT INFORMATION

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**Correspondent**

ELIZABETH F. JANDA

BROOKS & KUSHMAN PC

1000 TOWN CTR 22TH FL

[SOUTHFIELD MI 48075](#)

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EXHIBIT 2

Announcing . . .

# SMART TOUCH™

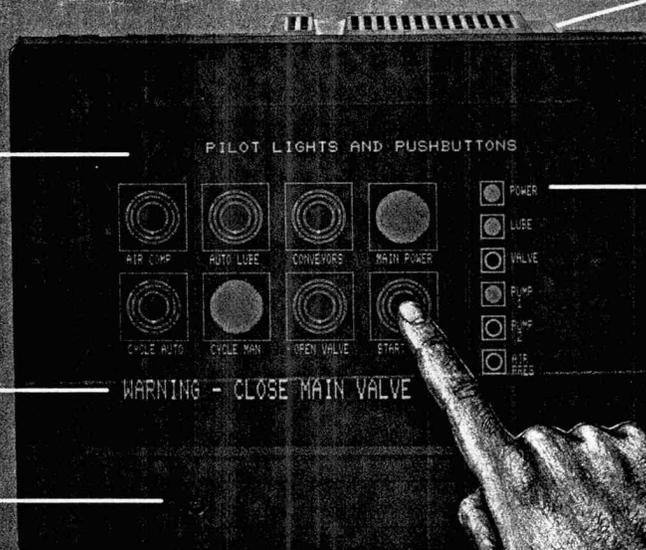
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produces cus-  
tom panels fast

Touch Screen  
Actuation

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hp

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SKIP INTRO

DON'T JUST TOUCH...

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