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

Proceeding	92051170
Party	Plaintiff O2Micro International Limited
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Attachments	Cross Motion.pdf (18 pages)(1482090 bytes) Declaration of Carol Ball.pdf (2 pages)(183377 bytes) Declaration of Jennifer Fessler.pdf (19 pages)(1142228 bytes) Exhibit A- German Court Order.pdf (4 pages)(256049 bytes) Exhibit B- O2 Specimens.pdf (5 pages)(2404781 bytes) Exhibit C- O2 Holdings Applications.pdf (27 pages)(3467029 bytes) Exhibit D- O2 v Locus Opposition.pdf (5 pages)(362305 bytes) Exhibit E- Baker Submission.pdf (5 pages)(486097 bytes)

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INTRODUCTION

Petitioner, O2Micro International Limited (“O2Micro”) respectfully submits its response to Registrant’s O2 Holdings Limited (“O2 Holdings”) Motion for Summary Judgment (“the Motion”) and also files its own motion for summary judgment since the undisputed facts establish as a matter of law that Registrant abandoned the mark shown in U.S. Trademark Registration No. 2231093 and knowingly made material misrepresentations of fact in its Section 8/9 Application for renewal of said Registration.

STATEMENT OF MATERIAL FACTS

O2Micro and O2 Holdings each own applications and registrations for their various “O2” trademarks in many countries. They are parties to several trademark disputes in several countries, all involving the parties’ respective “O2” trademarks including oppositions filed in Taiwan, Singapore, the European Community, and litigation initiated in Germany by O2 Holdings on July 16, 2009. O2Micro refers the Board to Exhibit A which is a copy of a Court Order from the Regional Court of Hamburg, Germany in a trademark infringement civil action which indicates O2 Holdings Ltd., as the Petitioner and O2 Micro International Ltd., as the Opponent of Petition and concerning the aforementioned marks. In the United States, O2 Holdings’ application or registration with the earliest filing date is a registration O2 Holdings acquired from Silicon Graphics, Inc. (SGI). The former SGI Registration is the subject of the present cancellation action, that is, U.S. Registration No. 2231093 (“the ‘093 Registration”) and is of record in this action pursuant to TBMP § 528.05(a). 37 CFR 2.122(b).

O2Micro has been using the marks “O2MICRO,” “O2MICRO SMART CARD ENABLED, plus design,” “O2MICRO BREATHING LIFE INTO MOBILITY, plus design,”

and “O2MICRO, plus design” (hereinafter referred to as the “O2Micro marks”) in connection with integrated circuits and related devices in commerce since at least as early as May of 1995. See Exhibit B showing the above-referenced O2Micro marks as they are used in commerce by O2Micro.

O2 Holdings is in the telecommunications business and provides its services in several countries, not including the United States (Declaration of Jennifer L. Fessler and Exhibits thereto). O2 Holdings has filed numerous US Trademark Applications for a variety of “O2” trademarks, none of which are based on use in commerce under Section 1(a). (See Exhibit C). Accordingly, the only US trademark application or registration in the name of O2 Holdings in which a claim of use in commerce has been made is the ‘093 Registration.

The ‘093 Registration covers “computer hardware and computer operating system software, and instructional manuals therefore sold as a unit therewith.” The specimen of use submitted in 2004 with the Section 8/15 Affidavits of SGI comprised a graphic image of a computer hardware workstation showing a depiction of a stylized “O2” on the front. The ‘093 Registration was assigned to O2 Holdings October 29, 2007 (see Answer to Petition to Cancel Registration). On March 9, 2009 O2 Holdings filed a Combined Declaration of Use in Commerce & Application for Renewal of Registration of a Mark under Sections 8 & 9 (hereinafter the Renewal Application) with the United States Patent and Trademark Office and claimed current use of the mark in commerce in connection with all of the goods recited in the ‘093 Registration (see Answer to Petition to Cancel Registration).

With respect to the Renewal Application, the following allegation was set forth in the Petition to Cancel Registration:

Said filing included image files described as “Digital image of Applicant’s website showing goods and information on how to order goods” and comprising a

copy of SGI's "Silicon Graphics O2 Visual Workstation" datasheet, including the copyright notice "© 2000 Silicon Graphics, Inc.," and a copy of pages at SGI's web site, particularly the page shown at www.sgi.com/products/legacy/mips/html comprising photos of products that were no longer manufactured or sold, and hyperlinks to download owner's guides therefore. n.1 The page shown at www.sgi.com/products/legacy is the page which provides a link to the specimen page, and it includes the heading "here you will find information for products that are no longer manufactured or sold by SGI."

Thus, the user would first find this statement and then be able to link to the page which O2 Holdings submitted as a specimen of use in its Renewal Application.

In its Answer to Petition to Cancel Registration, O2 Holdings stated it "has insufficient knowledge or information upon which to form a belief concerning" the foregoing allegation.

In January, 2009, prior to the filing of the Renewal Application, an SGI sales representative reported that the "O2" computer products had been discontinued as much as seven years earlier, were no longer available, and had been replaced with a different brand, "Fuel." (Declaration of Carol Ball).

On October 11, 2005, O2 Holdings filed a Notice of Opposition against US Trademark Application 78376314 for the mark "O2." The Opposition was assigned No. 91166857 and is currently pending. In the said Notice of Opposition, O2 Holdings alleges likelihood of confusion between its "O2" trademark and the opposed "O2" trademark, yet fails to assert any use of its alleged "O2" trademark in commerce (Exhibit D). The Notice of Opposition has not been amended to add an allegation of use in commerce despite O2 Holdings having acquired the '093 Registration in which a claim of use in commerce has been made.

1. Registrant's Motion for Summary Judgment was not timely filed

A party may not file a motion for summary judgment until the party has made its initial disclosures, except for a motion asserting a claim or issue preclusion or lack of jurisdiction by the Trademark Trial and Appeal Board. 37 CFR §2.137(e)(1). O2 Holdings filed its Motion for

Summary Judgment on October 14, 2009. O2 Holdings did not make its initial disclosures to O2Micro until October 28, 2009.

Accordingly, O2Micro submits that O2 Holdings' Motion for Summary Judgment should be denied as untimely.

2. Registrant may not obtain summary judgment on an issue that has not been pleaded

The pleadings do not include an allegation by O2 Holdings on the issue of O2Micro's standing to bring the subject cancellation action. However, O2 Holdings' Motion for Summary Judgment seeks a ruling on the issue of O2Micro's standing.

A party may not obtain summary judgment on an issue that has not been pleaded....Generally, a party that seeks summary judgment on an unpleaded issue may move to amend its pleading to assert the matter.
TBMP § 528.07(a).

O2Holdings has included in its Motion, a motion for alternative relief, namely to amend its Answer to add the affirmative defense that O2Micro lacks standing. O2 Holdings could have filed a Motion for leave to amend its Answer but chose the more burdensome approach of a Motion for Summary Judgment, essentially forcing O2Micro to fully respond with arguments on the merits of the issue of standing, lest risk having the Petition to Cancel dismissed.

O2Micro submits that O2 Holdings' Motion for Summary Judgment be denied as being improperly filed on an issue that has not been pleaded.

3. Registrant is not entitled to Summary Judgment on the issue of Petitioner's Standing

Establishing standing involves a two-step process: A petitioner must plead and prove facts sufficient to show its standing. At the pleading stage, a petitioner must allege facts in the petition for cancellation demonstrating its real interest in the proceeding. Those facts must

thereafter be proved by the petitioner as part of its case. *Ritchie v. Simpson*, 170 F.3d 1092, 50 USPQ2d 1023, 1025 (Fed. Cir. 1999).

To plead a "real interest," plaintiff must allege a "direct and personal stake" in the outcome of the proceeding. *Ritchie v. Simpson*, supra at 1026. The allegations in support of plaintiff's belief of damage must have a reasonable basis "in fact." *Ritchie v. Simpson*, supra at 1027 (citing *Universal Oil Products v. Rexall Drug & Chemical Co.*, 463 F.2d 1122, 174 USPQ 458, 459-60 (CCPA 1972) and stating that the belief of damage alleged by plaintiff must be more than a subjective belief).

In the present case, O2Micro has a direct and personal stake in the outcome of the proceeding because it has a real commercial and economical interest in protecting its family of "O2" trademarks. O2Micro's marks are likely to be confused with the registered mark based on the similarities in the sight, sound and overall commercial impression of the parties' marks as well as the relationship between the parties' products. Therefore, the registration could weaken the sales position of O2Micro and negatively affect the good will in O2Micro's marks. To establish a reasonable basis for a belief that one is damaged by the registration sought to be cancelled, a petitioner may assert a likelihood of confusion that is not wholly without merit. *Lipton Industries, Inc. v. Ralston Purina Co.*, 670 F.2d 1024, 213 USPQ 185 (CCPA 1982).

Based on the foregoing, it is clear that O2Micro has a real interest in the outcome of this proceeding beyond a mere intermeddler or gratuitous interloper.¹ In addition, O2Micro has established conditions and circumstances from which damage to it from the registered mark can be assumed. The Trademark Board has concluded that there is no requirement that any type of

¹ There is a low threshold for a plaintiff to go from being a mere intermeddler to one with an interest in the proceeding. *Estate of Biro v. Bic Corp.*, 18 U.S.P.Q.2d 1382 (T.T.A.B. 1991). *Ritchie v. Simpson*, 170 F.3d 1092, 50 USPQ2d 1023, 1025 (Fed. Cir. 1999) (a Petitioner need only be something more than a gratuitous interloper or a vicarious avenger of someone else's rights).

actual damage be pleaded and proved in order to establish standing or to prevail in an opposition or cancellation proceeding. *Harjo v. Pro Football*, 30 U.S.P.Q.2d 1828 (T.T.A.B. 1994). All petitioner need show is the likelihood of damage from the continuing registration of the mark. *Golden Gate Salami Co. v. Gulf States Paper Corp.*, 332 F.2d 184, 141 U.S.P.Q. 661 (C.C.P.A. 1964).

Furthermore, a real interest in the proceeding and a reasonable belief of damage may be found where petitioner pleads and later proves that defendant has relied on its ownership of its registration in another proceeding between the parties, or defendant has asserted a likelihood of confusion in another proceeding between the parties involving the same marks. *See Tonka Corp. v. Tonka Tools, Inc.*, 229 USPQ 857, 859 (TTAB 1986) (petitioner has standing to cancel registration that has been asserted, even defensively, in a civil action). O2Micro and O2 Holdings currently are parties to trademark opposition and civil litigation proceedings in other countries and concern the O2Micro marks. For instance, the parties' are involved in a trademark infringement civil action involving the parties' "O2" marks, which was brought in the Regional Court of Hamburg, Germany, wherein O2 Holdings Ltd. is the Petitioner and O2 Micro International Ltd. is the Opponent of Petition. Therefore, it is reasonable for O2Micro to conclude that O2 Holdings will initiate similar proceedings in the United States. For this reason, O2Micro has a real interest in protecting itself from such litigation.

Moreover, O2 Holdings argues that O2Micro is barred from "changing its tune" and now arguing that there is likelihood of confusion between the parties' marks where it argued in the alternative to the Examiner reviewing its applications for the O2Micro marks. However, even though O2Micro's application for the mark "O2MICRO" was initially refused because of O2 Holdings' registration (at that time owned by SGI), under the *Lipton* rule, O2Micro still has

standing to petition to cancel O2Micro's registration. In fact, when O2Micro makes its allegations of likely confusion, it may properly frame them in hypothetical fashion, assuming the Examiner's view of likely confusion as the predicate. While this pleading of likely confusion may be inconsistent with O2Micro's argument of no likely confusion to the Examiner in its own application, Fed. R. Civ. P. 8(e) permits such an inconsistency. *Home Juice Co. v. Runclin Cos.*, 231 U.S.P.Q. 897 (T.T.A.B. 1986).

For the foregoing reasons, O2Micro requests that the O2 Holdings' Motion for Summary Judgment be denied.

4. Petitioner is entitled to Summary Judgment on the issue of fraud on the Trademark Office

- a. Registrant knowingly made false representations to the Trademark Office in its Section 8/9 renewal Application

The US Trademark Office depends on the accuracy of information provided by applicants and registrants regarding an applicant's or registrant's goods and services [as it] has no ability to verify the truth of identifications and other critical information independently." *Grand Canyon West Ranch LLC v Hualapai Tribe*, 88 U.S.P.Q.2d 1501 (T.T.A.B. 2008). *See also, Standard Knitting Ltd. v. Toyota Jidosha Kabushiki Kaisha*, 77 U.S.P.Q.2d 1917, 1928 (T.T.A.B. 2006)(the PTO "relies on the thoroughness, accuracy and honesty of each applicant [because it] does not inquire as to the use of the mark on each good listed...relying on applicant's declaration"). Thus, imposing a duty on applicants to ensure the accuracy of their applications protects the integrity of the trademark registry and ensures it will not be tainted with false statements of use, which affect all trademark owners and applicants.

Here, notwithstanding knowledge to the contrary, O2 Holdings claimed to be using a trademark in commerce for goods which it did not sell, in a field of business in which O2

Holdings is not a participant anywhere in the world, most significantly, not in the United States, and goods which its predecessor in interest had not sold under the mark for years, but had begun selling under a different trademark. Simply stated, when O2 Holdings filed its Renewal Application, there was no reasonable basis for a claim that O2 Holdings was using the “O2” mark in commerce connection with “computer hardware and computer operating system software, and instructional manuals therefore sold as a unit therewith.”

b. Registrant’s specimens submitted with its Section 8/9 renewal were intentionally incomplete

SGI abandoned its “O2” trademark for “computer hardware and computer operating system software, and instructional manuals therefore sold as a unit therewith” before assigning the ‘093 Registration to O2 Holdings (Declaration of Carol Ball), and at least three years prior to O2 Holdings’ filing of the Renewal Application, yet O2 Holdings submitted a specimen of use showing an image of the discontinued product, and submitted a declaration that the mark was in use in commerce in connection with such goods. The specimen comprises a 2002 “Data Sheet” and pages from the SGI web site on which discontinued products are shown and from which user manuals for the discontinued products are available for download. The web page that appeared prior to the page on which discontinued products are shown is a page that explains that the products, identified as “Legacy Products,” are discontinued (See Exhibit A to the Declaration of Fessler and Declaration of Ball). The specimen submitted with the Renewal Application does not include this “Legacy Products” page which would have made of record the fact that the “O2” system was no longer available.

The products and services offered by O2 Holdings’ anywhere in the world under the “O2” trademark do not include “computer hardware and computer operating system software, and instructional manuals therefore sold as a unit therewith.” O2 Holdings did not deny in its

Answer that it submitted specimens of use for products that are no longer manufactured or sold under the “O2” trademark. Neither SGI nor O2 Holdings sell such goods in the United States under the “O2” trademark and O2 Holdings was well aware of that fact when it filed the Renewal Application.

As recently held by the Court of Appeals for the Federal Circuit, “a trademark is obtained fraudulently under the Lanham Act only if the applicant or registrant knowingly makes a false, material representation with the intent to deceive the PTO.” *In re Bose Corporation*, 08-1448 (C.A.F.C. 2009). The CAFC also acknowledged in Bose that although it is the registrant’s subjective intent that must be determined, that “intent must often be inferred from the circumstances and related statement made.” *See Medinol v. Neuro Vasx, Inc.*, 67 U.S.P.Q.2d 1205, 1209 (T.T.A.B. 2003).

In the present case, the circumstances are as follows:

- O2 Holdings is not in the business of manufacturing or marketing “computer hardware and computer operating system software, and instructional manuals therefore sold as a unit therewith,” and it would be unreasonable to assume O2 Holdings is not aware of this;
- O2 Holdings acquired a US Trademark Registration for an abandoned mark covering “computer hardware and computer operating system software, and instructional manuals therefore sold as a unit therewith;”
- O2 Holdings does not deny it in its Answer that it submitted a specimen and declaration of current use for a product that is not sold under the “O2” mark in the US and;
- O2 Holdings failed to allege prior rights in the US in its own trademark opposition against a third party “O2” trademark application, even after it acquired the ‘093 Registration.

These circumstances can be interpreted only one way: O2 Holdings knowingly and intentionally made false material representations to the US Trademark Office in its Renewal Application.

c. Registrant's submission of additional specimens following initiation of the cancellation action confirms Registrant's intent to mislead

Furthermore, a review of the record for the '093 Registration, and the parties' submissions with respect to Petitioner's Motion to Strike Affirmative Defenses, shows that O2 Holdings submitted to the US Trademark Office by letter dated September 8, 2009, a "declaration and a substitute/additional specimen" in connection with the '093 Registration (Exhibit E). The submission purports to include a specimen of use comprising "digital photographs of computer hardware onto which operating system software is downloaded for use in electronic telecommunications devices which bear the subject mark." In fact, the specimen comprises an image of a telephone "smart card" with a memory chip for use in connection with telecommunications services in the United Kingdom. If O2 Holdings believed its Renewal Application was defensible, it would have no reason to submit an "additional/substitute" specimen at any time, particularly not after the Petition to Cancel was filed.

Furthermore, a "smart card" with a memory chip does not have "operating system software" downloaded onto it, and even if it did, O2 Holdings does not sell the "hardware," but sells the telecommunications services (in the United Kingdom) that are paid for or accessed via the user of the smart card.

In addition, the declaration included in the September 8, 2009 submission by O2 Holdings indicates that "instructional manuals therefore sold as a unit therewith" should be deleted from the registration. Such goods were included in the declaration filed with the Renewal Application and the declaration stated that such goods were sold in commerce under the "O2" trademark. O2 Holdings can not now seek to simply amend its registration (the statement in the declaration does not comprise submission of an amendment) in an effort to somehow "cure" its Renewal Applications. Accordingly, even if the "additional/substitute" specimen was

relevant, or could somehow “cure” the deficiencies in the Renewal Application, its filing and the related declaration do not support a claim that O2 Holdings is using the “O2” trademark in commerce in the United States in connection with computer hardware and operating system software. Instead, this submission further supports the position that the Renewal Application comprised knowingly false material representations.

O2Micro submits that there are no disputed material facts with respect to O2 Holdings having made a knowingly false, material representation with the intent to deceive the US Trademark Office when it filed its Renewal Application. Accordingly, O2Micro respectfully requests that its motion for summary judgment on this issue be granted.

5. Petitioner is entitled to Summary Judgment on the issue of abandonment

Trademark law provides for canceling a registration “[a]t any time if the registered mark ... has been abandoned,” 15 U.S.C. § 1064(3), and defines abandonment as discontinued use with an intent not to resume, 15 U.S.C. § 1127. Under the Lanham Act, proof of nonuse for three years creates a presumption that the mark has been abandoned. *id.* Once a prima facie case of abandonment is made by the challenger's evidence of nonuse for more than the statutory time period, only the burden of going forward (burden of production) shifts to the trademark registrant. In carrying this burden of going forward, the registrant can do one or both of two things: (1) provide evidence to disprove the underlying fact triggering the presumption: three consecutive years of nonuse; and/or (2) provide evidence of an intent to resume use to disprove the presumed fact of no intent to resume use. *Cerveceria Centroamericana, S.A. v. Cerveceria India, Inc.*, 892 F.2d 1021, 13 U.S.P.Q.2d 1307 (Fed. Cir. 1989) (on the facts, the presumption was not rebutted and the mark was held abandoned); *Rivard v. Linville*, 133 F.3d 1446, 45

U.S.P.Q.2d 1374 (Fed. Cir. 1998) (on the facts, the registrant could not rebut the presumption and the registration was cancelled for abandonment).

O2Micro has provided evidence of non use by O2 Holdings and its predecessor, SGI, by way of the Declaration of Carol Ball, the web sites reviewed and discussed in the Declaration of Jennifer L. Fessler including the “Legacy” page on the SGI web site. In particular, In January of 2009, a sales representative of SGI advised that the “O2” product had been discontinued as much as seven years earlier and replaced with a product sold under a different trademark, and the SGI web site listed the “O2” product as being discontinued. (see Ball Declaration). Thus, SGI abandoned the “O2” trademark sometime around 2002. The ‘093 Registration was assigned to O2 Holdings in 2007, approximately five years after SGI discontinued use of the trademark. Even if the sales representative was exaggerating, and use of the “O2” trademark was discontinued only five years earlier, that is, in 2004, three years would have passed before the ‘093 Registration was assigned. Furthermore, even if use of the “O2” mark was not discontinued until just one year prior to the transfer of the ‘093 Registration, three years of non-use would have passed by the time the Renewal Application was filed in March, 2009. Thus, the mark identified in the ‘093 Registration was abandoned prior to transfer to O2 Holdings, and for a length of time prior to the time the Renewal Application was filed.

These facts and the facts surrounding the Renewal Application demonstrate the mark shown in the “093 Registration was not in use for more than the statutory time period and that there was no intent to resume use on behalf of SGI (they replaced the mark with another trademark, “Fuel”). If O2 Holdings had an intent to resume use of the mark after acquiring the registration in 2007, it must now provide evidence that such intent existed within the statutory

period of nonuse, that is, years prior to its acquisition of the '093 Registration. Such a showing would not be possible.

Furthermore, as seen with respect to the discussion herein with respect to O2Micro's claim of fraud, if O2 Holdings had evidence of use of the mark when it filed the Renewal Application, such use, if submitted, would have only demonstrated use of the mark in March 2009, but not use of the mark during a time period which would support the position that the mark was in use (or not abandoned) when O2 Holdings acquired the '093 registration in 2007. In other words, O2 Holdings acquired a registration for an abandoned mark and two years later submitted an affidavit containing a knowing false statement that the registered mark was in use in commerce rather than filing an affidavit and specimen showing current use, which did not exist.

Based on the foregoing, O2Micro submits that there are no disputed material facts with respect to nonuse of the subject trademark for at least the statutory period, and no disputed material facts with respect to an intent to resume use during that period, and no disputed facts that O2 Holdings has ever used the mark shown in the '093 Registration for the goods identified therein. Accordingly, O2Micro requests that its motion for summary judgment on the issue of abandonment be granted.

CONCLUSION

Petitioner, O2Micro, respectfully requests that the Board DENY Registrant's Motion for Summary Judgment and GRANT Petitioner's Motion for Summary Judgment and grant such other further relief as it deems appropriate.

O2Micro International Limited

Dated: *Nov. 5, 2009*

By: *Teresa C. Tucker*
Teresa C. Tucker
Attorney for Petitioner
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CERTIFICATE OF SERVICE

It is hereby certified that a true and complete copy of the subject PETITIONER'S RESPONSE TO REGISTRANT'S MOTION FOR SUMMARY JUDGMENT AND CROSS MOTION FOR SUMMARY JUDGMENT was served upon the Respondent via First Class mail, postage prepaid, this *5th* day of November, 2009 to the following address:

Linda Kurth
Baker & Rannells PA
575 Route 28, Suite 102
Raritan NJ 08869

By: *Teresa C. Tucker*
Teresa C. Tucker

<http://www.sgi.com/products/legacy>

Legacy Products

Here you will find information for products that are no longer manufactured or sold by SGI. For information on current SGI products, please visit the Products section. Non-current products may be available through the Remarketed Products Group. Support information for legacy products can be found in the Support and Downloads section. Additional documentation can be found in the Technical Publications library.

6. Having convinced myself using the Internet, including the website of Silicon Graphics, Inc. ("www.sgi.com") that Silicon Graphics, Inc. did not offer a product under the designation "O2", I called Silicon Graphics, Inc. in January 2009 at the phone number 408-524-1980. The call was taken by an employee of Silicon Graphics, Inc. by replying "Silicon Graphics". My inquiry as for "O2" was directed to one Mr. Mark Simpkins. He could not be reached personally and I left a message on his answering machine. As he had not replied to my call, I left another message at some later time.
7. I then received an email from one Shelly Zavoral, the sales representative at Silicon Graphics, Inc. for the Western part of the United States. I then tried to reach Shelly Zavoral by phone and left a message.
8. In a telephone conversation with Shelly Zavoral on January 29, 2009, she told me that Silicon Graphics, Inc. no longer has any products with the designation "O2" in stock. Shelly Zavoral told me that a product with the designation "Fuel" had replaced the earlier product "O2" and that Silicon Graphics, Inc. no longer sells any "O2" products.
9. I asked Shelly Zavoral when the product "O2" had been discontinued and she replied "Oh gosh, years and years ago". I asked how many years ago and she said "Maybe seven years ago". When I later asked her for confirmation that "O2" had been discontinued seven years ago, Shelly Zavoral replied "Maybe longer".
10. I asked once more whether "O2" products were still available and Shelly Zavoral replied, "We have zero inventory".
11. I declare under penalty being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001.

Carol Ball

Carol Ball

Date: October 28, 2009

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

In Re Trademark Reg. No. 2231093)

Dated: March 9, 1999)

Mark: O2)

Class: INT. 9)

O2Micro International Limited)
 Petitioner) Cancellation No. 92051170
)
 v.)
)
O2 Holdings Limited)
 Respondent)

DECLARATION OF JENNIFER L. FESSLER

I, Jennifer L. Fessler, pursuant to 28 U.S.C. §1746, declare as follows:

1. I am over the age of 18 years and am fully competent to make this declaration. I make this declaration in support of O2Micro International Limited's ("O2 Micro") Motion for Summary Judgment. I make the following statements based on personal knowledge and if called to testify to them could and would do so.
2. I am an Associate with the law firm of Grossman, Tucker, Perreault & Pflieger, PLLC of 55 S. Commercial Street, Manchester, New Hampshire 03101.
3. On June 25, 2009 I logged onto the internet using the "Internet Explorer®" browser product of Microsoft® and entered the webpage address or "url"

<http://www.sgi.com/products/legacy/> and printed a copy of the web site page accessed thereby.

4. Attached hereto as Exhibit A is a true and correct copy of the web site page accessed on the internet by the url <http://www.sgi.com/products/legacy/>.
5. I have this day logged on to the internet using the using the “Internet Explorer®” product of Microsoft® and searched the websites of O2 Holdings, at the urls <http://www.o2.com/> and <http://www.o2.co.uk/>, and the website of its parent company Telefonica S.A., at the url <http://www.telefonica.com/en/home/jsp/home.jsp>. I have carefully reviewed said websites and have found nothing to indicate or suggest that “O2” brand products or services are being offered for sale in the United States by these companies.
6. On November 13, 2008 I logged onto the internet using the “Internet Explorer®” browser product of Microsoft® and entered the webpage address or “url” www.google.com and conducted a web search for the term “o2 holdings telefonica united states” and followed the first search result url hyperlink www.telefonicaeuropeday.com/where-we-operate.html and printed a copy of the web site page accessed thereby.
7. Attached hereto as Exhibit B is a true and correct copy of the web site page accessed on the internet by the url www.telefonicaeuropeday.com/where-we-operate.html.
8. On November 24, 2008 I logged onto the internet using the “Internet Explorer®” browser product of Microsoft® and entered the webpage address or “url” <http://www.telefonica.es/accionistaseinversores/ing/html/informaciongrupo/presencia.shtml> and printed a copy of the web site page accessed thereby.

9. Attached hereto as Exhibit C is a true and correct copy of the web site page accessed on the internet by the url
<http://www.telefonica.es/accionistaseinversores/ing/html/informaciongrupo/presencia.shtml>.
10. On November 24, 2008 I logged onto the internet using the “Internet Explorer®” browser product of Microsoft® and entered the webpage address or “url”
http://www.telefonica.com/es/shareholders_investors/html/informaciongrupo/estadosunidos.shtml and printed a copy of the web site page accessed thereby.
11. Attached hereto as Exhibit D is a true and correct copy of the web site page accessed on the internet by the url
http://www.telefonica.com/es/shareholders_investors/html/informaciongrupo/estadosunidos.shtml.
12. On November 2, 2009 I logged onto the internet using the “Internet Explorer®” browser product of Microsoft® and entered the webpage address or “url”
http://www.telefonica.com/en/telefonica_brands/at_identidad_marcas_o2.shtml and printed a copy of the web site page accessed thereby.
13. Attached hereto as Exhibit E is a true and correct copy of the web site page accessed on the internet by the url
http://www.telefonica.com/en/telefonica_brands/at_identidad_marcas_o2.shtml.
14. On November 2, 2009 I logged onto the internet using the “Internet Explorer®” browser product of Microsoft® and entered the webpage address or “url”

http://www.o2.com/about_us.asp and printed a copy of the web site page accessed thereby.

15. Attached hereto as Exhibit F is a true and correct copy of the web site page accessed on the internet by the url http://www.o2.com/about_us.asp.
16. I have reviewed the websites show in Exhibits B thru F and have found nothing to indicate or suggest the "O2" branded products or services are being offered for sale in the United States by these companies.

I declare under penalty of perjury of the laws of the United States of America that the foregoing statements are true and correct to the best of my knowledge.

Executed on November 4, 2009.



Jennifer L. Fessler

EXHIBIT A



Search

[Products](#)

[Solutions](#)

[Partners](#)

[Support](#)

[News](#)

[About Us](#)

[Worldwide](#)

[Ready to buy? Contact Sales >>](#)

Products & Services

Legacy Products

Intel Based Systems

MIPS Based Systems

Displays

Legacy Products

Here you will find information for products that are no longer manufactured or sold by SGI. For information on current SGI products, please visit the Products section. Non-current products may be available through the Remarketed Products Group.

Support information for legacy products can be found in the Support and Downloads section. Additional documentation can be found in the Technical Publications library.

Intel® Based Systems

- Silicon Graphics® 320
- Silicon Graphics® 540
- Silicon Graphics® 230
- Silicon Graphics® 330
- Silicon Graphics® 550
- Silicon Graphics® 750
- Silicon Graphics Zx10™
- Silicon Graphics Zx10™ VE
- SGI Zx10™ Server
- SGI® 1100
- SGI® 1200
- SGI® 1400
- SGI® 1450
- SGI Graphics Cluster™
- Silicon Graphics Prism® Deskside

MIPS® Based Systems

- IRIS Indigo®
- Indy®
- Indigo2™
- Indigo2 Impact™
- Challenge®
- Silicon Graphics® O2®
- Silicon Graphics® O2+™
- Silicon Graphics® Octane®
- Silicon Graphics® Octane2™
- Silicon Graphics® Onyx®
- Silicon Graphics® Onyx2®
- SGI® Onyx® 300
- SGI® Origin 200®
- SGI® Origin® 2000
- SGI® Origin® 300

Displays

- Silicon Graphics® 1600SW
- Silicon Graphics MultiLink™ Adapter
- Silicon Graphics® F180
- Silicon Graphics® F181
- Silicon Graphics® F190
- Silicon Graphics® F220
- Silicon Graphics® F230
- SGI® Reality Center® 3300W

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EXHIBIT B

This is Google's cache of <http://www.telefonicaeuropeday.com/where-we-operate.html>. It is a snapshot of the page as it appeared on Oct 18, 2008 21:22:11 GMT. The current page could have changed in the meantime. [Learn more](#)

These search terms are highlighted: **o2 telefonica united states** These terms only [Text-only version](#)
appear in links pointing to this page: **holdings**

About Telefónica > Where we operate

The geographical balance of our business, combined with the convergence of services and technologies, explains the organisational structure based on three geographical regions: Spain, Europe and Latin America.

With a global customer base of more than 245 million, Telefónica is the world's largest integrated operator by customer accesses.

Telefónica is the leader in the Latin America telecommunications market, and also enjoys a significant footprint in Europe.

In Europe, we are present in nine, key European markets. Where our 89,000 employees provide fixed, mobile and broadband services to our 90 million customers.

Telefónica España

Our core activity is the exploitation of fixed and mobile telephony and broadband in Spain.

Telefónica España continues to drive market growth, consolidating its competitive positioning. At the end of June 2008, Telefónica España managed 47 million accesses, a year-on-year increase of 3.9%, boosted by the 5.1% year-on-year growth in wireless customers to over 23.2 million and 18.3% growth in retail internet broadband accesses to over 5 million in the wireline business.

Telefónica España uses movistar as its commercial brand, in Spain.

Telefónica Europe

Telefónica Europe is a business division of Telefónica comprising mobile, fixed, and DSL operations in the UK, Ireland, the Isle of Man, Germany, the Czech Republic, and Slovakia. With the exception of Isle of Man, all the operating businesses use 'O2' as their consumer brand.

Telefónica Europe also has 50% ownership of the UK and Irish Tesco Mobile and German Tchibo Mobilfunk joint venture businesses. Telefónica Europe is headquartered in Slough, UK, and has 43 million mobile and fixed customers.

Telefónica Latinoamérica

Our main activity is the exploitation of fixed, mobile and broadband services in Latin America, where it has achieved a presence in all of the key markets.

In the second quarter of 2008, Telefónica registered a solid growth in customer accesses managed in Latin America to 147.7 million, thanks to the strong growth in mobile telephony, with a year-on-year increase of 21.4%, reaching nearly 113.5 million mobile accesses, and the sustained increase in broadband accesses exceeding 5.5 million, driven by the commercial effort made by all operators.

It offers services in Argentina, Brazil, Chile, Colombia, Ecuador, El Salvador, **United States**, Guatemala, Mexico, Nicaragua, Panama, Peru, Puerto Rico, Uruguay and Venezuela. It also runs the Telefónica office in China and the alliance with China Netcom.

Telefónica's commercial brands in Latin America comprise movistar and terra.

Alliances

Telefónica is widening its horizons for growth through strategic and industrial alliances.

The company owns a 7.2%* stake in China Netcom. In a country of 1,300 million inhabitants - there is huge growth potential for the ICT sector. China Netcom achieved 131 million accesses as of March 2008. In terms of forecast, it's expected that 21% of worldwide telecom revenues growth will be generated in China, between 2007-2010**.

Telefónica, through joining forces with Telecom Italia, is part of the largest telecom alliance in Europe with a 19% market share.

Telefónica is also the second largest shareholder of Portugal Telecom with a 9.6% holding.

* 2.2% pending of regulatory approval. Additionally, **Telefonica** announced last 4th of September the acquisition of a 5.74% of China Netcom (the total stake would represent a 5.5% of the new China Unicom after its merger with China Netcom).

** Yankee Group Forecast, October 2007.

EXHIBIT C

Shareholders and Investors Telefónica S.A.

→ Country operations

↳ Europe

- Austria
- Belgium
- Czech Republic
- Denmark
- France
- Germany
- Netherlands
- Ireland
- Italy
- Poland
- Portugal
- Spain
- Sweden
- Switzerland
- United Kingdom

↳ America

- Argentina
- Brazil
- Canada
- Chile
- Colombia
- Costa-Rica
- Dominican Republic
- Ecuador
- El Salvador
- Guatemala
- Honduras
- Mexico
- Nicaragua
- Panama
- Peru
- Puerto Rico
- United States
- Uruguay
- Venezuela

↳ other

- Australia
- Morocco
- Southafrica

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EXHIBIT D

Shareholders and Investors Telefónica S.A.

⇒ Country operations

← Back

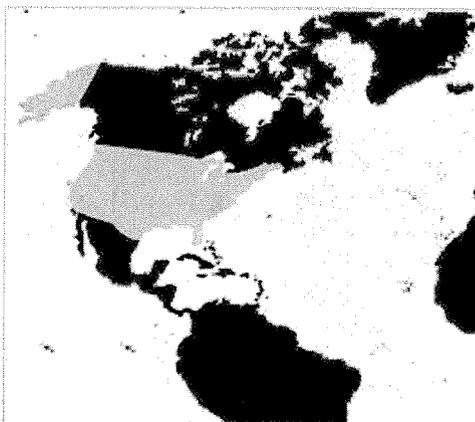
▾ United States

Telefónica operates in United States through the following companies:

Telefónica Contenidos

Telefónica Empresas

Terra Networks



PRESENCE IN OTHER LATIN AMERICAN COUNTRIES

Argentina | Brazil | Canada | Chile | Colombia | Costa Rica | Dominican Republic
Ecuador | El Salvador | Guatemala | Honduras | Mexico | Nicaragua | Panama | Peru
Puerto Rico | Uruguay | Venezuela

← Back

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EXHIBIT E



Our Commercial Brands

O2 is the commercial brand that provides mobile, fixed and broadband services in the UK, Ireland, Germany, the Czech Republic and Slovakia.

O2 brand

O2 brand is much more than just a logo and some bubbles. It's a promise, a set of highly cherished values, and an inspiration. At the same time, it's a source of competitive advantage and shareholder value.

With O2 anything's possible. We've a fresh and enthusiastic outlook, and we constantly seek new and innovative ideas. In an increasingly complex and cluttered market, we're open and clear. We create the time and space for people to breathe. We bring a breath of fresh air to everything we do. We don't ask why, we ask why not.

Our approach and values

Our approach is to put customer experience at the heart of everything we do. To be a breath of fresh air

Our values help define our brand

- **Bold**
We take a dynamic approach to everything we do and say.
- **Open**
We make space for fresh thinking.
- **Trusted**
We do what we can to help our customers.
- **Clear**
We make sure we talk to our customers simple.

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EXHIBIT F



[Home sites](#) [Accessibility](#) [Sitemap](#) [O2](#)

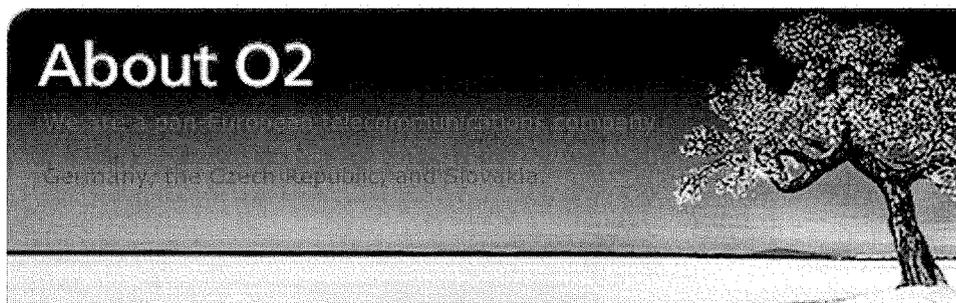
A *Telefónica* company

[About O2](#) [Media centre](#) [Investor centre](#) [O2 in society](#) [O2 services](#) [Working with us](#) [Contact us](#)

You are here: [About O2](#)

Search O2

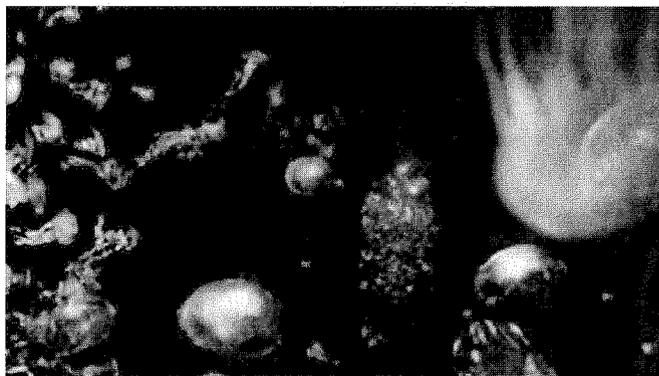
- [O2 at a glance](#)
- [Our businesses](#)
- [Joining forces with Telefónica](#)
- [Activity highlights](#)
- [Sponsorships](#)
- [Corporate governance](#)
- [Board of directors](#)
- [Our locations](#)
- [Customer service](#)



Our businesses

Building on the O2 brand, the company aims to become the communications provider of choice through a commitment to offering high quality products and services as well as leading customer retention and loyalty programmes.

Find out more about our businesses



[Transcript for 'We're better, connected' video](#)

[Download flash](#)

What's new?

Through music sponsorships, we aim to create deeper and more emotional connections with our customers. We use our products and services to enhance and make our sponsorship of music truly interactive, as well as, create exclusive music content. Our O2 arenas, across Europe, help us to achieve this.

O2 sponsorships



Introducing the Palm Pre

Introducing Palm Pre, a phone that's in sync with your life. Bringing your calendars and contacts together; it notifies you of updates and messages; helping to find what you're searching for.



iPhone 3G S

The fastest, most powerful iPhone yet. Latest news and updates.



Telefónica - Spirit of Progress

Telefónica profile and strategy - September 2009

[Accessibility](#) | [Sitemap](#) | [Contact us](#)

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EXHIBIT A

Regional Court of Hamburg

27th Civil Chamber

Sievekingplatz 1, 20355 Hamburg

Tel.: +49 (0)40/42843 2577

Fax: +49 (0)40/42843 1879

Fax for observing time-limit:

+49 (0)40/42843 4318 or 4319

Account for advance payments:

Court cashier Hamburg

Dt. Bundesbank sort code: 200 000 00

A/C: 200 015 01

(Please always quote the file ref.)



327 O 514/08

C O U R T O R D E R

dated 2.9.2008

In the matter of

O2 Holdings Ltd.,
represented by Peter Erskine,
Wellington Street, Slough, Berkshire SL1 1YP,
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

- Petitioner -

Counsel Lorenz pp., Solicitors
Widenmayerstr. 23, 80538 Munich,
File ref.: 02502-08 NE/cu,

versus

O2 Micro International Ltd.,
represented by Sterling Du (CEO) and Chuan Chiung Kuo (CFO),
The Grand Pavillion, West Bay Road, George Town, Cayman
Islands

- Opponent of the petition -

The 27th Civil Chamber of the Regional Court of Hamburg,
represented by M. Schmidt, presiding judge at the Regional
Court, orders

In accordance with Article 30 AVAG (Acknowledgement and Execution Law) the court order dated 20.8.2008 shall be supplemented by the following reasons:

Reasons:

The admissible disposition petition is justified. It is highly probable that the petitioner is entitled to the asserted rights to forbearance in accordance with Article 9 para. 2, 98 f of the Community Trademark Regulation (CTMR).

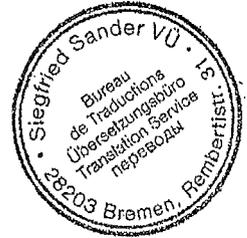
Due to the inland utilisation of the violated designations, the opponent of the petition infringes the rights of the petitioner to his "O2" community trademark (attachment EVK 1) for the "computer hardware and computer system software" product range, priority registration on 13.1.1997. Both marks of the opponent of the petitioner were registered with priority as community trademarks as per 9.11.2000 and consequently are of younger priority so that the risk of further commission of an offence exists for their use in Germany. Moreover, the petitioner has shown credibly that it was only brought to his notice for the first time on 18.8.2008 that the opponent of the petition actually also uses the marks by means of the delivery of SmartCartBus chips that are furnished with the "O₂ micro" sign for the purpose of installation in Fujitsu Siemens notebooks that, as intended, are also marketed in Germany and offered here (attachments EVK 8 and 9). In the product range that is apparent from the prohibition, the marks of the opponent of the petition can be confused with the mark of older priority of the trademark (Article 9 para. 1b) CTMR). From the important point of view of the addressed transactions, the component part of "Micro", within the overall designation, makes purely descriptive reference to a particularly small product. In addition, the further endorsement of "Breathing Life into Mobility" in one of the trademarks is an apparent description. With this, the "O₂" component solely involves the meaningful component within the trademarks of the opponent of the petition that, at least soundwise, is identical to the trademark of the petitioner. Identity exists in respect of the apparent product range, evident from the tenor of the prohibition, for which the trademarks of the opponent of the petition have been registered and the protected product range of the petitioner, so that likelihood of confusion is obvious.



The costs order arises from Article 91 of the Code of Civil Procedure.

Schmidt

Official stamp:
Regional Court of Hamburg
Hamburg
103



Issued
signed: Ansbach
Court employee
as clerk of the court's office

Rees, 08.10.2008

This is to certify that the above translation has been made to the best of our knowledge and belief and is correct.

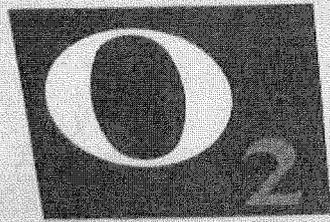
Date: 08-10-2008

Reg.No 10-31-08



Cherrill Spettmann

EXHIBIT B



OmniMicro[®]

Breathing Life into Mobility

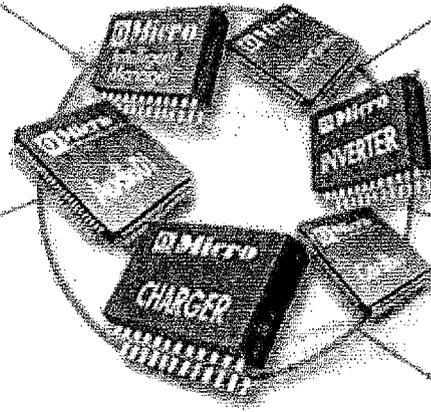
O2Micro

- Company
- Products
- O2News
- Investors
- Contact Us
- Employment
- Quality

Products

- Intelligent I/O**
- AudioDJ®
 - Intelligent Manager (PMU)

- Intelligent I/O Controllers**
- CardBus
 - SmartCardBus®
 - E-Guardian
 - 4-in-1 MemoryCardBus™
 - Power Switches



- Intelligent Lighting**
- Family of high efficiency, single stage inverters for LCD backlight applications

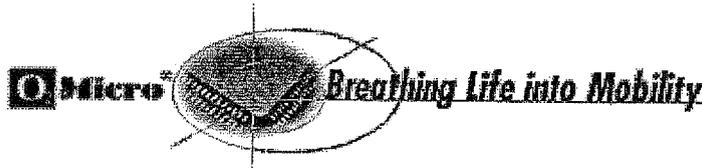
- Intelligent Power**
- Intelligent Charger
 - DC/DC Converters

Security Control

[Product Inquiry](#)

Product Videos		Connection Speed	
	AudioDJ/SmartCardBus	<u>Broadband</u>	56k
	Charger	<u>Broadband</u>	56k
	Inverter	<u>Broadband</u>	56k

Requires Media Player to view videos



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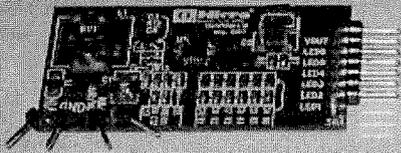
O₂

Micro

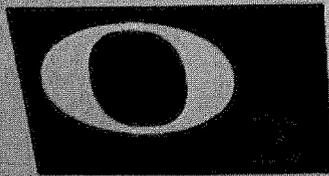
Breathing Life into Mobility



禁止掉落
PUT UPRIGHT DO NOT



LED Controller ALT™



Micro

Breathing Life into Mobility

EXHIBIT C



United States Patent and Trademark Office

Home | Site Index | Search | FAQ | Glossary | Guides | Contacts | eBusiness | eBiz alerts | News | Help

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Thu Oct 29 04:01:20 EDT 2009

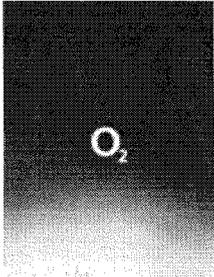
[TESS HOME](#)
[NEW USER](#)
[STRUCTURED](#)
[FREE FORM](#)
[BROWSE DICT](#)
[SEARCH QG](#)
[BOTTOM](#)
[HELP](#)
[PREV LIST](#)
[CURR LIST](#)

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[FIRST DOC](#)
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[NEXT DOC](#)
[LAST DOC](#)

Please logout when you are done to release system resources allocated for you.

List At: OR to record: **Record 1 out of 32**

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[ASSIGN Status](#)
[TDR](#)
[TTAB Status](#)
(Use the "Back" button of the Internet Browser to return to TESS)



Word Mark O2

Goods and Services

IC 009. US 021 023 026 036 038. G & S: Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signaling, checking (supervision), life-saving and teaching apparatus and instruments, all for use with telecommunications, namely, apparatus for producing sound, images or data; cinematographic and photographic apparatus and instruments, namely, cameras, still and video cameras, video viewing screens and viewfinders; optical apparatus and instruments, namely, eyeglasses and sunglasses; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity, namely, electric adapters; apparatus for recording, transmission or reproduction of sound or images; blank optical data carriers; magnetic data carriers containing programming which enables the functioning of mobile phones and permits access to the services provided via mobile phones; prerecorded magnetic data carriers featuring information about news, sports, entertainment, culture, business and finances, weather and travel, network management, telecommunications; blank recording discs, recording discs; automatic vending machines; cash registers; calculating machines, data processors and computers; fire-extinguishing apparatus, namely, fire-extinguishing systems; apparatus for the transmission of sound and image; telecommunication apparatus, namely, telephone handsets, telephones, fixed telephones, mobile telephones, cellular telephones, cordless telephone apparatus, portable telephones, radio telephones, satellite telephones, video-telephones, wireless telephones, accessories for telecommunication apparatus and instruments, namely, batteries, battery chargers, microphones, speakers, ear pieces, headsets, holders, desktop stands, car chargers, telephone power cables, car chargers. mobile radios, mobile data receivers, mobile telephones, mobile phone accessories, namely, headsets, microphones and speakers for mobile phones, car kits for adaptation of portable communication apparatus comprised of adapters, mobile phone straps, mobile telephone batteries, mobile phone chargers, mobile phone covers, mobile phone fascias, mobile phone in-car charges, devices for hands-free use of mobile phones, mobile phone keyboards, mobile phone carry cases, mobile phone PC cables; mobile telephone telecommunication handsets; computer hardware;

computer software, namely, computer application software for mobile phones; computer software for general purpose data management; computer software for training and product support for computers and mobile phones in the field of communications; computer software and programs featuring music, movies, animation; computer software for the distribution of information and interactive media content containing text, images, video and sound to users in the field of communications; computer software and programs for management and operation of wireless telecommunications devices; computer software for accessing, searching, indexing and retrieving information and data from global computer networks and global communication networks, and for browsing and navigating through web on said networks; computer software for use in communications networks, namely, software and Internet protocol and telecommunications receivers, converters, and routers all of which allow the user to send voice, data, pictures, music and video over wireless networks; computer software downloadable from the Internet, namely, computer application software for mobile phones; PDA's (Personal Digital Assistants), pocket PC's, mobile telephones, laptop computers; telecommunication network apparatus, namely, transmitters, receivers, converters, drivers software for telecommunications networks and for telecommunications apparatus; protective clothing; protective helmets; computer software recorded onto CD-ROMs for use in database management in the field of telecommunications; computer software recorded onto CD-ROMs for use in database management in the field of telecommunications; blank SD- Cards; parts and fittings for all the aforesaid goods

IC 016. US 002 005 022 023 029 037 038 050. G & S: Paper, cardboard; Goods made from paper and/or cardboard, namely, advertising signs, banners, labels, boxes, coasters, gift wrap paper, paper towels, paper napkins, handkerchiefs, note paper, notebooks, paper bags, flags, mats, posters, writing paper, envelopes, pennants, printing paper, postcard paper, drawing paper, stickers, albums, paper mats; printed matter, namely, books in the field of telecommunications, education, entertainment, sporting and cultural activities, pamphlets in the field of telecommunications, education, entertainment, sporting and cultural activities, leaflets in the field of telecommunications, education, entertainment, sporting and cultural activities, directories in the field of telecommunications, education, entertainment, sporting and cultural activities, periodicals in the field of telecommunications, education, entertainment, sporting and cultural activities, publications in the field of telecommunications, education, entertainment, sporting and cultural activities, magazines in the field of telecommunications, education, entertainment, sporting and cultural activities, newsletters in the field of telecommunications, education, entertainment, sporting and cultural activities, newspapers, brochures in the field of telecommunications, education, entertainment, sporting and cultural activities, catalogues in the field of telecommunications, education, entertainment, sporting and cultural activities, event programmes, calendars, certificates, charts, forms; non-magnetically encoded pre-paid telephone calling cards, posters, leaflets; postcards, greeting cards, dairies, tickets, handbooks, manuals; book binding material, namely, book bindings, bookbinding tape; photographs; stationery; adhesives for stationery or household purposes; artists' materials, namely, artist's brushes, pencils and pens; paint brushes; typewriters; office requisites, namely, staples, punches, rubber bands; instructional and teaching material in the field of in the field of telecommunications, education, entertainment, sporting and cultural activities. plastic materials for packaging, namely, general purpose plastic bags, plastic bags for packaging, plastic sheets for writing, printing and marking; printers' type; printing blocks; books in the field of telecommunications, education, entertainment, sporting and cultural activities; periodicals in the field of in the field of telecommunications, education, entertainment, sporting and cultural activities

IC 038. US 100 101 104. G & S: Telecommunications, namely, electronic, electric and digital data transmission of data; telecommunications services, namely, transmission of voice, sound, data, images, audio, video and information via telephone, satellite, cable, television broadcasting, video broadcasting and global computer networks; telecommunication services, namely, personal communication services, paging services, podcasting services, wireless roaming services, providing on-line electronic bulletin boards for transmission of messages among computer users concerning news, sports, entertainment, culture, business, finances, weather, travel and telecommunications, providing on-line chat rooms, rental and leasing of telecommunication equipment, telecommunication equipment components and telecommunication equipment systems; mobile telephone communication services; telecommunication access services, namely, voice over internet protocol (VOW) services; internet access services, namely providing remote Internet access; mobile telephone communications network services; fixed line telephone communication services; provision of broadband telecommunications access; broadband services, namely, broadband communication services, wireless broadband communication services; broadcasting services, namely, audio and video broadcasting services, broadcasting programs via a global computer network, television and radio; television broadcasting services; TV broadcasting services via Internet protocol, Internet protocol television services, Internet broadcasting services; internet access services, namely, providing

multiple-user access to a global computer information networks via computers, wireless devices, radio pagers, cellular telephones, mobile telephones and personal digital assistants, rental of access time to global computer networks; email and text messaging service; information and advisory services relating to the aforesaid services

IC 041. US 100 101 107. G & S: Education services, namely, arranging and conducting classes, seminars, conferences and workshops in the field of business, telecommunications, mobile telephone communications, radio communications, satellite communications and data communications; providing of training in telecommunications, mobile telephone communications, radio communications, satellite communications and data communications; entertainment in the nature of visual and audio performances namely, ballet, opera, orchestra, musical bands and plays; live entertainment in the nature of musical, variety, news and comedy shows; entertainment in the nature of dance performances, fashion shows, orchestra performances, theatre productions, live music performances; entertainment in the nature of casinos, discotheques and nightclubs, entertainment in the nature of football games, rugby tournaments, golf and tennis tournaments, soccer games, performing and competing in motor sport events; organising exhibitions for educational, cultural, sporting, or entertainment purposes namely, art exhibitions, music exhibitions, and telecommunication exhibitions, organising community sporting and cultural events; interactive entertainment services, namely, providing electronic games services by means of any communications network; entertainment and information services provided by means of telecommunication networks, namely, providing non-downloadable prerecorded music, musical videos, photographs and other multimedia materials, information, commentary and articles about general news interest, music, musical videos, photographs and other multimedia materials; all on-line via a global computer network; providing news in the nature of current event reporting; publication of books, magazines, journals, newspapers, periodicals, catalogues and brochures; provision of entertainment by means of television and internet protocol television, namely, entertainment in the nature of on-going television programs in the field of music, news, comedy, variety. information and advisory services relating to the aforesaid services

IC 042. US 100 101. G & S: Scientific and technological consultation services and research and design relating thereto in the field of physics, chemistry, engineering, computer programming, information technology and telecommunications; industrial design analysis and research services in the field of computer programming, information technology and telecommunications; design and development of computer hardware and software; legal services; IT services, namely, information technology consultation; computer programming services; information and advisory services relating to the aforesaid; technical support services, namely, monitoring computer systems of others for technical purposes relating to telecommunications network, troubleshooting of computer software and hardware problems; troubleshooting relating to telecommunications networks, namely, troubleshooting of computer software and hardware problems

Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code 26.11.21 - Rectangles that are completely or partially shaded

Serial Number 79032975

Filing Date March 14, 2006

Current Filing Basis 66A

Original Filing Basis 66A

International Registration Number 0908721

Owner (APPLICANT) **O2 Holdings Limited Limited** Liability Company ENGLAND Wellington Street, Slough; Berkshire SL1 1YP UNITED KINGDOM

Attorney of Record Stephen L. Baker

Priority Date March 8, 2006

Description The color(s) blue and white is/are claimed as a feature of the mark. The color blue, from light to dark,

of Mark appears in the back ground, and the color white appears in the term "O2".

Type of Mark TRADEMARK. SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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O₂

Word Mark O2

Goods and Services IC 003. US 001 004 006 050 051 052. G & S: Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices

IC 006. US 002 012 013 014 023 025 050. G & S: Common metals and their alloys; metal building materials; transportable buildings of metal; materials of metal for railway tracks; non-electric cables and wires of common metal; ironmongery, small items of metal hardware; pipes and tubes of metal; safes; goods of common metal not included in other classes; ores; badges; signs

IC 009. US 021 023 026 036 038. G & S: Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; automatic vending machines and mechanisms for coin operated apparatus; cash registers; calculating machines, data processing equipment and computers; fire-extinguishing apparatus; apparatus for the transmission of sound and image; telecommunications apparatus; mobile telecommunication apparatus; mobile telecommunications handsets; computer hardware; computer software; computer software downloadable from the Internet; PDA's (Personal Digital Assistants), pockets PC's, mobile telephones, laptop computers; telecommunications network apparatus; drivers software for telecommunications networks and for telecommunications apparatus; computer software onto CD Rom, SD-Card, parts and fittings for all the aforesaid goods

IC 014. US 002 027 028 050. G & S: Precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes; jewellery, precious stones; horological and chronometric

instruments; keyrings; cufflinks

IC 016. US 002 005 022 023 029 037 038 050. G & S: Paper, cardboard and goods made from these materials, not included in other classes; printed matter; book binding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes); printers' type; printing blocks

IC 018. US 001 002 003 022 041. G & S: : Leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins, hides; trunks and travelling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery

IC 025. US 022 039. G & S: Clothing, footwear, headgear

IC 028. US 022 023 038 050. G & S: Games and playthings; gymnastic and sporting articles not included in other classes; decorations for Christmas trees

IC 035. US 100 101 102. G & S: Advertising; business management; business administration; office functions; retail services

IC 041. US 100 101 107. G & S: Education; providing of training; entertainment; sporting and cultural activities; interactive entertainment services; electronic games services provided by means of any communications network; entertainment and information services provided by means of telecommunication networks; sporting and cultural activities; provision of news information; information services provided by means of telecommunication networks relating to telecommunications; rental of music venues and stadiums

Mark Drawing Code (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Serial Number 78618164

Filing Date April 27, 2005

Current Filing Basis 1B;44E

Original Filing Basis 1B;44E

Owner (APPLICANT) **O2 Holdings Limited PRIVATE LIMITED** COMPANY UNITED KINGDOM Wellington Street Slough,Berkshire UNITED KINGDOM SL1 1YP

Attorney of Record Stephen L. Baker

Description of Mark Color is not claimed as a feature of the mark.

Type of Mark TRADEMARK. SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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The O₂

Word Mark	THE 02
Goods and Services	<p>IC 003. US 001 004 006 050 051 052. G & S: Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices</p> <p>IC 006. US 002 012 013 014 023 025 050. G & S: Common metals and their alloys; metal building materials; transportable buildings of metal; materials of metal for railway tracks; non-electric cables and wires of common metal; ironmongery, small items of metal hardware; pipes and tubes of metal; safes; goods of common metal not included in other classes; ores; badges; signs</p> <p>IC 009. US 021 023 026 036 038. G & S: Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; automatic vending machines and mechanisms for coin operated apparatus; cash registers; calculating machines, data processing equipment and computers; fire-extinguishing apparatus; apparatus for the transmission of sound and image; telecommunications apparatus; mobile telecommunication apparatus; mobile telecommunications handsets; computer hardware; computer software; computer software downloadable from the Internet; PDA's (Personal Digital Assistants), pockets PC's, mobile telephones, laptop computers; telecommunications network apparatus; drivers software for telecommunications networks and for telecommunications apparatus; computer software onto CD Rom, SD-Card, parts and fittings for all the aforesaid goods</p> <p>IC 014. US 002 027 028 050. G & S: Precious metals and their alloys and goods in precious metals or</p>

coated therewith, not included in other classes; jewellery, precious stones; horological and chronometric instruments; keyrings; cufflinks

IC 016. US 002 005 022 023 029 037 038 050. G & S: Paper, cardboard and goods made from these materials, not included in other classes; printed matter; book binding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes); printers' type; printing blocks and all other goods in the class

IC 018. US 001 002 003 022 041. G & S: Leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins, hides; trunks and travelling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery

IC 025. US 022 039. G & S: Clothing, footwear, headgear

IC 028. US 022 023 038 050. G & S: Games and playthings; gymnastic and sporting articles not included in other classes; decorations for Christmas trees

IC 035. US 100 101 102. G & S: Advertising; business management; business administration; office functions; retail services; Advertising; business management; business administration; office functions

IC 041. US 100 101 107. G & S: Education; providing of training; entertainment; sporting and cultural activities; interactive entertainment services; electronic games services provided by means of any communications network; entertainment and information services provided by means of telecommunication networks; sporting and cultural activities; provision of news information; information services provided by means of telecommunication networks relating to telecommunications; rental of music venues and stadiums; information and advisory services relating to the aforesaid

Mark Drawing Code (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Serial Number 78618311

Filing Date April 27, 2005

Current Filing Basis 1B;44D

Original Filing Basis 1B;44D;44E

Owner (APPLICANT) **O2 Holdings Limited** PRIVATE LIMITED COMPANY UNITED KINGDOM Wellington Street Slough, Berkshire UNITED KINGDOM SL1 1YP

Attorney of Record Stephen L. Baker

Priority Date February 9, 2005

Type of Mark TRADEMARK. SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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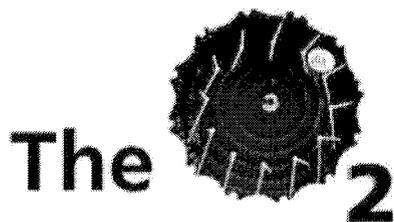
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Word Mark
Goods and
Services

THE 2

IC 009. US 021 023 026 036 038. G & S: Scientific apparatus and instruments, namely, microscopes; nautical apparatus and instruments for use with telecommunications, namely, directional compasses; surveying machines and instruments; photographic apparatus and instruments, namely, cameras; weighing apparatus and instruments, namely, scales; measuring apparatus and instruments, namely, tape rulers; signaling apparatus and instruments, namely, emergency signal transmitters; life-saving and teaching apparatus, namely, life saving rafts; cinematographic and photographic apparatus and instruments, namely, cameras, still and video cameras, video viewing screens and viewfinders; optical apparatus and instruments, namely, eyeglasses and sunglasses; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity, namely, electric adapters; apparatus for recording, transmission or reproduction of sound or images; blank optical data carriers; magnetic data carriers containing programming which enables the functioning of mobile phones and permits access to the services provided via mobile phones; prerecorded magnetic data carriers featuring information about news, sports, entertainment, culture, business and finances, weather and travel, network management, telecommunications; blank recording discs; automatic vending machines; cash registers; calculators; calculating machines, data processors and computers; fire-extinguishing apparatus, namely, fire-extinguishing systems; apparatus for the transmission of sound and image; telecommunication apparatus, namely, telephone handsets, telephones, fixed telephones, mobile telephones, cellular telephones, cordless telephone apparatus, portable telephones, radio telephones, satellite telephones, video-telephones, wireless telephones, accessories for telecommunication apparatus and instruments, namely, batteries, battery chargers, microphones, speakers, ear pieces, headsets, holders, desktop stands, car chargers, telephone power cables, car chargers, mobile radios, mobile data receivers, mobile telephones, mobile phone accessories, namely, headsets, microphones and speakers for mobile phones, car kits for adaptation of portable communication apparatus comprised of adapters, mobile phone

straps, mobile telephone batteries, mobile phone chargers, mobile phone covers, mobile phone fascias, mobile phone in-car charges, devices for hands-free use of mobile phones, mobile phone keyboards, mobile phone carry cases, mobile phone PC cables; mobile telephone telecommunication handsets; computer hardware; computer software, namely, computer application software for mobile phones; general purpose database management software; computer software for training and product support for computers and mobile phones in the field of communications; computer software and programs featuring music, movies, animation; computer software for the distribution of information and interactive media content containing text, images, video and sound to users in the field of communications; computer software and programs for management and operation of wireless telecommunication devices; computer software for accessing, searching, indexing and retrieving information and data from global computer networks and global communication networks, and for browsing and navigating through web on said networks; computer software for use in communications networks, namely, software and Internet protocol and telecommunication receivers, converters, and routers all of which allow the user to send voice, data, pictures, music and video over wireless networks; computer software downloadable from the Internet, namely, computer application software for mobile phones; PDA's (Personal Digital Assistants), pocket PC's, mobile telephones, laptop computers; telecommunication network apparatus, namely, transmitters, receivers, converters, drivers software for telecommunication networks and for telecommunication apparatus; protective clothing, protective helmets; multimedia software recorded onto CD-ROM featuring music, sports, entertainment, news, culture and telecommunication; blank SD- Cards; eyeglasses, spectacle glasses, sunglasses, protective glasses and cases therefor; contact lenses; cameras; camera lenses; MP3 players; audio tapes featuring music, sports, entertainment, news, culture and telecommunication, audio cassettes featuring music, sports, entertainment, news, culture and telecommunication, audio discs featuring music, sports, entertainment, news, culture and telecommunication; audio-video tapes featuring music, sports, entertainment, news, culture and telecommunication, audio-video cassettes featuring music, sports, entertainment, news, culture and telecommunication, audio-video discs featuring music, sports, entertainment, news, culture and telecommunication; video tapes featuring music, sports, entertainment, news, culture and telecommunication, video cassettes featuring music, sports, entertainment, news, culture and telecommunication, video discs featuring music, sports, entertainment, news, culture and telecommunication; CDs featuring music, sports, entertainment, news, culture and telecommunication, DVDs featuring music, sports, entertainment, news, culture and telecommunication; downloadable electronic publications in the nature of magazines, newsletters and brochures in the field of music, sports, entertainment, news, culture and telecommunication in the field of music, sports, entertainment, news, culture and telecommunication; mouse pads; magnets; mobile telephone covers, mobile telephone cases

IC 016. US 002 005 022 023 029 037 038 050. G & S: Copy paper, cardboard; Goods made from paper and/or cardboard, namely, advertising signs, banners, labels, boxes, coasters, gift wrap paper, paper towels, paper napkins, handkerchiefs, note paper, notebooks, paper bags, flags, mats, posters, writing paper, envelopes, pennants, printing paper, postcard paper, drawing paper, stickers, photograph albums, paper mats; printed matter, namely, books in the field of telecommunication, education, entertainment, sporting and cultural activities, pamphlets in the field of telecommunication, education, entertainment, sporting and cultural activities, leaflets in the field of telecommunication, education, entertainment, sporting and cultural activities, directories in the field of telecommunication, education, entertainment, sporting and cultural activities, periodicals in the field of telecommunication, education, entertainment, sporting and cultural activities, publications, namely, workbooks, hand-outs, and brochures in the field of telecommunication, education, entertainment, sporting and cultural activities, magazines in the field of telecommunication, education, entertainment, sporting and cultural activities, newspapers, brochures in the field of telecommunication, education, entertainment, sporting and cultural activities, catalogues in the field of telecommunication, education, entertainment, sporting and cultural activities, event programmes, calendars, certificates, charts, forms; non-magnetically encoded pre-paid telephone calling cards, posters, leaflets about telecommunication, education, entertainment, sporting and cultural activities; postcards, greeting cards, diaries, printed tickets, handbooks in the field of telecommunication, education, entertainment, sporting and cultural activities; manuals in the field of telecommunication, education, entertainment, sporting and cultural activities; book binding material, namely, bookbindings, bookbinding tape; photographs; stationery; adhesives for stationery or household purposes. artists' materials, namely, artist's brushes, pencils and pens; paint brushes; typewriters; office requisites, namely, staples, punches, rubber bands; printed instructional and teaching material in the field of telecommunication, education, entertainment, sporting and cultural activities, plastic materials for

packaging, namely, general purpose plastic bags, plastic bags for packaging, plastic sheets for writing, printing and marking; printers' type; printing blocks; books in the field of telecommunications, education, entertainment, sporting and cultural activities; printed periodicals in the field of in the field of telecommunications, education, entertainment, sporting and cultural activities; business cards, decalcomanias, stickers, paper beer mats; coasters of paper and cardboard; napkins of paper; tissues and towels of paper; paper bags; general purpose plastic bags

IC 021. US 002 013 023 029 030 033 040 050. G & S: Containers for household or kitchen use; household and kitchen utensils, namely, spatulas, graters, sieves and strainers; combs; bath sponges, cleaning sponges; hair brushes, tooth brushes, clothes brushes, lip brushes, shaving brushes, nail brushes; brush-making materials; articles for cleaning purposes, namely, brooms, cleaning cloths, scrubbing brushes; steel wool for cleaning; un-worked or semi-worked glass not used in building; beverage glassware, porcelain mugs and figurines; earthenware mugs and figurines; mugs; beer mugs; bottle openers, buckets, champagne buckets, ice buckets, plastic coasters, cocktail stirrers, corkscrews, drinking glasses, cocktail shakers, tankards, toothbrushes, plastic water bottles sold empty

IC 025. US 022 039. G & S: Clothing, footwear, headgear, namely, shirts, t-shirts, sweatshirts, skirts, jogging suits, trousers, jeans, pants, shorts, rainwear, cloth bibs, blouses, sweaters, jackets, coats, jumpers, gloves, neckties, scarves, hats, caps, sunvisors, boots, slippers, sneakers, sandals, shoes

IC 035. US 100 101 102. G & S: Advertising; business management; business administration; providing office functions; retail store services featuring consumer electronics, telecommunication goods, clothing and general consumer merchandise; wholesale distributorships featuring consumer electronics, telecommunication goods, clothing and general consumer merchandise, business management relating to the broadcasting stations of others; business advice and information; business research; rental of data processing equipment; expert evaluations and reports relating to business matters; forestry management services

IC 038. US 100 101 104. G & S: Telecommunications, namely, electronic, electric and digital data transmission of data; telecommunications services, namely, transmission of voice, sound, data, images, audio, video and information via telephone, satellite, cable, television broadcasting, video broadcasting and global computer networks; telecommunication services, namely, personal communication services, paging services, podcasting services, wireless roaming services, providing on-line electronic bulletin boards for transmission of messages among computer users concerning news, sports, entertainment, culture, business, finances, weather, travel and telecommunications, providing on-line chat rooms, rental and leasing of telecommunication equipment, telecommunication equipment components and telecommunication equipment systems; mobile telephone communication services; telecommunication access services, namely, voice over internet protocol (VOIP) services; internet access services, namely, providing remote Internet access; mobile telephone communications network services; fixed line telephone communication services; provision of broadband telecommunications access; broadband services, namely, broadband communication services, wireless broadband communication services; broadcasting services, namely, audio and video broadcasting services, broadcasting programs via a global computer network, television and radio; television broadcasting services; TV broadcasting services via Internet protocol, Internet protocol television services, Internet broadcasting services; internet access services, namely, providing multiple-user access to a global computer information networks via computers, wireless devices, radio pagers, cellular telephones, mobile telephones and personal digital assistants, rental of access time to global computer networks; email and text messaging services

IC 039. US 100 105. G & S: Transport and storage of goods; packaging articles for transportation; travel arrangement; travel information services

IC 041. US 100 101 107. G & S: Educational services, namely, providing arranging and conducting classes, seminars, conferences and workshops in the field of business, telecommunications, mobile telephone communications, radio communications, satellite communications and data communications; providing training services in the field of telecommunications, mobile telephone communications, radio communications, satellite communications and data communications; entertainment services, namely, production of ballet, opera, orchestra, and musical band

performances and plays; organizing community sporting and cultural activities; interactive entertainment services, namely, providing on-line computer games; providing computer games that may be accessed network wide by network users; providing entertainment information by means of telecommunication networks; providing news information in the field of sports and entertainment; entertainment in the nature of on-going television programs in the field of sports, music, news, comedy and variety; internet protocol television services, namely, entertainment in the nature of on-going television programs in the field of sports, music, news, comedy, and variety via a global computer network; entertainment, namely, live music concerts; night club services; discotheque services; presentation of live show performances; night clubs; rental of stadium facilities; casino services; providing information in the field of entertainment

IC 042. US 100 101. G & S: Scientific and technological consultation services and research and design relating thereto in the field of physics, chemistry, engineering, computer programming, information technology and telecommunications; industrial design analysis and research services in the field of computer programming, information technology and telecommunications; design and development of computer hardware and software; IT services, namely, information technology consultation; computer programming services; providing information on computer programming; technical support services, namely, monitoring computer systems of others for technical purposes relating to telecommunications network, troubleshooting of computer software and hardware problems; troubleshooting relating to telecommunications networks, namely, troubleshooting of computer software and hardware problems

IC 043. US 100 101. G & S: Providing of food and drink; providing temporary accommodation; hotel services; restaurant, bar, café and snack bar services

IC 044. US 100 101. G & S: Medical services; veterinary services; beauty salon services; cosmetician services; agricultural advice; rental of agricultural equipment; horticulture services

Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	07.07.25 - Domes; Loading platforms; Solar panels 07.09.05 - Arenas, outdoor; Baseball stadiums; Bleachers and grandstands; Football stadiums; Stadiums 26.01.07 - Circles with a decorative border, including scalloped, ruffled and zig-zag edges 26.01.12 - Circles with bars, bands and lines 26.01.21 - Circles that are totally or partially shaded.
Trademark Search Facility Classification Code	ART-07.07 Exteriors and Exterior parts of dwelling ART-07.09 Monuments, stadiums and fountains NUM-2 The number 2 or the word Two SHAPES-CIRCLE Circle figures or designs including semi-circles and incomplete circles SHAPES-MISC Miscellaneous shaped designs
Serial Number	77183468
Filing Date	May 17, 2007
Current Filing Basis	44E
Original Filing Basis	1B;44D
Published for Opposition	March 10, 2009
Registration Number	3625167
Registration Date	May 26, 2009
Owner	(REGISTRANT) O2 Holdings Limited LIMITED COMPANY UNITED KINGDOM Wellington Street Slough, Berkshire UNITED KINGDOM SL11YP
Attorney of Record	Stephen L. Baker
Priority Date	May 17, 2007
Description of	Color is not claimed as a feature of the mark. The mark consists of "THE 2" with the word and the

Mark numeral separated by a stylized stadium dome design.
Type of Mark TRADEMARK. SERVICE MARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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indigo₂

Word Mark INDIGO2

Goods and Services IC 009. US 021 023 026 036 038. G & S: Scientific apparatus and instruments for use with telecommunications, namely, apparatus for producing sound, images or data; nautical apparatus and instruments for use with telecommunications, namely, directional compasses; surveying machines and instruments; photographic apparatus and instruments, namely, cameras; cinematographic machines and apparatus, namely, cameras, still and video cameras, video viewing screens and viewfinders; optical apparatus and instruments, namely, eyeglasses and sunglasses; weighing apparatus and instruments, namely, scales; measuring apparatus and instruments, namely, tape rulers; signaling apparatus and instruments, namely, emergency signal transmitters; life-saving and teaching apparatus and, namely, life saving rafts; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity, namely, electric adapters; apparatus for recording, transmission or reproduction of sound or images; blank magnetic data carriers; blank recordable optical disks; automatic vending machines; cash registers; calculators; data processors; computers; fire-extinguishers; apparatus for the transmission of sound and images; telecommunication apparatus, namely, telephone handsets, telephones, fixed telephones, mobile telephones, cellular telephones, cordless telephone apparatus, portable telephones, radio telephones, satellite telephones, video-telephones, wireless telephones, accessories for telecommunication apparatus and instruments, namely, batteries, battery chargers, microphones, speakers, ear pieces, headsets, holders, desktop stands, car chargers, telephone power cables, car chargers. mobile telecommunication apparatus, namely, mobile radios, mobile data receivers, mobile telephones, mobile phone accessories, namely, headsets, microphones and speakers for mobile phones, car kits for adaptation of portable communication apparatus comprised of adapters, mobile phone straps, mobile telephone batteries, mobile phone chargers, mobile phone covers, mobile phone fascias, mobile phone in-car charges, mobile phone keyboards, mobile phone carry cases, mobile phone PC cables; devices for hands free use of mobile phones; computer software, namely, computer application software for mobile phones; computer software downloadable from the Internet, namely, computer application software for mobile

phones; personal digital assistants; pockets computers for note-taking; mobile telephones; telecommunication network apparatus, namely, transmitters, receivers, converters; driver software for telecommunications networks and for telecommunications apparatus; protective clothing not including footwear; protective helmets; multimedia software recorded onto CD-ROM featuring music, sports, entertainment, news, culture and telecommunications; blank SD- Cards; eyeglasses, spectacle glasses, sunglasses, protective glasses and cases therefor; contact lenses; cameras; camera lenses; MP3 players; audio tapes featuring music, sports, entertainment, news, culture and telecommunications; audio cassettes featuring music, sports, entertainment, news, culture and telecommunications; audio-video tapes featuring music, sports, entertainment, news, culture and telecommunications; audio-video cassettes featuring music, sports, entertainment, news, culture and telecommunications; audio-video discs featuring music, sports, entertainment, news, culture and telecommunications; video tapes featuring music, sports, entertainment, news, culture and telecommunications; video cassettes featuring music, sports, entertainment, news, culture and telecommunications; video discs featuring music, sports, entertainment, news, culture and telecommunications; CDs featuring music, sports, entertainment, news, culture and telecommunications. DVDs featuring music, sports, entertainment, news, culture and telecommunications; downloadable electronic publications in the nature of music, sports, entertainment, news, culture and telecommunications; mouse pads; magnets; mobile telephone covers, mobile telephone cases

IC 016. US 002 005 022 023 029 037 038 050. G & S: Copy paper, cardboard; printed matter, namely, books in the field of telecommunications, education, entertainment, sporting and cultural activities; book bindings; photographs; stationery; adhesives for stationery or household purposes; artists' materials, namely, artist's brushes, pencils and pens; paint brushes; typewriters; office requisites, namely, staples, punches, rubber bands; printed instructional and teaching material in the field of in the field of telecommunications, education, entertainment, sporting and cultural activities; plastic materials for merchandise packaging, namely, general purpose plastic bags, plastic bags for packaging, plastic sheets for writing, printing and marking; books in the field of telecommunications, education, entertainment, sporting and cultural activities; pamphlets in the field of in the field of telecommunications, education, entertainment, sporting and cultural activities

IC 021. US 002 013 023 029 030 033 040 050. G & S: Containers for household or kitchen use; household and kitchen utensils, namely, spatulas, graters, sieves and strainers; combs; bath sponges, cleaning sponges; hair brushes, tooth brushes, clothes brushes, lip brushes, shaving brushes, nail brushes; brush-making materials; articles for cleaning purposes, namely, brooms, cleaning cloths, brushes; steel wool for cleaning; un-worked or semi-worked glass not used in building; beverage glassware, porcelain mugs and figurines; earthenware mugs and figurines; mugs; beer mugs; bottle openers, buckets, champagne buckets, ice buckets, plastic coasters, cocktail stirrers, corkscrews, drinking glasses, cocktail shakers, tankards, toothbrushes, plastic water bottles sold empty

IC 025. US 022 039. G & S: Clothing, headgear, namely, shirts, t-shirts, sweatshirts, skirts, jogging suits, trousers, jeans, pants, shorts, rainwear, cloth bibs, blouses, sweaters, jackets, coats, jumpers, gloves, neckties, scarves, hats, caps

IC 035. US 100 101 102. G & S: Advertising; business management; business administration; providing office functions; retail store services featuring consumer electronics, telecommunication goods, clothing and general consumer merchandise; wholesale distributorships featuring consumer electronics, telecommunication goods, clothing and general consumer merchandise, business management relating to the broadcasting stations of others; business advice and information; business research; rental of data processing equipment; expert evaluations and reports relating to business matters; forestry management service

IC 038. US 100 101 104. G & S: Telecommunications, namely, electronic, electric and digital data transmission of data; mobile telecommunications services, namely, mobile telephone communication; telecommunication gateway services; telecommunication internet access services; mobile telecommunications network services, namely, communications via fiber-optic networks; fixed line communication services, namely, electronic transmission of messages and data; provision of broadband telecommunications access; broadband services, namely, broadband communication services, wireless broadband communication services; broadcasting services, namely, audio and video broadcasting services, broadcasting programs via a global computer network, television and radio; television broadcasting services; voice over internet protocol services; provision of access to internet protocol TV; providing remote internet access services; email and text messaging services; telecommunications

consultation; rental of access time to global computer networks

IC 039. US 100 105. G & S: Transport and storage of goods; packaging articles for transportation; travel arrangement; travel information services

IC 041. US 100 101 107. G & S: Educational services, namely, arranging and conducting classes, seminars, conferences and workshops in the field of business, telecommunications, mobile telephone communications, radio communications, satellite communications and data communications; providing training services in the field of telecommunications, mobile telephone communications, radio communications, satellite communications and data communications; entertainment services, namely, production of ballet, opera, orchestra, musical bands and plays; interactive entertainment services, namely, providing on-line computer games; providing computer games that may be accessed network wide by network users; providing entertainment information by means of telecommunication networks; providing news information in the field of current event reporting; entertainment in the nature of on-going television programs in the field of music, news, comedy, and variety; internet protocol television services, namely, providing on-going television programs in the field of music, news, comedy, and variety via a global computer network; entertainment, namely, live music concerts; night club services, discotheque services; and nightclubs, entertainment in the nature of football games, rugby tournaments, golf and tennis tournaments, soccer games, performing and competing in motor sport events; presentation of live show performances; night clubs; rental of stadium facilities; casino services; providing information in the field of entertainment

IC 042. US 100 101. G & S: Scientific research services; technological consultation in the field of physics, chemistry, engineering, computer programming, information technology and telecommunications; design for others in the field of physics, chemistry, engineering, computer programming, information technology and telecommunications; industrial design in the field of computer programming, information technology and telecommunications; design and development of computer hardware and software; information technology consultation; computer programming services; recovery of computer data; consultation services in the fields of selection, implementation and use of computer hardware and software systems for others; computer programming; duplication of computer programs; computer rental; computer software design; installation of computer software; maintenance of computer software; updating of computer software; rental of computer software; rental of computer hardware; computer system design; computer systems analysis; consultancy in the field of computer software; conversion of data or documents from physical to electronic media; creating and maintaining websites for others; data conversion of computer program data or information not being physical conversion; hosting computer web sites; engineering services; technology consulting in the field of engineering; designing equipment for telecommunication networks; database development services; weather forecasting; research in the field of telecommunications technology

IC 043. US 100 101. G & S: Providing of food and drink; providing temporary accommodation; hotel services; restaurant, bar, café and snack bar services

IC 044. US 100 101. G & S: Medical services; veterinary services; beauty salon services; cosmetician services; agricultural advice; rental of agricultural equipment; horticulture services

Mark Drawing Code (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number 77183506
Filing Date May 17, 2007
Current Filing Basis 1B;44E
Original Filing Basis 1B;44D
Owner (APPLICANT) **O2 Holdings Limited LIMITED COMPANY** UNITED KINGDOM Wellington Street Slough, Berkshire UNITED KINGDOM SL11YP
Attorney of Stephen L. Baker

Record

Priority Date May 16, 2007

Description of Mark Color is not claimed as a feature of the mark. The mark consists of the word "indigo" and the numeral "2" in a stylized form.

Type of Mark TRADEMARK. SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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O2

Word Mark O2

Translations The wording "O2" has no meaning in a foreign language

Goods and Services IC 009. US 021 023 026 036 038. G & S: Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signaling, checking (supervision), life-saving and teaching apparatus and instruments, all for use with telecommunications, namely, apparatus for producing sound, images or data; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity, namely, electric adapters; apparatus for recording, transmission or reproduction of sound or images; blank magnetic data carriers, recording disks, namely, blank optical disks; automatic vending machines; cash registers; calculating machines, data processing equipment and computers; fire-extinguishing apparatus, namely, fire-extinguishing systems; telecommunication apparatus for the transmission of sound and images, namely, telephone handsets, telephones, fixed telephones, mobile telephones, cellular telephones, cordless telephone apparatus, portable telephones, radio telephones, satellite telephones, video-telephones, wireless telephones, accessories for telecommunication apparatus and instruments, namely, batteries, battery chargers, microphones, speakers, ear pieces, headsets, holders, desktop stands, telephone power cables, car chargers; mobile telecommunication apparatus, namely, telephone handsets, telephones, fixed telephones, mobile telephones, cellular telephones, cordless telephone apparatus, portable telephones, radio telephones, satellite telephones, video-telephones, wireless telephones, accessories for telecommunication apparatus and instruments, namely, batteries, battery chargers, microphones, speakers, ear pieces, headsets, holders, desktop stands, telephone power cables, car chargers; mobile telecommunications handsets; computer hardware; computer software, namely, computer application software for mobile phones; computer software for general purpose data management; computer software for training and product support for computers and mobile phones in the field of communications; computer software and programs featuring music, movies, animation. computer software for the distribution of information and interactive media content containing text, images, video and sound to users in the field of communications, namely telecommunications; computer software and

programs for management and operation of wireless telecommunications devices; computer software for accessing, searching, indexing and retrieving information and data from global computer networks and global communication networks, and for browsing and navigating through web on said networks; computer software for use in communications networks, namely, software and Internet protocol and telecommunications receivers, converters, and routers all of which allow the user to send voice, data, pictures, music and video over wireless networks; computer software downloadable from the Internet, namely, computer application software for mobile phones; PDA's (Personal Digital Assistants), pocket PC's, mobile telephones, laptop computers; telecommunication network apparatus, namely, transmitters, receivers, converters; driver software for telecommunications networks and for telecommunications apparatus; protective clothing; protective helmets; computer software recorded onto CD-ROMs for use in database management in the field of telecommunications; computer software recorded onto CD-ROMs for use in database management in the field of telecommunications; blank SD-Cards for database management in the field of telecommunications

IC 038. US 100 101 104. G & S: Telecommunications, namely, electronic, electric and digital data transmission of data; telecommunications services, namely, transmission of voice, sound, data, images, audio, video and information via telephone, and global computer networks; telecommunication services, namely, personal communication services, paging services, podcasting services, wireless roaming services, rental and leasing of telecommunication equipment, telecommunication equipment components and telecommunication equipment systems; mobile telephone communication services; telecommunication portal services, namely, voice over internet protocol (VOIP) services; Internet portal services, namely, providing remote Internet access; mobile telephone communications network services; fixed line telephone communication services; provision of broadband telecommunications access; broadband communication services; Internet access services, namely, providing multiple-user access to a global computer information networks via computers, wireless devices, radio pagers, cellular telephones, mobile telephones and personal digital assistants, rental of access time to global computer networks; email and text messaging service, namely email and text messaging service via telephone; monitoring services relating to telecommunications networks and apparatus; information and advisory services relating to Internet protocol television services

Standard Characters Claimed

Mark

Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 77097291

Filing Date February 1, 2007

Current Filing Basis 1B

Original Filing Basis 1B

Owner (APPLICANT) **O2 Holdings Limited** PRIVATE LIMITED COMPANY UNITED KINGDOM Slough WELLINGTON STREET Birkshire UNITED KINGDOM SL11YP

Attorney of Record Stephen L. Baker

Type of Mark TRADEMARK. SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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DO THE O2

Word Mark DO THE O2

Goods and Services

IC 009. US 021 023 026 036 038. G & S: Scientific apparatus and instruments for use with telecommunications, namely apparatus for producing sound, images or data; nautical apparatus and instruments for use with telecommunications, namely directional compasses; surveying machines and instruments; photographic apparatus and instruments namely cameras; cinematographic machines and apparatus namely, cameras, still and video cameras, video viewing screens and viewfinders; optical apparatus and instruments namely eyeglasses and sunglasses; weighing apparatus and instruments namely scales; measuring apparatus and instruments namely tape rulers; signaling apparatus and instruments namely emergency signal transmitters; life-saving and teaching apparatus and namely life saving rafts; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity, namely, electric adapters; apparatus for recording, transmission or reproduction of sound or images; blank magnetic data carriers; blank recordable optical disks; automatic vending machines; cash registers; calculators ;machines, data processors; computers; fire-extinguishers; apparatus for the transmission of sound and images; telecommunication apparatus, namely, telephone handsets, telephones, fixed telephones, mobile telephones, cellular telephones, cordless telephone apparatus, portable telephones, radio telephones, satellite telephones, video-telephones, wireless telephones, accessories for telecommunication apparatus and instruments, namely batteries, battery chargers, microphones, speakers, ear pieces, headsets, holders, desktop stands, car chargers, telephone power cables, car chargers. mobile telecommunication apparatus namely mobile radios, mobile data receivers, mobile telephones, mobile phone accessories, namely headsets, microphones and speakers for mobile phones, car kits for adaptation of portable communication apparatus comprised of adapters, mobile phone straps, mobile telephone batteries, mobile phone chargers, mobile phone covers, mobile phone fascias, mobile phone in-car charges, devices for hands-free use of mobile phones, mobile phone keyboards, mobile phone carry cases, mobile phone PC cables; devices for hands free use of mobile phones; computer hardware; computer software, namely computer application software for mobile phones; computer software for general purpose data management in the field of

telecommunications; computer software downloadable from the Internet, namely computer application software for mobile phones; personal digital assistants, pocket computers for note-taking; mobile telephones; laptop computers; telecommunication network apparatus, namely transmitters, receivers, converters; driver software for telecommunications networks and for telecommunications apparatus; protective clothing; protective helmets; multimedia software recorded onto CD-ROM featuring music, sports, entertainment, news, culture and telecommunications; blank SD- Cards; eyeglasses, spectacle glasses, sunglasses, protective glasses and cases therefor; contact lenses; cameras; camera lenses; MP3 players; audio tapes featuring music, sports, entertainment, news, culture and telecommunications, audio cassettes featuring music, sports, entertainment, news, culture and telecommunications; audio discs featuring music, sports, entertainment, news, culture and telecommunications; audio cassettes featuring music, sports, entertainment, news, culture and telecommunications; audio-video tapes featuring music, sports, entertainment, news, culture and telecommunications; audio-video cassettes featuring music, sports, entertainment, news, culture and telecommunications; audio-video discs featuring music, sports, entertainment, news, culture and telecommunications. video tapes featuring music, sports, entertainment, news, culture and telecommunications, video cassettes featuring music, sports, entertainment, news, culture and telecommunications, video discs featuring music, sports, entertainment, news, culture and telecommunications; CDs featuring music, sports, entertainment, news, culture and telecommunications; DVDs featuring music, sports, entertainment, news, culture and telecommunications; downloadable electronic publications in the nature of music, sports, entertainment, news, culture and telecommunications in the field of music, sports, entertainment, news, culture and telecommunications; mouse pads; magnets; mobile telephone covers, mobile telephone cases

IC 016. US 002 005 022 023 029 037 038 050. G & S: Copy paper, cardboard; printed matter, namely books in the field of telecommunications, education, entertainment, sporting and cultural activities; book bindings; photographs; stationery; adhesives for stationery or household purposes; artists' materials, namely artist's brushes, pencils and pens; paint brushes; typewriters; office requisites, namely staples, punches, rubber bands; printed instructional and teaching material in the field of in the field of telecommunications, education, entertainment, sporting and cultural activities; plastic materials for merchandise packaging, namely general purpose plastic bags, plastic bags for packaging, plastic sheets for writing, printing and marking; printers' type; printing blocks; books in the field of telecommunications, education, entertainment, sporting and cultural activities; pamphlets in the field of in the field of telecommunications, education, entertainment, sporting and cultural activities; pens, pencils, postcards, posters, decalcomanias, stickers, printed tickets, paper beer mats; coasters of paper and cardboard; napkins of paper; tissues and towels of paper; paper bags; general purpose plastic bags

IC 021. US 002 013 023 029 030 033 040 050. G & S: Containers for household or kitchen use; household and kitchen utensils, namely, spatulas, graters, sieves and strainers; combs; bath sponges, cleaning sponges; hair brushes, tooth brushes, clothes brushes, lip brushes, shaving brushes, nail brushes; brush-making materials; articles for cleaning purposes, namely, brooms, cleaning cloths, brushes; steel wool for cleaning; un-worked or semi-worked glass not used in building; beverage glassware, porcelain mugs and figurines; earthenware mugs and figurines; mugs; beer mugs; bottle openers, buckets, champagne buckets, ice buckets, plastic coasters, cocktail stirrers, corkscrews, drinking glasses, cocktail shakers, tankards, toothbrushes, plastic water bottles sold empty

IC 025. US 022 039. G & S: Clothing, footwear, headgear, namely shirts, t-shirts, sweatshirts, skirts, jogging suits, trousers, jeans, pants, shorts, rainwear, cloth bibs, blouses, sweaters, jackets, coats, jumpers, gloves, neckties, scarves, hats, caps, sunvisors, boots, slippers, sneakers, sandals, shoes

IC 035. US 100 101 102. G & S: Advertising; business management; business administration; providing office functions; retail store services featuring consumer electronics, telecommunication goods, clothing and general consumer merchandise; wholesale distributorships featuring consumer electronics, telecommunication goods, clothing and general consumer merchandise, business management relating to the broadcasting stations of others; business advice and information; business research; rental of data processing equipment; expert evaluations and reports relating to business matters; forestry management services

IC 038. US 100 101 104. G & S: Telecommunications, namely electronic, electric and digital data transmission of data; mobile telecommunications services, namely mobile telephone communication; telecommunication gateway services; telecommunication internet access services; mobile telecommunications network services, namely, communications via fiber-optic networks; fixed line communication services namely electronic transmission of messages and data; provision of broadband

telecommunications access; broadband services, namely broadband communication services, wireless broadband communication services; broadcasting services, namely, audio and video broadcasting services, broadcasting programs via a global computer network, television and radio; television broadcasting services; voice over internet protocol services; provision of access to internet protocol TV; providing remote internet access services; email and text messaging services; telecommunications consultation; rental of access time to global computer networks

IC 039. US 100 105. G & S: Transport and storage of goods; packaging articles for transportation; travel arrangement; travel information services

IC 041. US 100 101 107. G & S: Educational services, namely arranging and conducting classes, seminars, conferences and workshops in the field of business, telecommunications, mobile telephone communications, radio communications, satellite communications and data communications; providing training services in the field of telecommunications, mobile telephone communications, radio communications, satellite communications and data communications; entertainment services, namely production of ballet, opera, orchestra, musical bands and plays; organizing community sporting and cultural events; interactive entertainment services, namely, providing on-line computer games; providing computer games that may be accessed network wide by network users; providing entertainment information by means of telecommunication networks; providing news information in the field of current event reporting; entertainment in the nature of on-going television programs in the field of music, news, comedy, and variety; internet protocol television services, namely, providing on-going television programs in the field of music, news, comedy, and variety via a global computer network; entertainment, namely, live music concerts; night club services, discotheque services; and nightclubs, entertainment in the nature of football games, rugby tournaments, golf and tennis tournaments, soccer games, performing and competing in motor sport events; organizing exhibitions for educational, cultural, sporting, or entertainment purposes namely art exhibitions, music exhibitions, and telecommunication exhibitions, organizing community sporting and cultural events; presentation of live show performances; night clubs; rental of stadium facilities; casino services; providing information in the field of entertainment

IC 042. US 100 101. G & S: Scientific research services; technological consultation in the field of physics, chemistry, engineering, computer programming, information technology and telecommunications; design for others in the field of physics, chemistry, engineering, computer programming, information technology and telecommunications; industrial design in the field of computer programming, information technology and telecommunications; design and development of computer hardware and software; information technology consultation; computer programming services; recovery of computer data; consultation services in the fields of selection, implementation and use of computer hardware and software systems for others; computer programming; duplication of computer programs; computer rental; computer software design; installation of computer software; maintenance of computer software; updating of computer software; rental of computer software; rental of computer hardware; computer system design; computer systems analysis; consultancy in the field of computer software; conversion of data or documents from physical to electronic media; creating and maintaining websites for others; data conversion of computer program data or information not being physical conversion; hosting computer web sites; engineering services; technology consulting in the field of engineering; designing equipment for telecommunication networks; database development services; weather forecasting; research in the field of telecommunications technology

IC 043. US 100 101. G & S: Providing of food and drink; providing temporary accommodation; hotel services; restaurant, bar, café and snack bar services

IC 044. US 100 101. G & S: Medical services; veterinary services; beauty salon services; cosmetician services; agricultural advice; rental of agricultural equipment; horticulture services

**Standard
Characters
Claimed**

Mark

**Drawing
Code** (4) STANDARD CHARACTER MARK

**Serial
Number** 77183491

Filing Date May 17, 2007

Current Filing Basis 1B;44D
Original Filing Basis 1B;44D
Owner (APPLICANT) **O2 Holdings Limited LIMITED COMPANY** UNITED KINGDOM Wellington Street Slough, Berkshire UNITED KINGDOM SL11YP
Attorney of Record Stephen L. Baker
Priority Date May 16, 2007
Type of Mark TRADEMARK. SERVICE MARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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EXHIBIT D

ESTTA Tracking number: **ESTTA48034**

Filing date: **10/11/2005**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	O2 Holdings Limited
Granted to Date of previous extension	10/12/2005
Address	Wellington StreetSlough Berkshire, SL1 1YP UNITED KINGDOM

Correspondence information	Stephen L. Baker Lawyer Baker and Rannells PA 626 North Thompson street Raritan, NJ 08869 UNITED STATES s.baker@br-tmlaw.com,a.korar@br-tmlaw.com,n.friedman@br-tmlaw.com,j.stobbs@boulton.com Phone:908 722 5640
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Applicant Information

Application No	78376314	Publication date	06/14/2005
Opposition Filing Date	10/11/2005	Opposition Period Ends	10/12/2005
Applicant	Locus Telecommunications, Inc.		

	111 Sylvan Avenue Englewood Cliffs, NJ 07632 UNITED STATES
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Goods/Services Affected by Opposition

Class 016.
All goods and services in the class are opposed, namely: Prepaid telephone calling cards, not magnetically encoded

Class 038.
All goods and services in the class are opposed, namely: Prepaid wireless telephone services; telephone services provided via prepaid telephone calling cards

Attachments	02 opposition.pdf (2 pages)
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Signature	/Stephen L. Baker/
Name	Stephen L. Baker
Date	10/11/2005

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

-----X
O2 Holdings Limited

Opposer

Mark: O2

v.

Serial No.: 78376314

Locus Telecommunications, Inc.

Filed: March 31, 2004

Applicant
-----X

NOTICE OF OPPOSITION
PURSUANT TO 15 U.S.C SECTION 1063

In the matter of trademark application Serial No. 78376314 filed by Applicant, Locus Telecommunications, Inc. ("Applicant"), for O2 (the "Applicant's Mark") as a trademark for: Class 16 - Prepaid telephone calling cards, not magnetically encoded; and Class 38 - Prepaid wireless telephone services; telephone services provided via prepaid telephone calling cards ("Applicant's Goods"), published for opposition in the Official Gazette of June 14, 2005, at TM 196, the time to oppose having been extended Opposer, O2 Holdings Limited, a corporation organized and existing under the laws of the United Kingdom and located and doing business Wellington Street, Slough, Berkshire, SL1 1YP, believes that it will be damaged by the registration of the alleged mark shown in Application Serial No. 78376314 and opposes the registration under the provisions of 15 U.S.C. §1063 (Trademark Act of 1946, Section 13).

As grounds of opposition, it is alleged that:

1. Opposer is the owner of the mark O2 (stylized), and variations thereof ("Opposer's Mark") as a trademark, trade name, and as a service mark as applied to a wide range of goods and services directed to wholesale and retail consumers, including telecommunication services and related goods and services (the "Opposer's Goods").

2. Opposer is now and has been, for long prior to any date which may be claimed by Applicant, engaged in the use Opposer's Mark for Opposer's Goods.

3. Upon information and belief, applications filed on behalf of Opposer to register Opposer's Mark and assigned Ser. Nos. 78618164 and 78618311 will be rejected by the P.T.O. on the grounds that the mark of Applicant (Opposer herein), so resembles the mark shown in the application being opposed herein for Applicant's Goods, as shown in Ser. No. 78376314 as to be likely to cause confusion, or to cause mistake, or to deceive [Section 2(d) of the Trademark Act of 1946, 15 U.S.C. §1052 (d)].

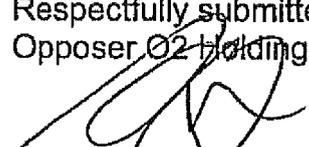
4. The issuance of a registration to Applicant will create a serious cloud on Opposer's continued right to use Opposer's Mark, alone or in combination, for the goods set forth in its application.

5. Opposer believes that it is and will be damaged by registration of the mark applied by Applicant.

WHEREFORE, Opposer prays that the application for registration of O2, Serial No. 78376314, filed on March 31, 2004, be denied and that this Opposition be sustained.

Respectfully submitted for
Opposer O2 Holdings Limited

By:



Stephen L. Baker
BAKER & RANNELLS
626 North Thompson Street
Raritan, NJ 08869
(908) 722-5640

Dated: October 11, 2005

EXHIBIT E

BAKER AND RANNELLS, P.A.
INTELLECTUAL PROPERTY ATTORNEYS

STEPHEN L. BAKER ♦
JOHN M. RANNELLS ♦
NEIL B. FRIEDMAN ♦
RYAN A. MCCONIGLE ♦
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ADMITTED TO PRACTICE IN
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* NEW JERSEY & REG. PATENT
ATTORNEY

PLEASE RESPOND TO THE NEW JERSEY ADDRESS

FACSIMILE COVER SHEET

TO: Burney Gillis - per your instructions on the substitute specimen for renewal

NUMBER: 571 273 9526

FROM: Linda Kurth

DATE: September 8, 2009

RE: Registration Number 2231093, substitute/additional specimen and declaration of use.

PAGES: 4 - INCLUDING COVER

This fax is confidential and may be legally privileged. If you received it in error please notify us immediately. If you are not the intended recipient you should not copy it, disclose its contents to others, or use it for any purpose.

BAKER AND RANNELLS, P.A.
INTELLECTUAL PROPERTY ATTORNEYS

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PLEASE RESPOND TO THE NEW JERSEY ADDRESS
EMAIL: L.KURTH@BR-TMLAW.COM

September 8, 2009

VIA FAX

USPTO Trademark Renewal Unit
(571) 273-9526

RE: Registration Number 2231093 Renewal

Dear Sir:

Attached to this letter are declaration and a substitute/additional specimen with regard to Registration Number 2231093 for the Mark O2 filed pursuant to TMFP § 1604.12(c)(2). The specimen consists of digital photographs of computer hardware onto which operating system software is downloaded for use in electronic telecommunications devices which bear the subject mark. Also attached is a declaration from the Registrant declaring that the attached specimen was in use in commerce within one year before the end of the ten-year period after the date of registration of the Mark.

Sincerely,
Baker & Rannels, PA

/s/Linda Kurth
Linda Kurth

Encls.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: O2 Holdings, Ltd.
MARK: O2
REG. NO.: 2231093

DECLARATION PURSUANT TO TMEP § 1604.12(c)(2)

The undersigned, Kate Jarvis, declares that she is a Director of the Registrant in the captioned matter and further declares that she is authorized to execute this instrument.

The undersigned further declares that the substitute specimen submitted herewith, submitted as an additional specimen to the originally submitted specimen, was in use in commerce, exclusive of "instructional manuals therefor sold as a unit therewith," which should be deleted from the registration, within one year before the end of the ten-year period after the date of registration pursuant to TMEP § 1604.12(c)(2).

The undersigned further declares that all statements made of her own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the document or any registration resulting therefrom.

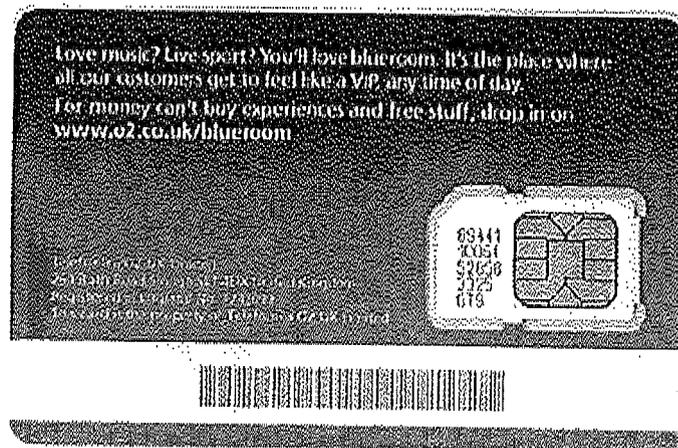
O2 Holdings, Ltd.



Name: KATE JARVIS

Title: DIRECTOR

Dated: 8/9/09



The specimen consists of digital photographs of computer hardware onto which operating system software is downloaded for use in electronic telecommunications devices bearing the subject trademark.