

ESTTA Tracking number: **ESTTA310315**

Filing date: **10/07/2009**

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

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Advanced Ops Corporation dba Influxis		
Entity	Corporation	Citizenship	CA
Address	28110 Avenue Stanford, Unit D Santa Clarita, CA 91355 UNITED STATES		

Attorney information	Deborah Gubernick Latham & Watkins LLP 650 Town Center Dr, 20th fl Costa Mesa, CA 92626 UNITED STATES ipdocket@lw.com Phone:714-540-1235
----------------------	---

Registration Subject to Cancellation

Registration No	3005287	Registration date	10/11/2005
International Registration No.	NONE	International Registration Date	NONE
Registrant	FLUXUS 28, Rue Desaix 75015 Paris, FRANCE		

Goods/Services Subject to Cancellation

Class 009. All goods and services in the class are cancelled, namely: Computer software for the development and the integration of internet, extranet and intranet sites; computer software used to train professionals in the fields of computers, telecommunications and electronic commerce; computer software for providing multiple-user access to a global computer information network
Class 016. All goods and services in the class are cancelled, namely: Information periodicals and magazines concerning electronic commerce, business and telecommunications; books and manuals relating to the use of the above-referenced computer software; writing paper
Class 035. All goods and services in the class are cancelled, namely: Arranging newspaper subscriptions for others; business management and organization consultancy, business management assistance, professional business consultancy, all of these services being in relation to electronic commerce and business; marketing studies; rental of advertising space, office machines and equipment rental; computerized file management; and organization of exhibitions for electronic commerce and business
Class 037. All goods and services in the class are cancelled, namely: Installation, maintenance and repair of computer hardware, office machines and equipment and telecommunication equipment
Class 038.

All goods and services in the class are cancelled, namely: Electronic transmission of data, images and messages by means of fiber optic networks, computer terminals, satellites, the internet, and by intranet and extranet networks; providing multiple user access to a global computer information network; computer aided transmission of messages and images; facsimile transmission; communication by telephone; sending of telegrams

Class 041.

All goods and services in the class are cancelled, namely: Arranging and conducting of colloquiums, conferences, symposiums and workshops, all in the field of telecommunications and of the electronics business; organization of education or entertainment competitions, educational services, namely conducting courses of instruction in the field of telecommunications and electronics; publication of texts, namely publication of informational magazines and periodicals; editing of written texts

Class 042.

All goods and services in the class are cancelled, namely: Computer system analysis, consultancy in the field of computer hardware; consultancy relating to the security of computer systems and computerized networks; engineering, development, design and integration of web sites for others, hosting of web sites for others; computer software design, updating and maintenance; computer programming services for others; computer rental; rental of computer software; rental of modems; recovery of computer data; leasing of computers; leasing access time to a computer for the manipulation of data; rental of meeting rooms; graphic arts designing; videotaping; licensing of intellectual property

Grounds for Cancellation

Abandonment	Trademark Act section 14
-------------	--------------------------

Attachments	Scan001.PDF (6 pages)(160599 bytes)
-------------	--

Certificate of Service

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

Signature	/DAG/
Name	Deborah Gubernick
Date	10/07/2009

in International Class 16, *arranging newspaper subscriptions for others; business management and organization consultancy, business management assistance, professional business consultancy, all of these services being in relation to electronic commerce and business; marketing studies; rental of advertising space, office machines and equipment rental; computerized file management; and organization of exhibitions for electronic commerce and business* in International Class 35, *installation, maintenance and repair of computer hardware, office machines and equipment and telecommunication equipment* in International Class 37, *electronic transmission of data, images and messages by means of fiber optic networks, computer terminals, satellites, the internet, and by intranet and extranet networks; providing multiple user access to a global computer information network; computer aided transmission of messages and images; facsimile transmission; communication by telephone; sending of telegrams* in International Class 38, *arranging and conducting of colloquiums, conferences, symposiums and workshops, all in the field of telecommunications and of the electronics business; organization of education or entertainment competitions, educational services, namely conducting courses of instruction in the field of telecommunications and electronics; publication of texts, namely publication of informational magazines and periodicals; editing of written texts* in International Class 41, and *computer system analysis, consultancy in the field of computer hardware; consultancy relating to the security of computer systems and computerized networks; engineering, development, design and integration of web sites for others, hosting of web sites for others; computer software design, updating and maintenance; computer programming services for others; computer rental; rental of computer software; rental of modems; recovery of computer data; leasing of computers; leasing access time to a computer for the manipulation of data; rental of meeting rooms; graphic arts designing; videotaping; licensing of intellectual property* in International Class 42 as shown in Registration No. 3005287, owned by Fluxus

("Respondent"). Accordingly, Petitioner hereby seeks cancellation of U.S. Registration No. 3005287 under Section 14 of the Trademark Act (15 U.S.C. 1064).

As grounds for the cancellation, Petitioner alleges as follows:

1. Petitioner filed U.S. Application Serial No. 77/654241 seeking registration of the mark **INFLUXIS** in connection with *providing on-line chat rooms and electronic bulletin boards for transmission of messages among users in the field of general interest; streaming of audio material on the Internet; streaming of video material on the Internet; transmission of sound, video and information from web cams, video cameras or mobile phones, all featuring live or recorded materials; transmission of live presentations and meetings on the Internet in International Class 38 and application service provider (ASP), namely, hosting computer software applications of others; computer services, namely, hosting on-line web facilities for others for organizing and conducting online meetings, gatherings, and interactive discussions; computer services, namely, interactive hosting services which allow the user to publish and share their own content and images on-line; hosting of digital content on the Internet; computer programming; software design and development in International Class 42.*

2. U.S. Application Serial No. 77/654241 has been refused under Trademark Act Section 2(d), 15 U.S.C. § 1052(d) on the ground that Petitioner's mark when used in connection with Petitioner's services, is likely to cause confusion with Respondent's U.S. Registration No. 3005287 for the mark **FLUXUS LA NOUVELLE INTELLIGENCE THE NEW INTELLIGENCE & Design.**

3. On information and belief, the French company Fluxus was acquired by another company in 2001 and then changed its corporate name to BT France SAS. BT France SAS was then dissolved on March 31, 2007.

4. An independent investigation indicates that Respondent no longer uses of the **FLUXUS LA NOUVELLE INTELLIGENCE THE NEW INTELLIGENCE & Design** mark in connection with the relevant goods and services in interstate commerce in the United States and has not done so for at least three (3) consecutive years preceding the filing of this petition.

WHEREFORE, Petitioner requests that U.S. Registration No. 3005287, registered on October 11, 2005, for the mark **FLUXUS LA NOUVELLE INTELLIGENCE THE NEW INTELLIGENCE & Design** be cancelled.

Please recognize as attorneys for Petitioner Deborah A. Gubernick, Julie L. Dalke, Perry J. Viscounty, Mark A. Finkelstein, and all other attorneys of the law firm of Latham & Watkins LLP, 650 Town Center Drive, Suite 2000, Costa Mesa, California 92626-1925. Please address all communications to Deborah A. Gubernick of Latham & Watkins LLP at the address set forth below.

Respectfully submitted,

LATHAM & WATKINS LLP

Dated: October 7, 2009

By:



Deborah A. Gubernick
650 Town Center Drive, 20th Floor
Costa Mesa, California 92626-1925
Telephone: (714) 540-1235
Facsimile: (714) 755-8290
ipdocket@lw.com

Attorneys for Petitioner
Advanced Ops Corporation dba Influxis

CERTIFICATE OF SERVICE

I, Adam Kummins, hereby certify that I served a true and correct copy of the foregoing PETITION TO CANCEL by Federal Express upon:

Fluxus
28, Rue Desaix
75015 Paris
France

with a copy to their Correspondent:

Raymond O. Linker, Jr.
Alston & Bird LLP
PO Drawer 34009
Charlotte, NC 28234-4009

on October 7, 2009



Adam Kummins