UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Baxley

Mailed: March 11, 2010

Cancellation No. 92052038

Speednet, LLC

v.

Speednet Services, Inc.
(substituted for Telvent DTN, Inc. as party defendant)

Andrew P. Baxley, Interlocutory Attorney:

Petitioner, on February 4, 2010, filed a petition to cancel Registration No. 2950620, wherein it identified Telvent DTN, Inc. ("Telvent DTN") as the party defendant/respondent. USPTO Assignment Branch records indicate that Telvent DTN is the most recent assignee of that registration. The above-captioned cancellation proceeding was instituted on February 4, 2010 with Telvent DTN identified in the institution notice as the party defendant/respondent.

The involved registration was issued on May 10, 2005 on the Supplemental Register to DTN Speednet Services, LLC ("DTN Speednet"). A review of USPTO Assignment Branch records indicates that documents reflecting: (1) DTN Speednet's change of name to Speednet Services, Inc. ("respondent") and (2) the assignment of the involved

registration from DTN, Inc. to Telvent DTN were recorded prior to the commencement of this proceeding at (1) Reel 3061, Frame 0749 and (2) Reel 4083, Frame 0807, respectively.

Because Assignment Branch records indicate clear chain of title only as far as respondent, respondent is the proper party defendant herein and should have been identified as such in the institution notice. See Trademark Rule 2.113(c); Patent and Trademark Office Rule 3.73(b)(1)(i); TBMP Section 310.01 (2d ed. rev. 2004); TMEP Section 502.01 (6th ed. 2009). Accordingly, respondent is hereby substituted as party defendant herein.[1] See TBMP Section 512.01. A copy of the petition to cancel and the institution notice is enclosed with respondent's copy of this order.[2]

The Board notes the amended petition to cancel that petitioner filed on March 9, 2010. Although petitioner named Telvent DTN as the party defendant in both the original petition to cancel and the amended petition to cancel, petitioner served the amended petition upon

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[1] The Board file for this proceeding is available online at http://ttabvueint.uspto.gov/ttabvue/.

[2] Because petitioner served the original petition to cancel upon respondent's attorney, the Board remains of the opinion that petitioner's proof of service of the original petition is a reasonable, if improper, attempt to effect service. See institution notice at 1.

respondent's "[a]ttorney of [r]ecord" and not directly upon respondent or Telvent DTN, notwithstanding that no attorney had entered an appearance on respondent's or Telvent DTN's behalf in this proceeding when the amended petition was filed. Although the attorney at issue represented DTN Speednet/respondent during *ex parte* prosecution of the application for the subject registration and is listed in Assignment Branch records as respondent's correspondent, the entry of appearance by that attorney extended only up to issuance and receipt by DTN Speednet/respondent of that registration. See TBMP Section 310.01.

In the notice instituting this proceeding that the Board issued on February 4, 2010, the Board advised petitioner that, unless and until an attorney enters an appearance on the defendant's behalf herein, any future filings herein must be served directly on the defendant. See institution notice at 1. Inasmuch as petitioner's service of the amended petition to cancel was in contravention of Trademark Rules 2.18 and 2.119 and the institution notice, the amended petition will receive no consideration at this time.

Petitioner is allowed until twenty days from the mailing date set forth in this order to: (1) properly serve the amended petition to cancel upon respondent; and (2) file with the Board proof of such service. If petitioner does

not comply with the foregoing, the amended petition to cancel will receive no consideration and this proceeding will go forward based on the original petition to cancel.

Proceedings herein are otherwise suspended.

A copy of this order has been sent to the following persons.

Speednet Services, Inc.
12809 W. Dodge Road, Suite 310
Omaha, NE 68154

Patrick C. Stephenson, Legal Dept.
Telvent DTN, Inc.
9110 W. Dodge Road
Omaha, NE 68114

Melanie T. Frazier, Esq.
Howard & Howard Attorneys PLLC
450 W. Fourth Street
Royal Oak, MI 48067

Kim M. Argo
Abrahams Kaslow & Cassman Llp
8712 W. Dodge Road, Suite 300
Omaha, NE 68114

Jason Lazar, Legal Dept.
KeyOn Communications, Inc.
11742 Stonegate Circle
Omaha, NE 68164

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