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Filing date: **02/24/2010**

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	Avanquest North America Inc.		
Entity	Corporation	Citizenship	California
Address	23801 Calabasas Road Suite 2005 Calabasas, CA 91302 UNITED STATES		

Attorney information	Bruce Friedman Attorney at Law 4040 Lyceum Avenue Los Angeles, CA 90066 UNITED STATES bruce@brucefriedmanlaw.com Phone:310.301.0959
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Registration Subject to Cancellation

Registration No	3517782	Registration date	10/14/2008
Registrant	Datacast Technologies Inc. 50 Barker Street #330 Mount Kisco, NY 10549 UNITED STATES		

Goods/Services Subject to Cancellation

<p>Class 042. First Use: 2007/04/04 First Use In Commerce: 2008/03/12 All goods and services in the class are cancelled, namely: Providing online, non-downloadable computer software for creating searchable databases of information and data; Providing online, non-downloadable computer software for providing an on-line database in the field of transaction processing to upload transactional data, provide statistical analysis, and produce notifications and reports; Providing online, non-downloadable computer software that provides real-time, integrated business management intelligence by combining information from various databases and presenting it in an easy-to-understand user interface; Providing online, non-downloadable computer software, namely, an application allowing sales and field service employees to update and receive data stored in an enterprise's computer databases in real time, using a mobile device, with full telephony integration with the telephone and/or software features of the mobile device; Providing online, non-downloadable database management software for general use; Providing online, non-downloadable enterprise software in the nature of a database for non-transactional data and a search engine for database content</p>

Grounds for Cancellation

The registration is being used by, or with the permission of, the registrant so as to misrepresent the source of the goods or services on or in connection with which the mark is used.	Trademark Act section 14
Priority and likelihood of confusion	Trademark Act section 2(d)

Mark Cited by Petitioner as Basis for Cancellation

U.S. Application No.	77407747	Application Date	02/27/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	MYDATABASE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1992/01/09 First Use In Commerce: 1992/01/09 DATABASE MANAGEMENT SOFTWARE FOR BUSINESS AND HOME USE		

Attachments	77407747#TMSN.jpeg (1 page)(bytes) Petition to Cancel My Database Online #3517782.pdf (5 pages)(50226 bytes)
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Certificate of Service

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

Signature	/Bruce Friedman/
Name	Bruce Friedman
Date	02/24/2010

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

In the Matter of: U.S. Registration No. 3,517,782
Mark: MY DATABASE ONLINE
Registration Date: October 14, 2008

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Avanquest North America Inc., : Cancellation No.:
: :
: :
Petitioner, : :
: :
v. : :
: :
Datacast Technologies Inc., : :
: :
Registrant. : :
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PETITION TO CANCEL

Petitioner, Avanquest North America Inc., a California corporation, having a principal place of business at 23801 Calabasas Road, Suite 2005, Calabasas, California 91302, believes that it has been damaged and will continue to be damaged by U.S. Registration No. 3,517,782, and hereby petitions to cancel the same.

As grounds of this Petition, it is alleged that:

1. Petitioner is the owner of the trademark MYDATABASE for database management software for business and home use.
2. To the best of Petitioner's knowledge, Registrant, Datacast Technologies Inc., a New York corporation, having a principal place of business at 50 Barken Street, Suite 330, Mount Kisco, NY 10549, is the owner of record of the mark MY DATABASE ONLINE,

U.S. Registration No. 3,517,782, for “Providing online, non-downloadable computer software for creating searchable databases of information and data; Providing online, non-downloadable computer software for providing an on-line database in the field of transaction processing to upload transactional data, provide statistical analysis, and produce notifications and reports; Providing online, non-downloadable computer software that provides real-time, integrated business management intelligence by combining information from various databases and presenting it in an easy-to-understand user interface; Providing online, non-downloadable computer software, namely, an application allowing sales and field service employees to update and receive data stored in an enterprise's computer databases in real time, using a mobile device, with full telephony integration with the telephone and/or software features of the mobile device; Providing online, non-downloadable database management software for general use; Providing online, non-downloadable enterprise software in the nature of a database for non-transactional data and a search engine for database content,” in International Class 28, filed on October 10, 2007 and registered on October 14, 2008.

3. Registrant’s claimed first use of the mark MY DATABASE ONLINE anywhere is listed as April 4, 2007.

4. Registrant’s claimed first use in commerce for the mark MY DATABASE ONLINE is listed as March 12, 2008.

5. Petitioner is a leading software publisher that distributes software in the United States and, through its affiliates, throughout the world.

6. Petitioner has adopted and used the trademark MYDATABASE, since at least as early as January 9, 1992 to the present, on or in connection with the sale of database

management software for business and home use, both anywhere and in interstate commerce in International Class 9.

7. Petitioner filed a used-based trademark application with the United States Patent and Trademark Office (“USPTO”) for the mark MYDATABASE on February 27, 2008, for “database management software for business and home use” in International Class 9. The application was assigned U.S. Application Serial No. 77/407,747.

8. In an office action dated August 25, 2009, the USPTO refused registration of the applied-for mark MYDATABASE because of a likelihood of confusion with Registrant’s mark MY DATABASE ONLINE.

9. Petitioner has expended considerable efforts and sums in advertising and promoting Petitioner’s mark MYDATABASE in connection with Petitioner’s software and related goods. As a result of these efforts and monetary expenditures, Petitioner’s mark MYDATABASE has developed a valuable goodwill throughout the United States and Petitioner’s mark enjoys substantial consumer recognition.

10. Petitioner’s Mark is a distinctive trademark which, through its substantial consumer recognition and its extensive use by Petitioner in the United States, is well known.

11. The purchasing public has come to know, rely upon, and recognize the database management software and related goods sold by Petitioner by such mark.

12. The trademark sought to be cancelled, MY DATABASE ONLINE, the subject of U.S. Registration No. 3,517,782, creates a similar overall commercial impression as Petitioner’s prior used trademark MYDATABASE, the subject of pending U.S. Application Serial No. 77/407,747, and is for goods nearly identical to Petitioner’s goods.

13. There is no issue as to priority of use. Petitioner's date of first use and first use in commerce are long prior to the first date of use of the mark MY DATABASE ONLINE by the Registrant (April 4, 2007) and Registrant's filing date for the application which matured into U.S. Registration No. 3,517,782 (October 10, 2007).

14. If Registrant is permitted to retain the registration sought to be cancelled, confusion in the trade is likely to result from any concurrent use of Petitioner's mark and that of the Registrant all to the great detriment of Petitioner, who has expended considerable sums and efforts in promoting its mark.

15. Purchasers are likely to consider the goods of the Registrant sold under the mark MY DATABASE ONLINE as emanating from Petitioner, and purchase such goods as those of the Petitioner, resulting in loss of sales to Petitioner.

16. Registrant is using the mark MY DATABASE ONLINE so as to cause mistake or to deceive.

17. Concurrent use of the mark by the Registrant and Petitioner may result in irreparable damage to Petitioner's reputation and goodwill, if the goods sold by the Registrant are inferior, since purchasers are likely to attribute the source of Registrant's goods to the Petitioner.

18. If Registrant is permitted to continue to maintain its invalid registration, it may be deemed incontestable after five (5) years from the date of registration, and Registrant would thereby obtain an incontestable right to the use of its mark in commerce.

19. If Registrant is permitted to retain the registration sought to be cancelled, its application for registration for its mark MYDATABASE will be refused, a cloud will be placed on Petitioner's title in and to its MYDATABASE mark, and on Petitioner's right to enjoy

the free and exclusive use thereof in connection with the sale of its goods, all to the injury of
Petitioner.

WHEREFORE, Petitioner prays that Registration No. 3,517,782 be canceled and that this
Petition for Cancellation be sustained in favor of Petitioner.

This Petition is filed electronically via the U.S. Patent & Trademark Office Electronic
System for Trademark Trials and Appeals. The official filing fee of \$300 was paid by credit
card.

Petitioner hereby appoints Bruce Friedman, an attorney and member of the bar of the
State of California, whose post office address is 4040 Lyceum Avenue, Los Angeles, California,
90066, to act as attorney for Petitioner herein, with full power to prosecute said Petition, to
transact all relevant business with the USPTO, Trademark Trial and Appeal Board and in the
United States Courts and to receive all official communications in connection with this Petition.

Dated: February 23, 2010
Los Angeles, California

Respectfully submitted,

By: /Bruce Friedman/
Bruce Friedman, Esq.
Attorney at Law
4040 Lyceum Avenue
Los Angeles, California 90066
310.301.0959

Attorney for Petitioner,
Avanquest North America Inc.