

ESTTA Tracking number: **ESTTA339305**

Filing date: **03/26/2010**

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	J M Smith Corporation		
Entity	Corporation	Citizenship	South Carolina
Address	101 West Saint John Street Spartanburg, SC 29306 UNITED STATES		

Attorney information	Nichole Andrighetti Nelson Mullins Riley & Scarborough 100 N. Tryon St. Charlotte, NC 28202 UNITED STATES ip@nelsonmullins.com Phone:864-250-2292
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Registration Subject to Cancellation

Registration No	3707745	Registration date	11/10/2009
Registrant	Expedient Technology Solutions, LLC PO Box 302 Germantown, OH 45327 UNITED STATES		

Goods/Services Subject to Cancellation

<p>Class 035. First Use: 2006/06/01 First Use In Commerce: 2006/06/01 Cancelled goods and services in the class: Value-added reseller services, namely, distributorship services featuring computer security and information technology products; Value-added reseller services, namely, distributorship services featuring computer software</p>
<p>Class 042. First Use: 2006/06/01 First Use In Commerce: 2006/06/01 All goods and services in the class are cancelled, namely: Computer colocation services, namely, providing facilities for the location of computer servers with the equipment of others; Computer diagnostic services; Computer disaster recovery planning; Computer monitoring service which tracks application software performance, performs periodic maintenance and provides reports and alerts concerning such performance; Computer monitoring service which tracks hardware performance and processes and sends out historical reports and alerts; Computer network design for others; Computer project management services; Computer security service, namely, restricting access to and by computer networks to and of undesired web sites, media and individuals and facilities; Computer services, namely, computer system administration for others; Computer services, namely, data recovery services; Computer services, namely, filtering of unwanted e-mails; Computer services, namely, remote and on-site management of electronic messaging systems and applications for others; Computer services, namely, remote management of computer applications for others; Computer software consultation; Computer systems analysis; Computer technology support services, namely, help desk services; Computer virus protection services; Monitoring the computer systems of others for technical purposes and providing back-up computer programs and facilities; Recovery of computer data; Repair of damaged computer programs; Technical support services, namely, troubleshooting of computer hardware and software problems</p>

Grounds for Cancellation

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

U.S. Registration No.	2467707	Application Date	05/22/2000
Registration Date	07/10/2001	Foreign Priority Date	NONE
Word Mark	STRESSFREE I/T		
Design Mark	STRESSFREE I/T		
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 2000/05/06 First Use In Commerce: 2000/05/06 Computer Consulting Services		

Attachments	76053571#TMSN.gif (1 page)(bytes) GREENVILLE-#814443-v2-petition_to_cancel.pdf (4 pages)(54989 bytes) NTB.PDF (1 page)(12044 bytes)
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Certificate of Service

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

Signature	/Nichole Andrighetti/
Name	Nichole Andrighetti
Date	03/26/2010

services featuring computer security and information technology products; value-added reseller services, namely, distributorship services featuring computer software; computer colocation services, namely, providing facilities for the location of computer servers with the equipment of others; computer diagnostic services; computer disaster recovery planning; computer monitoring service which tracks application software performance, performs periodic maintenance and provides reports and alerts concerning such performance; computer monitoring service which tracks hardware performance and processes and sends out historical reports and alerts; computer network design for others; computer project management services; computer security service, namely, restricting access to and by computer networks to and of undesired web sites, media and individuals and facilities; computer services, namely, computer system administration for others; computer services, namely, data recovery services; computer services, namely, filtering of unwanted e-mails; computer services, namely, remote and on-site management of electronic messaging systems and applications for others; computer services, namely, remote management of computer applications for others; computer software consultation; computer systems analysis; computer technology support services, namely, help desk services; computer virus protection services; monitoring the computer systems of others for technical purposes and providing back-up computer programs and facilities; recovery of computer data; repair of damaged computer programs; technical support services, namely, troubleshooting of computer hardware and software problems.

2. Registrant lists a date of first use of June 1, 2006 for all goods and services.

3. Petitioner or its predecessor in interest, Digital-DNS, Inc., has continuously provided services in commerce, including computer consulting services, in

connection with the mark STRESSFREE I/T since at least as early as May 6, 2000, which is prior to Registrant's filing date and date of first use in commerce

4. Petitioner is the owner of U.S. Trademark Registration No. 2,467,707 for the standard character mark STRESSFREE I/T, registered on July 10, 2001 in connection with "computer consulting services."

5. The registration for the STRESSFREE I/T mark is valid, subsisting, and is in full force and effect.

6. Petitioner's U.S. Trademark Registration No. 2,467,707 for the mark STRESSFREE I/T is incontestable pursuant to 15 U.S.C. § 1065.

7. The mark STRESSFREE I/T has acquired extensive goodwill and consumer recognition through its use by Petitioner, or its predecessor in interest, as well as substantial amounts of time and effort spent by Petitioner in advertising and promotion of the mark.

8. Petitioner has priority of use, as Petitioner has continuously used its mark in commerce prior to the filing date and the date of first use in commerce asserted for the registration sought to be cancelled herein.

9. The mark depicted in Registrant's Registration No. 3,707,754 so closely resembles Petitioner's STRESSFREE I/T mark as to be likely, when used in connection with the services recited, to cause confusion, mistake, or to deceive, to the injury of Petitioner.

10. Pursuant to 15 U.S.C. § 1052(d), Registrant's Registration No. 3,707,754 is invalid and should be cancelled.

WHEREFORE, Petitioner requests that the Petition to Cancel Registration No. 3,707,745 be granted in favor of Petitioner and that such registration be cancelled.

The filing fees required by 37 C.F.R. 2.6(a)(16) for filing this Notice of Opposition on behalf of Opposer are enclosed herewith. The Board and Commissioner are hereby authorized to charge any additional fees which may be required by this opposition to Deposit Acct. No. 50-2548.

NELSON MULLINS RILEY & SCARBOROUGH, L.L.P.

Dated: March 26, 2010

By: /Nichole Andrighetti/
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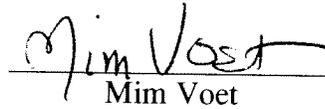
CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing PETITION TO CANCEL has been served on Expedient Technology Solutions, LLC, by mailing said copy on March 8, 2010, via First Class Mail, postage prepaid to:

Joseph Schaeff
Dinsmore & Shohl
One Dayton Centre
One South Main St., Ste. 1300
Dayton, OH 45402

attorney for Expedient Technology Solutions, LLC.

Dated: March 8, 2010


Mim Voet