

ESTTA Tracking number: **ESTTA355292**

Filing date: **06/28/2010**

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	Vidtel, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	825 E. Middlefield Road Mountain View, CA 94043 UNITED STATES		

Attorney information	Lynn M. Humphreys Morrison & Foerster LLP 425 Market Street San Francisco, CA 94105-2482 UNITED STATES lhumphreys@mofo.com, jkripke@mofo.com, dpung@mofo.com, mmcdaniel@mofo.com Phone:415 268 6327
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Registration Subject to Cancellation

Registration No	2927795	Registration date	02/22/2005
Registrant	Santa Cruz Networks, Inc. 603 Mission Street Santa Cruz, CA 95060 UNITED STATES		

Goods/Services Subject to Cancellation

Class 038. First Use: 2003/05/27 First Use In Commerce: 2003/05/27

All goods and services in the class are cancelled, namely: electronic and digital transmission of voice, data, images, signals, and messages; web messaging services; audio, video, and text messaging services offered via electronic communications networks

Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	64587-6001.501 - Petition to Cancel VIDITEL & Design.pdf (6 pages)(162036 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	/Lynn M. Humphreys/
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Name	Lynn M. Humphreys
Date	06/28/2010

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

VIDTEL, INC.,
Petitioner,

v.

SANTA CRUZ NETWORKS, INC.,
Respondent.

Cancellation No.:

Registration No.: 2,927,795

Issued: February 22, 2005

Mark: VIDITEL
(stylized)

PETITION TO CANCEL

Box TTAB FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Vidtel, Inc. (“Petitioner”), a Delaware corporation with offices at 825 E. Middlefield Road, Mountain View, California, 94043 believes that it has been, is, and will continue to be injured by Registration No. 2,927,795, and hereby applies for cancellation of the same.

To the best of Petitioner’s knowledge, the name and address of the current owner of Registration No. 2,927,795 is Santa Cruz Networks, Inc. (“Respondent”), 603 Mission Street, Santa Cruz, California 95060.

The grounds for cancellation are as follows:

1. On February 22, 2005, Registration No. 2,927,795 issued for Respondent’s VIDITEL (stylized) mark in connection with “electronic and digital transmission of voice, data, images, signals, and messages; web messaging services; audio, video, and text messaging services offered via electronic communications networks” in Class 38.

2. On January 30, 2009, Petitioner applied for registration in the United States of its mark, VIDTEL, Application Serial No. 77/660,077, in connection with “video telephones” in Class 9 and “telecommunication services, namely, local and long distance telephone services; local and long distance video telephone services; voicemail, video mail and video messaging services; electronic transmission of voice and video by means of video telephone” in Class 38.

3. The Examining Attorney refused to register Petitioner’s VIDTEL mark under section 2(d) of the Lanham Act, citing Respondent’s Registration No. 2,927,795 for VIDITEL (stylized).

4. On information and belief, Respondent is not using the VIDITEL (stylized) mark in commerce. Attached hereto as Exhibit A is a printout from www.archive.org of Respondent’s website, which indicates that Respondent stopped using the VIDITEL (stylized) mark on its goods and services as of January 31, 2006.

5. On information and belief, Respondent has not used the VIDITEL (stylized) mark in commerce for at least the last three consecutive years, immediately preceding the filing date of this Petition, and such nonuse constitutes prima facie abandonment of the VIDITEL (stylized) mark. On information and belief, Respondent has abandoned all use of the VIDITEL (stylized) mark without any intent to resume such use.

6. Petitioner believes that it will be seriously injured if the Respondent is permitted to retain the registration sought herein to be canceled because Respondent will retain a prima facie exclusive right to the mark VIDITEL (stylized) and will prevent the publication and subsequent registration of Petitioner’s application for VIDTEL, as it has already done. Petitioner seeks cancellation of Registration No. 2,927,795 on this basis.

WHEREFORE, Petitioner prays that Registration No. 2,927,795, currently owned by Respondent, be canceled.¹

¹ Pursuant to Trademark Rule 2.111(b), Petitioner serves this Petition to Cancel on the owner of Registration No. 2,927,795, as listed in the United States Patent & Trademark Office records.

Filing Fee: The United States Patent & Trademark Office is authorized to charge \$300.00 for the filing fee and any additional fees that may be required, or to credit any overpayment, to **Deposit Account 03-1952 (Reference No. 64587-6001501)**.

Respectfully submitted,

Dated: June 28, 2010

By:



Rosemary S. Tarlton
Lynn M. Humphreys
Attorney for Petitioner

Morrison & Foerster LLP
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EXHIBIT A



Please note that the Viditel service has been discontinued on January 31, 2006. If you already have an account you should have received a notice detailing the closure.

Santa Cruz Networks is phasing out Viditel so that we may focus our efforts on enhancing our next generation VoIP and video product called Festoon. A free service featuring secure group voice, video, and sharing, Festoon plugs into existing IM platforms like Skype and Google Talk with support coming soon for AOL, MSN, and Yahoo!



For your future meetings, we welcome you to try Festoon (<http://web.archive.org/web/20060412004001/http://www.festooninc.com/>).

Wishing you the best for your online communication needs.

The Team at Santa Cruz Networks / Festoon

PROOF OF SERVICE BY MAIL

I am employed with the law firm of Morrison & Foerster LLP, whose address is 425 Market Street, San Francisco, California, 94105; I am not a party to the within cause; I am over the age of eighteen years and I am readily familiar with Morrison & Foerster's practice for collection and processing of correspondence for mailing with the United States Postal Service and know that in the ordinary course of Morrison & Foerster's business practice the document described below will be deposited with the United States Postal Service on the same date that it is placed at Morrison & Foerster with postage thereon fully prepaid for collection and mailing.

I further declare that on June 28, 2010, I served a copy of:

PETITION TO CANCEL

on the following by placing a true copy thereof enclosed in a sealed envelope addressed as follows for collection and mailing at Morrison & Foerster LLP, 425 Market Street, San Francisco, California, 94105, in accordance with Morrison & Foerster's ordinary business practices:

**Santa Cruz Networks, Inc.
603 Mission Street
Santa Cruz, CA 95060**

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed at San Francisco, California, this 28th day of June 2010.

Mary S. McDaniel
(typed)



(signature)