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Filing date: **10/19/2010**

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

Proceeding	92052637
Party	Plaintiff Vidtel, Inc.
Correspondence Address	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
Submission	Other Motions/Papers
Filer's Name	Lynn M. Humphreys
Filer's e-mail	lhumphreys@mofo.com, jkripke@mofo.com, dpitts@mofo.com
Signature	/Lynn M. Humphreys/
Date	10/19/2010
Attachments	Combined Notice of Service and Consented Motion to Suspend.pdf (10 pages) (261453 bytes)

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

VIDTEL, INC.,	Cancellation No.:	92052637
Petitioner,	Registration No.:	2,927,795
v.	Issued:	February 22, 2005
SANTA CRUZ NETWORKS, INC.,	Mark:	VIDITEL (stylized)
Respondent.		

**NOTICE OF SERVICE OF PETITION TO CANCEL AND MOTION TO SUSPEND
WITH CONSENT**

Dear Ms. Linnehan:

Mr. Itzik Cohen, a representative of Respondent Santa Cruz Networks, Inc., now abazab Inc. d/b/a ClipSync ("Respondent") contacted Ms. Lynn M. Humphreys, counsel for Vidtel, Inc. ("Petitioner"), and informed her that Cancellation No. 92052637 had been brought to his attention. Petitioner has now served a copy of the Petition to Cancel U.S. Registration No. 2,927,795 on Respondent at its current address. A true and correct copy of the proof of service by mail declaration signed by Deena Pitts is attached hereto as Exhibit A.

Petitioner and Respondent are currently engaged in settlement discussions to resolve this dispute. Petitioner, through its undersigned attorney, hereby moves to suspend Cancellation No. 92052637 in its entirety for sixty (60) days as of the filing date of this motion. This suspension is necessary and supported by good cause, as the parties need the additional time to discuss and finalize a potential settlement agreement. Upon resumption of Cancellation No. 92052637 in sixty days, and in the event settlement has not been reached, Petitioner

respectfully requests that the Trademark Trial and Appeal Board reset the trial dates, including the date for Respondent to file its Answer, in this proceeding.

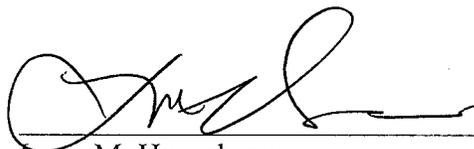
This motion is made with the consent of Respondent. Itzik Cohen of Respondent consented to this motion to suspend via telephone conversation with Petitioner's counsel, Julia D. Kripke, on October 15, 2010.

A copy of this combined Notice of Service of Petition to Cancel and Consented Motion to Suspend is being served on Respondent.

Respectfully submitted,

Dated: October 19, 2010

By:



Lynn M. Humphreys
Attorney for Applicant

Morrison & Foerster LLP
425 Market Street
San Francisco, California 94105-2482
Telephone: (415) 268-6327
Facsimile: (415) 268-7522

EXHIBIT A

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

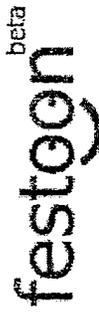
Morrison & Foerster LLP
425 Market Street
San Francisco, California 94105-2482
Telephone: (415) 268-7000
Facsimile: (415) 268-7522

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 October 19, 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:

Mr. Itzik Cohen
ClipSync
Pier 33 South Embarcadero, Suite 201
San Francisco, CA 94111

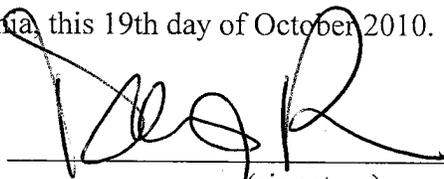
Mr. Itzik Cohen
ClipSync
1821 S. Bascom Ave. Suite 287
Campbell, CA 95008

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 19th day of October 2010.

Deena Pitts

(typed)



(signature)

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Deena Pitts
(typed)



(signature)