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Filing date: **04/15/2013**

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	Giftboard, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	5230 W Patrick Lane, Ste 220 Las Vegas, NV 89118 UNITED STATES		

Attorney information	Douglas Burda BURDA IP P.O. BOX 1532 La Jolla, CA 92038 UNITED STATES douglas@burda.co Phone:858-348-5054		
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Registration Subject to Cancellation

Registration No	4160773	Registration date	06/19/2012
Registrant	Agapov, Andrey A. 55 Orchard St Greenfield, MA 01301 UNITED STATES		

Goods/Services Subject to Cancellation

Class 035. First Use: 2011/08/15 First Use In Commerce: 2011/08/15 All goods and services in the class are cancelled, namely: Promotional services, namely, promoting the goods of others by issuing electronic gift cards Issuing electronic gift certificates and gift cards which may then be redeemed for goods or services
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Grounds for Cancellation

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
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Attachments	GIFTBOARD_Petition for Cancellation.pdf (4 pages)(65851 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	/Douglas Burda/
Name	Douglas Burda

Date	04/15/2013
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

GIFTBOARD, INC.

Petitioner,

v.

CANCELLATION NO. _____

MR. ANDREY A. AGAPOV

Registrant.

PETITION FOR CANCELLATION

Petitioner, Giftboard, Inc., having its principal place of business at 5230 W Patrick Lane, Ste 220, Las Vegas, Nevada 89118 (Giftboard), believes it is being damaged and/or will be damaged by the registration of the mark IT'S ON ME (Mark) delineated in United States trademark registration number 4160773 (Registration), and hereby seeks cancellation of such Registration on the following grounds:

1. On October 19, 2011, Mr. Andrey A. Agapov, having an address of having an address of 55 Orchard St., Greenfield, Massachusetts 01301 (Registrant), filed an application for the Mark (Application) with the United States Patent and Trademark Office (PTO) with the following services in international class 035 on an in-use basis:

PROMOTIONAL SERVICES, NAMELY, PROMOTING THE GOODS OF OTHERS BY ISSUING ELECTRONIC GIFT CARDS ISSUING ELECTRONIC GIFT CERTIFICATES AND GIFT CARDS WHICH MAY THEN BE REDEEMED FOR GOODS OR SERVICES

(Services).

2. In the Application, Registrant stated a date of first use of the Mark of August 15, 2011 and a date of first use in United States commerce of the Mark of August 15, 2011 (Claims of Use).
3. As of August 15, 2011, Registrant had not made use of the Mark in United States commerce with respect to the Services.

4. As of April 13, 2013, Registrant had not made use of the Mark in United States commerce with respect to the Services.
5. Registrant knew Registrant had not made any use of the Mark when Registrant submitted the Application.
6. Registrant knew Registrant had not made use of the Mark in United States commerce when Registrant submitted the Application.
7. Registrant falsely asserted its Claims of Use statements with the intent to induce authorized agents of the PTO to grant the Registration, and reasonably relying on the truth of said false statements, the PTO did, in fact, grant the Registration to Registrant.
8. Registrant's Specimen of Use does not demonstrate use of the Mark in United States commerce.
9. Registrant filed a Specimen of Use with the PTO as the basis for Registrant's claim of first use of the Mark in United States commerce knowing that such Specimen of Use did not demonstrate first use of the Mark in United States commerce.
10. Registrant falsely asserted its Specimen of Use with the intent to induce authorized agents of the PTO to grant the Registration, and reasonably relying on the truth of said false Specimen of Use, the PTO did, in fact, grant the Registration to Registrant.
11. Registrant is not entitled to the Registration of the Mark because Registrant committed fraud in the procurement of the Registration by making false, material representations to the PTO with the intent to deceive the PTO.
12. Because Registrant's Claims of Use and Specimen of Use for the Services were false at the time of filing of the Application, the Application is void *ab initio*.
13. The Application would have been refused registration but for Registrant's false assertions.

14. The Registration is causing injury to Giftboard's business plans, impairing Giftboard's rights in Giftboard's mark(s), and will continue to cause injury to Giftboard until the Registration is cancelled.

15. Giftboard is and will be further damaged by the Registration in that such Registration will continue to give Registrant a *prima facie* exclusive right to use the Mark despite the Registrant's fraudulent assertions in procurement of the Registration.

WHEREFORE, Giftboard respectfully requests that this Petition be sustained in favor of Giftboard and that the Registration be cancelled.

April 15, 2013

Respectfully submitted,



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Email. douglas@burda.co
Attorney for Opposer

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing PETITION FOR CANCELLATION has been served on Mr. Andrey A. Agapov by mailing said copy on April 15, 2013, via First Class Mail, postage prepaid to the following individual, identified as the owner and correspondent in the Registration:

Mr. Andrey A. Agapov
55 Orchard St
Greenfield, Massachusetts 01301

By: 
Douglas Burda