

ESTTA Tracking number: **ESTTA550538**

Filing date: **07/25/2013**

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	Kerio Technologies Inc.		
Entity	Corporation	Citizenship	Delaware
Address	111 North Market St. 6th Floor San Jose, CA 95113 UNITED STATES		

Attorney information	Julia Spoor Gard Barnes & Thornburg LLP 11 South Meridian Street Indianapolis, IN 46204 UNITED STATES ofleming@btlaw.com, jgard@btlaw.com Phone:317-236-1313		
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Registration Subject to Cancellation

Registration No	3614591	Registration date	05/05/2009
Registrant	Cubenot, LLC 1207 Featherstone Lane NE Leesburg, VA 20176 UNITED STATES		

Goods/Services Subject to Cancellation

Class 042. First Use: 2008/01/17 First Use In Commerce: 2008/01/17 All goods and services in the class are cancelled, namely: Providing on-line non-downloadable software for managing business project requirement build versions and subsystems, and not providing on-line computer games that are played on-line
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Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	Petition.pdf(115953 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	/jgard/
Name	Julia Spoor Gard

Date	07/25/2013
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Kerio Technologies Inc.)	
)	
)	
Petitioner,)	
)	
v.)	Cancellation No. _____
)	
Cubenot, LLC,)	Registration No. 3,614,591
)	
)	
Respondent.)	
_____)	

PETITION FOR CANCELLATION

Kerio Technologies Inc. believes it is now and will in the future continue to be damaged by Cubenot, LLC’s registration of the trademark SAMEPAGE, as shown in Registration No. 3,614,591, registered on May 5, 2009 (hereinafter the “Registered Mark”), and hereby petitions to cancel said registration.

The grounds for this petition include the following:

1. Kerio Technologies Inc. (“Petitioner”), a Delaware corporation, provides a cloud-based business collaboration platform that connects people with projects, conversations and files.

2. Petitioner is the owner of U.S. Serial No. 85/783582 for SAMEPAGE claiming “computer software recorded on computer media which allows users to synchronize desktop computer stored files with those stored on an online business

collaboration computer service, and access an online business collaboration computer service from a mobile device” in Class 9, and “Computer services, namely, creating online communities for registered users to easily and readily exchange information, such as text, files, and data, and commentary, for general business collaboration; providing a web site featuring temporary use of non-downloadable software which allows users to share, collaborate, review, and exchange documents and files for general business collaboration” in Class 42.

3. Cubenot, LLC (“Respondent”) is the owner of Registration No. 3,614,591 for the mark SAMEPAGE for “Providing on-line non-downloadable software for managing business project requirement build versions and subsystems, and not providing on-line computer games that are played on-line” in Class 42. A printout from TSDR, evidencing the current status and ownership of the Registered Mark, is attached as Exhibit A.

4. Respondent’s claimed date of first use of its mark in connection with Respondent’s services is January 17, 2008, and the application filing date is January 25, 2008.

5. The U.S. Patent and Trademark Office cited Respondent’s Registration No. 3,614,591 for SAMEPAGE as a potential bar to the registration of Petitioner’s pending application Serial No. 85/783582 to register SAMEPAGE.

6. Upon information and belief, Respondent has discontinued use of the Registered Mark with intent not to resume such use and Respondent has abandoned the Registered Mark.

7. Upon information and belief, Respondent's legal entity has been dissolved and/or is not in good standing with its state of incorporation.

8. Upon information and belief, Respondent has not used the Registered Mark mark in commerce for at least the last three years.

9. Registration for the Registered Mark issued less than five (5) years from the filing date of this Petition.

10. Upon information and belief, cancellation of Respondent's Mark is proper and would avoid a finding of a likelihood of confusion based upon Respondent's Registration No. 3,614,591 for SAMEPAGE.

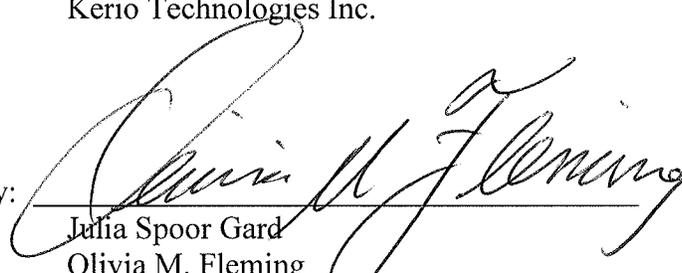
WHEREFORE, Kerio Technologies Inc. prays that said registration be cancelled.

Respectfully submitted,

Kerio Technologies Inc.

July 25, 2013

By:



Julia Spoor Gard

Olivia M. Fleming

BARNES & THORNBURG LLP

11 South Meridian Street

Indianapolis, Indiana 46204

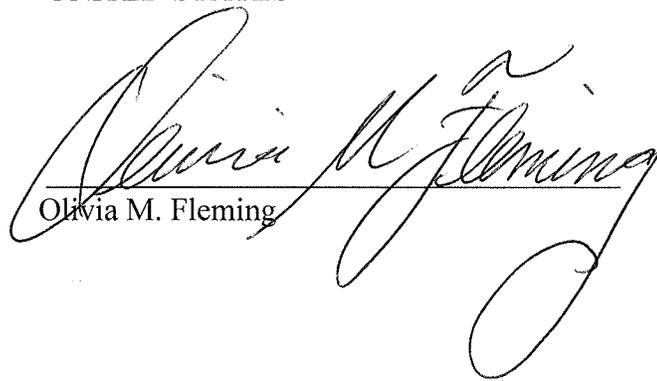
Phone 317-236-1313

Attorneys for Petitioner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the **PETITION FOR CANCELLATION** has been served July 25, 2013, by depositing a copy of the same in the United States mail, first class postage prepaid and properly addressed to the Registrant:

Cubenot, LLC.
1207 Featherstone Lane NE
Leesburg, VIRGINIA 20176
UNITED STATES


Olivia M. Fleming