

ESTTA Tracking number: **ESTTA554619**

Filing date: **08/16/2013**

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 parties request to cancel indicated registration.

Petitioner Information

Name	Entro Industries, Inc.		
Entity	Corporation	Citizenship	Oregon
Address	3601 NW John Olsen Place Hillsboro, OR 97124 UNITED STATES		

Name	Entro Incorporated		
Entity	Corporation	Citizenship	Oregon
Address	3601 NW John Olsen Place Hillsboro, OR 97124 UNITED STATES		

Attorney information	Bryan S. Geon Pitzer Law 101 SW Main Street Suite 805 Portland, OR 97204 UNITED STATES jpitzer@pitzerlaw.net, bgeon@pitzerlaw.net Phone:503-227-1477		
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Registration Subject to Cancellation

Registration No	3593594	Registration date	03/24/2009
Registrant	Vora, Theodore C. 11419 Dover Houston, TX 77031 UNITED STATES		

Goods/Services Subject to Cancellation

Class 007. First Use: 2007/11/15 First Use In Commerce: 2007/11/15 All goods and services in the class are cancelled, namely: Power-operated moving equipment for use in moving a drilling rig that is maintained in an upright working position

Grounds for Cancellation

Genericness	Trademark Act section 23
The mark is merely descriptive	Trademark Act section 2(e)(1)

Attachments	Petition to Cancel.pdf(270365 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	/Bryan S. Geon/
Name	Bryan S. Geon
Date	08/16/2013

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

5 In the matter of trademark Registration No. 3,593,594
6 For the mark: RIG WALKER
7 Date registered: March 24, 2009

8 ENTRO INCORPORATED and ENTRO)
9 INDUSTRIES, INC.,)

10 Petitioners,)

11 v.)

12 THEODORE VORA,)

13 Registrant.)

Cancellation No: _____

PETITION TO CANCEL

14 **PETITION TO CANCEL**

15 Petitioners Entro Incorporated and Entro Industries, Inc. are Oregon
16 corporations with their principal place of business at 3601 NW John Olsen Place, Hillsboro,
17 Oregon 97124.

18 To the best of Petitioners' knowledge, the name and address of the current
19 owner of U.S. Registration No. 3,593,594 for RIG WALKER (the "Registration") is
20 Theodore Vora, 11419 Dover, Houston, Texas 77031 ("Registrant"). A copy of the
21 Registration record is attached as Exhibit 1.

22 Petitioners are currently and will continue to be damaged by the Registration,
23 and hereby petition to cancel the same.

1 The grounds for cancellation are as follows:

2 **The Term “Rig Walker” (i) Is Generic for the Goods and (ii) Is Descriptive of**
3 **Registrant’s Goods and Lacks Secondary Meaning.**

4 1. Registrant is the owner of Veristic Manufacturing, Inc. (“Veristic”). Veristic
5 is a structural engineering and manufacturing company that provides design and fabrication of
6 drilling rigs and rig equipment.

7 2. Petitioners are also structural engineering and manufacturing companies that
8 provide design and fabrication of, among other things, drilling rigs and rig equipment.

9 3. In the oil and gas industry, systems used to move drilling rigs are generally
10 known as rig moving systems. There are several different broad categories of rig moving
11 systems, and each system is generally known by a different name, depending on the method
12 used to move the rig. For example, a skidding system is used to drag or push a rig.

13 4. One category of moving system uses modules that incorporate hydraulic lift
14 cylinders and that are attached to the rig substructure and supported by large metal plates or
15 “feet.” Working together, these modules lift the rig structure, move it a distance in the
16 desired direction, and set it back down again. That process repeats until the rig has arrived at
17 the desired new location. Because this hydraulic process resembles a walking movement, this
18 type of moving system is commonly known in the oil and gas industry as a “rig walking
19 system” or simply “walker.”

20 5. The use of the term “walk” to describe this hydraulic method of moving
21 machinery in general, and drilling rigs in particular, has been in use for decades. By way of
22 example, U.S. Patent No. 2,259,200, issued on October 14, 1941, is for a “Traction or
23 Propulsion Mechanism of the Walking Type.” A copy of U.S. Patent No. 2,259,200 is

1 attached as Exhibit A. More recently, U.S. Patent No. 5,921,336, issued on July 13, 1999, is
2 for a “Walking substructure device” used to move drilling rigs. A copy of U.S. Patent No.
3 5,921,336 is attached as Exhibit B. These uses clearly predate Registrant’s claimed first use
4 in commerce.

5 6. The terms “walker,” “walking machine,” and “walking system” are used by
6 engineers and manufacturers in the oil and gas industry generically or descriptively to denote
7 equipment that uses the above-described “walking” method to move drilling rigs. As of the
8 date of this Petition, companies such as Columbia Industries, Inc., Loadmaster Universal
9 Rigs, Inc., Axiom Oilfield Solutions, Arc Designs, Inc., Global Energy Services, KAT
10 Industries, Inc., and Integrated Drilling Equipment, among others, all use the term “walking”
11 in this descriptive or generic manner.

12 7. Patterson-UTO Energy, Inc. has obtained a trademark registration for the term
13 “APEX WALKING” for “moveable drilling rigs used for drilling for oil and gas, Registration
14 No. 4,268,480, but specifically disclaims the exclusive right to use the term “walking” apart
15 from the mark as shown.

16 **Registrant and His Generic and Descriptive Use of the Term Rig Walker.**

17 8. Like many companies, Registrant’s company, Veristic, operates a website
18 (currently located at <http://www.vengineer.com>).

19 9. Veristic’s use of the term “rig walker” is not unique or distinctive, but is
20 consistent with other third-party uses of the term and the common understanding in the oil
21 and gas industry of a drilling rig walking system.

22 10. On Veristic’s website, Veristic repeatedly uses the term “rig walker” as a
23 generic or descriptive term: “*The Rig Walker allows a drilling rig to be moved laterally*”;

1 *“The Rig Walker features a 2.4 million pound lift capacity”*; *“While imitations and copies of*
2 *the Rig Walker advertised longer step strokes or faster rig skidding...”* A copy of a printout
3 of the “Rig Skidding System” page from Veristic’s website is attached as Exhibit C.

4 11. Notably, although it capitalizes the term Rig Walker on its website, Veristic
5 does not include a ® symbol or provide any other indication that any exclusive rights are
6 claimed to the term “rig walker,” or even putting anyone on notice that Veristic (or
7 Registrant) claims a trademark in the term at all.

8 **Petitioners Are Being And Will Continue To Be Damaged By The Registration.**

9 12. At the beginning of July 2013, Petitioner Entro Industries, Inc. received a letter
10 dated June 28, 2013 from Registrant’s attorney. In that letter, Registrant’s attorney claimed
11 that the Registration afforded Registrant the exclusive right to use the term “Rig Walker” in
12 connection with Registrant’s goods, and Registrant’s attorney demanded that Entro Industries,
13 Inc. cease using the term “rig walker” in advertising and selling rig moving equipment.
14 Registrant’s attorney threatened to bring suit against Petitioner Entro Industries, Inc. if Entro
15 Industries, Inc. did not comply with Registrant’s demand.

16 13. In response to Registrant’s threats, Petitioners have agreed to temporarily
17 cease using the term “rig walker” in their marketing materials.

18 14. Registrant’s actions to enforce trademark rights in and to the term “rig walker”
19 prevent Petitioners and others from accurately describing and identifying the goods and
20 services they offer and interfere with Petitioners’ ability to promote those goods and services
21 in the relevant marketplace.

22 15. Registrant’s continued registration and enforcement of the Registration will
23 cause irreparable harm to Petitioners and will unjustly inhibit Petitioners’ ability to market

1 their goods and services.

2 REGISTRANT'S RIG WALKER REGISTRATION SHOULD BE
3 CANCELLED AS THE TERM "RIG WALKER" IS GENERIC
4 15 U.S.C. § 1064(3)

5 16. The term "rig walker" is generic for a drilling rig moving system that uses
6 hydraulic modules that are integrated with or attached to the rig's substructure to "walk" the
7 rig, *i.e.*, to move the rig using a walking motion.

8 17. The term "rig walker" is necessary to accurately identify the subject matter of
9 Petitioners' and other third parties' goods and services.

10 18. Among the relevant public, "rig walker" identifies a genus of goods that
11 includes the goods in the Registration.

12 19. Because the term "rig walker" is incapable of serving as an indicator of source,
13 Registrant's U.S. Registration No. 3,593,594 should be cancelled.

14 REGISTRANT'S RIG WALKER REGISTRATION SHOULD BE
15 CANCELLED AS THE TERM "RIG WALKER"
16 IS MERELY DESCRIPTIVE
17 15 U.S.C. § 1052(e)

18 20. The term "rig walker," along with "rig walking system," "rig walking
19 machine," and the like, refer to a particular category of hydraulic systems used to move or
20 "walk" drilling rigs.

21 21. The term "rig walker" is merely descriptive of the goods recited in Registrant's
22 RIG WALKER registration and describes a significant feature, function, and purpose of the
23 the goods.

24 22. The term "rig walker" is necessary to accurately describe the subject matter of

1 Petitioners' and other third parties' goods and services.

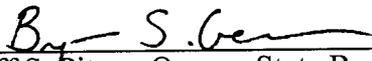
2 23. If Registrant is allowed to continue to maintain its registration for RIG
3 WALKER, Registrant would be able to continue to obstruct Petitioners' as well as other third
4 parties' descriptive use of the term.

5 WHEREFORE, Petitioners respectfully request that the Board grant
6 Petitioners Petition to Cancel and cancel Registration No. 3,593,594.

7 DATED: August 16, 2013.

8 Respectfully submitted,

9 **PITZER LAW**

10 By: 
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22
23

Int. Cl.: 7

Prior U.S. Cls.: 13, 19, 21, 23, 31, 34 and 35

Reg. No. 3,593,594

United States Patent and Trademark Office

Registered Mar. 24, 2009

TRADEMARK
PRINCIPAL REGISTER

RIG WALKER

VORA, THEODORE C. (UNITED STATES INDIVIDUAL)
11419 DOVER
HOUSTON, TX 77031

FOR: POWER-OPERATED MOVING EQUIPMENT FOR USE IN MOVING A DRILLING RIG THAT IS MAINTAINED IN AN UPRIGHT WORKING POSITION, IN CLASS 7 (U.S. CLS. 13, 19, 21, 23, 31, 34 AND 35).

FIRST USE 11-15-2007; IN COMMERCE 11-15-2007.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "RIG", APART FROM THE MARK AS SHOWN.

SER. NO. 76-691,698, FILED 7-30-2008.

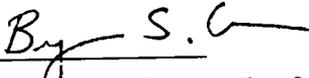
B. PARADEWELAI, EXAMINING ATTORNEY

EXHIBIT: 1

CERTIFICATE OF SERVICE

I, Bryan S. Geon, an attorney, hereby certify that a true and complete copy of the foregoing **PETITION TO CANCEL** has been served on Theodore C. Vora by mailing said copy on August 16, 2013, via First Class Mail, postage prepaid to:

<p>Theodore C. Vora 11419 Dover Houston, TX 77031</p> <p>Registrant</p>	<p>Mary J. Gaskin Annelin & Gaskin 7 Switchbud Place, Ste 271 The Woodlands, TX 77380</p> <p>Attorney for Registrant</p>
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