

ESTTA Tracking number: **ESTTA578851**

Filing date: **12/26/2013**

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

| | |
|------------------------|---|
| Proceeding | 92058243 |
| Party | Plaintiff Labor Savings Systems, Ltd. |
| Correspondence Address | WENDY PETERSON NOT JUST PATENTS PO BOX 18716 MINNEAPOLIS, MN 55418 UNITED STATES wsp@NJPLS.com |
| Submission | Withdrawal of Cancellation |
| Filer's Name | Wendy Peterson |
| Filer's e-mail | wsp@NJPLS.com |
| Signature | /Wendy Peterson/ |
| Date | 12/26/2013 |
| Attachments | Withdrawal of Petition to Cancel XSPOT RN 3451113 with Ex A.pdf(302997 bytes) |

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

Trademark Cancellation Proceeding 92058243

In the matter of trademark Registration No 3451113

For the mark “**XSPOT**”

Registered on June 17, 2008

Labor Savings Systems, Ltd.

vs.

Prime Industrial Design

WITHDRAWAL OF PETITION TO CANCEL

The Petitioner, Labor Savings Systems, Ltd. of PO Box 13453, Arlington, TX 76094, and the Registrant Respondent Prime Industrial Design have entered into a consent agreement attached as Exhibit A. As such, Labor Savings Systems, Inc. withdraws the Petition to Cancel with prejudice with the consent of Prime Industrial Design.

IN WITNESS WHEREOF, each of the parties has caused the attached consent Agreement to be executed by its duly authorized representative.

Submitted By: /Wendy Peterson /

Date: December 26, 2013

Wendy Peterson, Attorney for Labor Saving Systems, Ltd.
Not Just Patents
PO Box 18716
Minneapolis, MN 55418
wsp@NJPLS.com

CERTIFICATE OF SERVICE

I hereby certify that on December 26, 2013, the foregoing was served upon Registrant by email and first class mail to:

Prime Industrial Design
4691 S. Palacio Way
Gold Canyon, AZ 85218

Submitted By: /Wendy Peterson/

Date: December 26, 2013

Wendy Peterson, Attorney for Labor Savings Systems, Ltd.
Not Just Patents
PO Box 18716
Minneapolis, MN 55418
wsp@NJPLS.com

Exhibit A

CONSENT AGREEMENT

This CONSENT AGREEMENT ("Agreement") is made

Between Labor Saving System Ltd., 2146 Corzine Dr. Arlington, TX 76013 and PRIME INDUSTRIAL DESIGN, 4691 S PALACIO WAY, GOLD CANYON, AZ 85218, the parties in the USPTO TTAB Proceeding 92058243;

WHEREAS, Labor Saving System Ltd. has adopted and is using the trademark design mark MAGNESPOT and has applied for trademark application SN 86117361



for *Electronic transmitters and receivers for positioning and aligning through barriers* with a first use and first use in commerce at least as early as June 6, 2007, and the word mark MAGNESPOT and has applied for SN 86117354 for *Electronic transmitters and receivers for positioning and aligning through barriers* with a first use and first use in commerce at least as early as June 6, 2007;

WHEREAS Prime Industrial Design has adopted and is using the trademark word mark XSPOT and has registration RN 3451113 for *A locator utilizing magnets to find a pre-positioned sensor behind a surface to locate an area or objects behind the surface namely, wires, pull string, plumbing or conduit* with a first use and first use in commerce as early as July 31, 2007;

NOW THEREFORE, in consideration of the mutual promises and undertakings set forth herein, the parties agree as follows:

1. The basis for this consent is the parties' mutual determination that there is no significant likelihood that consumers have been or will be confused by the use and registration of the above referenced marks. This is supported by the fact that the marks, consumers and channels of trade used by the parties are different and the products unlikely to be considered derived from the same source.

2. In order to carry out the intent of this consent agreement, the parties agree to continue to cooperate in taking any reasonable action to avoid confusion and to correct any instances or likelihood of confusion which come to their attention.

3. By mutual agreement, Labor Saving System Ltd. consents to the use of XSPOT by Prime Industrial Design for RN 3451113. Labor Saving System Ltd. agrees to withdraw the petition to cancel of XSPOT with prejudice.

4. By mutual agreement, Prime Industrial Design agrees not to oppose or petition to cancel after registration the trademark design mark MAGNESPOT SN 86117361

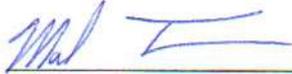


and the word mark MAGNESPOT SN 86117354.

5. In the unlikely event confusion arises due to the use of the marks identified herein, in accordance with the terms of this Agreement, the parties agree to undertake to cooperatively find ways to eliminate or minimize such confusion.

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be executed by its duly authorized representative.

Party: Labor Saving System Ltd.



Signature

MARK TURNER

Print Name

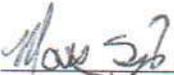
PRESIDENT

Print Title

12/26/13

Date

Party: Prime Industrial Design LLC



Signature

Mark Sipe

Print Name

President (Managing Member)

Print Title

12/24/2013

Date