

ESTTA Tracking number: **ESTTA629103**

Filing date: **09/24/2014**

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	Cellco Partnership d/b/a Verizon Wireless		
Entity	Partnership	Citizenship	Delaware
Composed Of:	Bell Atlantic Mobile Systems LLC; GTE Wireless Incorporated; JV PartnerCo, LLC; PCS Nucleus, L.P.		
Address	One Verizon Way Basking Ridge, NJ 07920-1097 UNITED STATES		

Attorney information	Paul J. Reilly BAKER BOTTS L.L.P. 30 ROCKEFELLER PLAZA, 44TH FLOOR NEW YORK, NY 10112 UNITED STATES paul.reilly@bakerbotts.com, lauren.emerson@bakerbotts.com, julie.albert@bakerbotts.com, nytmdpt@bakerbotts.com Phone:2124082500
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Registrations Subject to Cancellation

Registration No	3023143	Registration date	12/06/2005
Registrant	Ross Symons Level 5, 85 Queen Street Melbourne, Victoria, 3000 AUSTRALIA		

Goods/Services Subject to Cancellation

Class 009. First Use: 2002/01/01 First Use In Commerce: 2002/01/01 All goods and services in the class are cancelled, namely: Computer game software and video game software; computer hardware for computer games; video games hardware, namely, video game machines for use with televisions; Computer software, objects, and libraries, comprised of enable video, audio, and text, for use in creating other computer; computer telecommunication software and computer hardware for use in accessing global computer networks and for use in connecting to cellular phones, pagers, personal data assistants
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Grounds for Cancellation

Abandonment	Trademark Act section 14		
Registration No	3026975	Registration date	12/13/2005
Registrant	Ross Gordon Symons Level 5, 85 Queen Street Melbourne, Victoria, 3000 AUSTRALIA		

Goods/Services Subject to Cancellation

Class 009. First Use: 2002/01/01 First Use In Commerce: 2002/01/01

All goods and services in the class are cancelled, namely: Computer game software and video game software; computer hardware for computer games; video games hardware, namely, video game machines for use with televisions; Computer software, objects, and libraries, comprised of enable video, audio, and text, for use in creating other computer; computer telecommunication software and computer hardware for use in accessing global computer networks and for use in connecting to cellular phones, pagers, personal data assistants

Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	Consolidated Petition to Cancel.pdf(131841 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 Overnight Courier on this date.

Signature	/jba/
Name	Julie Beth Albert
Date	09/24/2014

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

In the Matter of Trademark Reg. No. 3,023,143
Mark : WORLD CUP STREET LUGE
Registrant : Ross Symons
Issued : December 6, 2005

In the Matter of Trademark Reg. No. 3,026,975
Mark : STREET LUGE
Registrant : Ross Gordon Symons
Issued : December 13, 2005

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CELLCO PARTNERSHIP d/b/a VERIZON :
WIRELESS, :
Petitioner, : Cancellation No.
v. :
ROSS SYMONS :
Respondent. :
-----X

CONSOLIDATED PETITION TO CANCEL

Cellco Partnership d/b/a Verizon Wireless (hereinafter "Petitioner" or "Verizon Wireless") is a general partnership organized under the laws of Delaware, located and doing business at One Verizon Way, Basking Ridge, NJ 07920-1097. Petitioner believes that it is or will be damaged by Registration Nos. 3,023,143 and 3,026,975 owned by Ross Symons, an Australia Corporation purportedly having a business address at Level 5, 85 Queen Street Melbourne, Victoria 3000 Australia (hereinafter "Registrant" or "Respondent"), and hereby petitions for cancellation of these registrations pursuant to 37 C.F.R. 2.112(b).

The specific grounds for this Petition to Cancel are as follows:

1. Verizon Wireless is a provider of wireless communications services in the United States with at least 104 million wireless voice and data customers. It employs approximately 74,000 people nationwide and offers wireless voice and data services, other wireless telecommunications services and products through approximately 1,700 company operated stores and kiosks as well as through resellers, agents and affiliates.

2. Verizon Wireless has a bona fide interest in using and registering the mark LUGE in connection with wireless telecommunications devices. On December 19, 2013, Verizon Wireless filed Application Ser. No. 86/148,630 for the mark LUGE to identify a “wireless telecommunications device featuring transmission of voice, data, image and video, including voice, text, picture and video messaging, Internet access, access to navigation and directional service over the air, the ability to download music, videos and applications over the air, and which has a music player and a still image and video camera” in International Class 9.

3. On March 26, 2014, the United States Patent and Trademark office issued an Office Action refusing to register Petitioner’s application to register LUGE based, in part, on purported confusing similarity to Registration Nos. 3,023,143 and 3,026,975 at issue here.

4. Respondent is the purported owner of Reg. No. 3,023,143 for WORLD CUP STREET LUGE and Reg. No 3,026,975 for STREET LUGE, both registered in connection with “Computer game software and video game software; computer hardware for computer games; video games hardware, namely, video game machines for use with televisions; Computer software, objects, and libraries, comprised of enable video, audio, and text, for use in creating other computer; computer telecommunication software and computer hardware for use in

accessing global computer networks and for use in connecting to cellular phones, pagers, personal data assistants” in International Class 9.

5. Registration No. 3,023,143 for Respondent's purported WORLD CUP STREET LUGE mark issued on December 6, 2005, and Registration No. 3,026,975 for Respondent's STREET LUGE mark issued on December 13, 2005.

6. On information and belief, Respondent does not currently market or sell, and has not marketed or sold for at least three consecutive years, any of the goods described in U.S. Registration Nos. 3,023,143 and 3,026,975 in the United States under the marks WORLD CUP STREET LUGE and STREET LUGE.

7. On information and belief, Respondent has ceased to use WORLD CUP STREET LUGE and STREET LUGE as marks in interstate commerce for those products identified in Registration Nos. 3,023,143 and 3,026,975, has no intent to resume use of WORLD CUP STREET LUGE and STREET LUGE in the United States in connection with such products, has abandoned any and all claims or alleged rights to maintain a registration of said marks, and has forfeited all claims of Federal trademark rights in and to said marks afforded to it under the United States Federal Trademark Laws, 15 U.S.C. §1051, et. seq. Therefore, Registration Nos. 3,023,143 and 3,026,975 should be cancelled on grounds of non-use or abandonment.

8. Continued registration by Respondent of the marks WORLD CUP STREET LUGE and STREET LUGE under United States Registration Nos. 3,023,143 and 3,026,975 is damaging and will continue to cause damage to Petitioner as it stands as a bar to Petitioner's ability to federally register and protect its mark LUGE. Further, unless Registration Nos. 3,023,143 and 3,026,975 are cancelled, Registrant will be entitled to statutory protections and presumptions to which it is not entitled. Further, Petitioner's own right to register and enforce

rights in and to the mark LUGE may be impacted by registrations that are no longer valid. Thus, the registrations at issue comprise improper obstacles to Petitioner's right to register, use and enforce the LUGE mark.

9. By virtue of the foregoing allegations, Petitioner would be, and is being damaged within the meaning of 15 U.S.C. § 1064 as a result of the continued registration of Respondent's alleged marks WORLD CUP STREET LUGE and STREET LUGE under Registration Nos. 3,023,143 and 3,026,975.

WHEREFORE, Petitioner requests that Registration Nos. 3,023,143 and 3,026,975 be cancelled, that this Petition to Cancel be sustained, and that the Board grant Petitioner any and all such further and favorable relief as would be just in these circumstances.

Respectfully submitted,

BAKER BOTTS, L.L.P.

Date: September 24, 2014

By:


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CERTIFICATE OF SERVICE

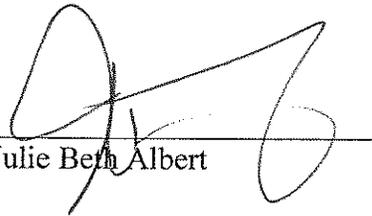
I hereby certify that on this 24th day of September, 2014, copies of the foregoing Consolidated Petition to Cancel were served via Express Courier in an envelope with sufficient postage on the Owner of Record at the correspondence address of record in the Office, as follows:

ROSS SYMONS
Level 10, 271 Collins Street
Melbourne, Victoria 3000
AUSTRALIA

and to the Owner of Record at its listed address as follows:

Ross Symons
Level 5, 85 Queen Street
Melbourne, Victoria 3000
AUSTRALIA

By:


Julie Beth Albert