

ESTTA Tracking number: **ESTTA637077**

Filing date: **11/05/2014**

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	Bentley Motors Limited		
Entity	Corporation	Citizenship	United Kingdom
Address	Pym's Lane Crewe Cheshire, CW13PL UNITED KINGDOM		

Attorney information	Brian R. McGinley DENTONS US LLP P.O. Box #061080 Wacker Drive Station, Willis Tower Chicago, IL 60606-1080 UNITED STATES brian.mcginley@dentons.com, tiffany.schwartz@dentons.com, an-ita.hansen@dentons.com, TTAB@dentons.com Phone:816-460-2605
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**Registration Subject to Cancellation**

Registration No	3578220	Registration date	02/17/2009
Registrant	AUCERA SA Rue de la Gare 20 2525 Landeron, SWITZERLAND		

**Goods/Services Subject to Cancellation**

<p>Class 009. First Use: 1996/04/23 First Use In Commerce: 2003/09/09 All goods and services in the class are cancelled, namely: Computers; Computer Peripheral devices; blank optical discs; computer mouse; scanners; electronic pocket translators; notebook computers; pocket calculators; electronic publications, namely, books, magazines and manuals featuring instruction and education recorded on computer media; photocopiers; electric navigational instruments; electronic navigational and positioning apparatus and instruments; radio telephony sets; telephone apparatus; telephone transmitters; answering machines; video telephones; navigation apparatus for vehicles in the nature of on-board computer; portable telephones; satellite navigational system, namely, a global positioning system (GPS); walkie-talkies; beep-page set; telephone set sheath; hands free kits for phones; thermionic valves used in electron tubes; tape recorders; radios; microphones; radio for vehicles; television apparatus; blank videotapes; video recorders; horns for loudspeakers; camcorders; video game cartridges; actinometers; cinematographic cameras; cameras; camera filters; diaphragms for camera lens; filters for ultraviolet rays, for photography; photograph apparatus bag; pressure gauges for vehicle tires; automatic pressure indicators used in vehicles; speedometer; automotive measuring instruments, namely, petrol and gas gauges; speed indicators; temperature indicators; odometer; oil meter; microscopes; magnifying glasses; telescope; binoculars; electric cables; coaxial cables; silicon wafer; silicon carbide diodes; semiconductor apparatus; capacitors; electric conductors; cell switches; electric resistances; electricity transformers; electric relays; electrical armatures; electric automatic time switches; electric contacts; electric plugs; electric sockets; electromagnetic interference shields for use in connection with telecommunication equipment; protective suits for aviators; protective helmets; anti-glare spectacles; life jackets; life jackets for swimming; swimming or scuba diving masks; burglar alarms; anti-theft alarms; electric batteries for</p>
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vehicles; electric accumulators for vehicles; accumulator jars; battery jars;. anode batteries; high tension batteries; battery chargers; galvanic cells; batteries; batteries for pocket lamps; solar batteries; photographic transparencies; electric irons; cigar lighters for automobiles
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## Grounds for Cancellation

Abandonment	Trademark Act section 14
Related Proceedings	Cancellation Action No. 92056289
Attachments	Cancellation_Petition.pdf(128392 bytes )

## 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	/brian r mcginley/
Name	Brian R. McGinley
Date	11/05/2014

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

<b>In the matter of Registration No.: 3,578,220</b>	)	
<b>Registration Date: February 17, 2009</b>	)	
<b>Mark: BENTLEY</b>	)	
	)	
<b>BENTLEY MOTORS LIMITED,</b>	)	
	)	
<b>Petitioner,</b>	)	<b>Cancellation No. _____</b>
	)	
<b>v.</b>	)	
	)	
<b>AUCERA SA ,</b>	)	
	)	
<b>Registrant.</b>	)	

**PETITION FOR CANCELLATION**

Bentley Motors Limited (“Petitioner”), a corporation organized under the laws of the United Kingdom, with a principal place of business at Pym's Lane Crewe, Cheshire CW13PL, United Kingdom, believes it is being damaged by US Trademark Registration No. 3,578,220 for BENTLEY, issued February 17, 2009, to Aucera SA Corporation (the “Aucera Registration”), and pursuant to 15 U.S.C. § 1064 and 37 C.F.R. § 2.111, through its undersigned attorneys, petitions to cancel the same. As grounds therefor, Petitioner alleges:

1. Petitioner markets and sells automobiles and related parts in the US and in US commerce, and has done so for approximately 80 years, under its well known and famous BENTLEY mark. Petitioner has further expanded its offerings in US commerce to include other goods and services including without limitation jewelry, leather goods, insurance and financing services, clothing, accessories for mobile phones, hands-free apparatus for use in vehicles, phone covers, perfumes, and publications. Petitioner maintains federal trademark registrations and

applications in the US for its BENTLEY mark in connection with the foregoing, including without limitation US Reg. Nos. 3998345, 2985659, 645703, 646403 among others.

2. Petitioner has a bona fide intent to use the mark BENTLEY (“Petitioner’s Mark”) in commerce with respect to the goods listed in its U.S. Application No. 85/329,881, filed by Petitioner on and accorded a filing date of May 25, 2011 (“Petitioner’s Application”). Those goods, as filed, include optical apparatus and instruments, namely, eyewear, spectacles, sunglasses, spectacles lenses, spectacle frames, parts and accessories thereof, namely, cases for spectacles and sunglasses, chains for spectacles and sunglasses, cords for spectacles and sunglasses; accessories for mobile phones, namely, headphones, screen covers, holders for attaching mobile phones in vehicles, hands-free apparatus for use in vehicles, phone covers, pouches for protection of phones; all of the foregoing sold exclusively by authorized dealers (the “Petitioner’s Goods and Services”). Petitioner’s Application has been filed under sections 1(b) and 44(e) of the Lanham Act, 15 U.S.C. §1051(b) and 15 U.S.C. § 1126(e).

3. On September 14, 2011 the USPTO issued an Office Action alleging likelihood of confusion exists between the Petitioner's Application and another registration owned by the Registrant, US Reg. No. 2096185, covering other goods in class 9, namely: eyeglass cases, eyeglass chains, eyeglasses, eyeglass frames, sunglasses, spectacles. Applicant responded on March 13, 2012 and traversed the Examiner's objection however the objection was maintained by the Examiner in part and the Examiner suspended the Petitioner's Application.

4. On July 16, 2014 the USPTO granted a request to divide filed by Petitioner, which divided out Petitioner's Application into the following applications:

Parent (original) application serial no. 85/329,881 contains the following goods in  
International Class 9: Optical apparatus and instruments, namely, eyewear,

spectacles, sunglasses, spectacles lenses, spectacle frames, parts and accessories thereof, namely, cases for spectacles and sunglasses, chains for spectacles and sunglasses, cords for spectacles and sunglasses; all of the foregoing sold exclusively by authorized dealers.

Child application serial no. 85/982,208 contains the following goods in International Class 9: Accessories for mobile phones, namely, headphones, screen covers, holders for attaching mobile phones in vehicles, hands-free apparatus for use in vehicles, phone covers, pouches for protection of phones; all of the foregoing sold exclusively by authorized dealers.

5. At present, both application serial no. 85/329,881 and 85/982,208 remain suspended pending the disposition of Cancellation Action No. 92056289, which Petitioner has filed against Registrant's US Supplemental Reg. No. 2096185 for BENTLEY.

6. On February 17, 2009, the USPTO issued the Aucera Registration on the Supplemental Register in connection with the following goods:

Computers; Computer Peripheral devices; blank optical discs; computer mouse; scanners; electronic pocket translators; notebook computers; pocket calculators; electronic publications, namely, books, magazines and manuals featuring instruction and education recorded on computer media; photocopiers; electric navigational instruments; electronic navigational and positioning apparatus and instruments; radio telephony sets; telephone apparatus; telephone transmitters; answering machines; video telephones; navigation apparatus for vehicles in the nature of on-board computer; portable telephones; satellite navigational system,

namely, a global positioning system (GPS); walkie-talkies; beep-page set; telephone set sheath; hands free kits for phones; thermionic valves used in electron tubes; tape recorders; radios; microphones; radio for vehicles; television apparatus; blank videotapes; video recorders; horns for loudspeakers; camcorders; video game cartridges; actinometers; cinematographic cameras; cameras; camera filters; diaphragms for camera lens; filters for ultraviolet rays, for photography; photograph apparatus bag; pressure gauges for vehicle tires; automatic pressure indicators used in vehicles; speedometer; automotive measuring instruments, namely, petrol and gas gauges; speed indicators; temperature indicators; odometer; oil meter; microscopes; magnifying glasses; telescope; binoculars; electric cables; coaxial cables; silicon wafer; silicon carbide diodes; semiconductor apparatus; capacitors; electric conductors; cell switches; electric resistances; electricity transformers; electric relays; electrical armatures; electric automatic time switches; electric contacts; electric plugs; electric sockets; electromagnetic interference shields for use in connection with telecommunication equipment; protective suits for aviators; protective helmets; anti-glare spectacles; life jackets; life jackets for swimming; swimming or scuba diving masks; burglar alarms; anti-theft alarms; electric batteries for vehicles; electric accumulators for vehicles; accumulator jars; battery jars;. anode batteries; high tension batteries; battery chargers; galvanic cells; batteries; batteries for pocket lamps; solar batteries; photographic transparencies; electric irons; cigar lighters for automobiles in International Class 9.

(the "Aucera Goods"). Aucera SA Corporation ("Aucera") alleged a September 9, 2003, date of first use in US commerce in connection with the Aucera Goods.

7. Upon information, knowledge and belief, Aucera has abandoned use of the "BENTLEY" mark covered by the Aucera Registration due to nonuse of the same within the meaning of Section 45 of the *Lanham Act*, 15 U.S.C. § 1127.

8. Upon information, knowledge and belief, Aucera has discontinued use of the "BENTLEY" mark in connection with the goods covered by the Aucera Registration with intent not to resume such use.

9. Petitioner has been and will be harmed by the Aucera Registration, in that Petitioner has a bona fide intent to use the same mark for related goods and has filed application serial nos. 85/329,881 and 85/982,208, and may file additional intent to use applications for related goods (the "Petitioner's Applications), and believes that registration of one or more of these marks may be refused in view of the Aucera Registration. Petitioner believes that the US Patent and Trademark Office may ultimately attempt to refuse registration of those goods listed in Petitioner's Applications because of the Aucera Registration and/or that the Registrant may try to oppose registration of the Petitioner's Application once it is published for opposition, requiring Petitioner to establish that the Aucera Registration should be cancelled on the grounds that it has been abandoned.

10. Accordingly, US Trademark Registration No. 3,578,220 must be cancelled in its entirety, on the grounds that it has been abandoned.

**WHEREFORE**, Petitioner prays that US Trademark Registration No. 3,578,220, issued on February 17, 2009, be canceled with prejudice, and for such other and further relief as the Board deems just and proper.

Petitioner hereby appoints Brian R. McGinley, Tiffany L. Schwartz, and the firm of Dentons US LLP, P.O. Box #061080, Wacker Drive Station, Willis Tower, Chicago, IL 60606-1080, as its representative upon whom notices and process in proceedings affecting this proceeding may be served.

The required government fee of \$300 pursuant to 37 C.F.R. §2.111(c)(1) is being filed herewith as payment by credit card. If any further fees are required for this transaction are required we hereby authorize you to charge our firm deposit account #19-3140.

Respectfully Submitted,

DENTONS US LLP

Date: November 5, 2014

/Brian R. McGinley/

Brian R. McGinley

Tiffany L. Schwartz

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Attorneys for Petitioner

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that he or she caused a true and correct and complete copy of the foregoing PETITION FOR CANCELLATION to be served upon:

AUCERA SA  
Rue de la Gare 20 2525  
Landeron  
Switzerland

and

JAMES M SLATTERY  
BIRCH STEWART KOLASCH AND BIRCH  
P O BOX 747  
FALLS CHURCH, VIRGINIA 22040-0747  
UNITED STATES

by placing same in envelopes, properly sealed and addressed to the foregoing, with postage prepaid and depositing same with the United States Postal Service as First Class Mail and/or by International Federal Express courier on this 5th day of November, 2014.

/Brian R. McGinley/  
Attorney for Petitioner

Filed with the TTAB via  
ESTTA on November 5, 2014