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Filing date: **02/08/2015**

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	Vector Security, Inc.		
Entity	Corporation	Citizenship	Pennsylvania
Address	2000 Ericsson Drive Warrendale, PA 15086 UNITED STATES		

Name	Vector Intelligent Solutions, LLC		
Entity	Limited Liability Company	Citizenship	Delaware
Address	2000 Ericsson Drive Warrendale, PA 15086 UNITED STATES		

Correspondence information	Andrew J. Cornelius ANDREW J. CORNELIUS, P. C. 305 Mt. Lebanon Blvd. Suite 205 Pittsburgh, PA 15234 UNITED STATES acornelius@ajciplaw.com Phone:412.571.9552		
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Registration Subject to Cancellation

Registration No	3747482	Registration date	02/09/2010
Registrant	ColorQuick, LLC 9100 Pennsauken Highway Pennsauken, NJ 08110 UNITED STATES		

Goods/Services Subject to Cancellation

Class 039. First Use: 2008/11/03 First Use In Commerce: 2008/11/03 All goods and services in the class are cancelled, namely: Storage services for electronic data provided via the Internet, namely, secure electronic storage of digital assets, namely, mailing lists, photographs, videos, documents, data, files, and templates;technical support, namely, providing computer facilities for the storage of digital data
Class 042. First Use: 2008/11/03 First Use In Commerce: 2008/11/03 All goods and services in the class are cancelled, namely: Computer access control services, namely, digital rights management; hosting of digital content on the Internet, namely, mailing lists, photographs, videos, documents, data, files and templates that users may organize and share

Grounds for Cancellation

Other	Priority and hypothetical likelihood of confusion - Trademark Act section 2(d)
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Attachments	2-8-15 - ColorQuick Petition to Cancel (Joint Petitioners).pdf(25737 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	/Andrew J. Cornelius/
Name	Andrew J. Cornelius
Date	02/08/2015

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

VECTOR SECURITY, INC. and)	
VECTOR INTELLIGENT SOLUTIONS, LLC,)	
dba Industry Retail Group)	
)	
Petitioners,)	Cancellation No.: _____
)	
v.)	Mark: THE VAULT
)	
COLORQUICK, LLC)	Registration No.: 3,747,482
)	
Registrant)	

PETITION TO CANCEL

Vector Security, Inc., a Pennsylvania corporation (“Vector”), and **Vector Intelligent Solutions, LLC**, a limited liability company (“VIS”), doing business as Industry Retail Group, having places of business at 2000 Ericsson Drive, Warrendale, Pennsylvania 15086 (Vector and VIS being referred to collectively herein as “Petitioners”) believe they will be damaged by the registration of the mark "THE VAULT," (“Registrant’s Mark”) which is the subject of U.S. Registration No. 3,747,482 (“482” or the "Registration"), registered February 9, 2010, for the following services:

International Class 039: Storage services for electronic data provided via the Internet, namely, secure electronic storage of digital assets, namely, mailing lists, photographs, videos, documents, data, files, and templates; technical support, namely, providing computer facilities for the storage of digital data.

International Class 042: Computer access control services, namely, digital rights management; hosting of digital content on the Internet, namely, mailing lists, photographs, videos, documents, data, files and templates that users may organize and share.

(collectively, "Registrant's Services."). Petitioners hereby petition to cancel the Registration.

As grounds for cancellation, Petitioners allege as follows:

Parties and Procedural Background

1. Vector designs, installs and monitors security systems for homes, businesses and multi-site retail chains across North America and the Caribbean.
2. VIS is a wholly-owned subsidiary of Vector. VIS's services include, among others, the provision of customized managed network services, including a comprehensive portfolio of broadband and broadband-centric services targeted to retailers and other multi-site companies. VIS is also a highly specialized, single-source purveyor of managed IP communication, application and turnkey professional services. VIS applications include hotspot and enterprise Wi-Fi solutions, mobility, hosted VoIP, and IP-based video surveillance. VIS's client base includes retailers, quick-serve restaurants and convenience store chains. VIS markets and sells the Vector Goods and Services as defined hereinbelow.
3. Upon information and belief, ColorQuick, LLC, is a New Jersey limited liability company ("Registrant") that has a principal place of business at 9100 Pennsauken Highway, Pennsauken, New Jersey 08110, United States.
4. Upon information and belief, Registrant filed Application Serial No. 77/527,488 ("488") on July 21, 2008, in the United States Patent and Trademark Office ("PTO").
5. On February 9, 2010, 488 issued as 482. Registrant alleged dates of first use of November 3, 2008, in the Registration for both classes.

6. This petition to cancel is filed within five years from the date of the registration of Registrant's Mark under the Trademark Act of 1946, as amended, and is timely filed.

7. VIS is in privity with Vector for purposes of filing this petition for cancellation based on its status as a wholly-owned subsidiary and licensee of Vector under Vector's Mark (as defined below).

Allegations

8. Vector is the owner of U. S. Trademark Application Serial No. 86/192,812, filed February 13, 2014 ("812" or "Vector's Application") for the mark "vAULT" ("Vector's Mark") in connection with:

International Class 009: Computer software that provides web-based access to applications and services through a web operating system or portal interface.

International Class 042: Computer project management services; providing an Internet website portal that provides customer access to their projects for computer project management purposes to remotely manage, modify and provide input into the creation and management of their computer network projects; providing a web-based on-line portal that provides customer access to their projects for computer project management purposes to remotely manage, modify and provide input into the creation and management of their computer network projects.

(collectively, "Vector's Goods and Services").

9. Industry Retail Group, Inc. ("IRG") commenced use of Vector's Mark in commerce in connection with all Vector's Goods and Services at least as early as January 23, 2008. Vector purchased IRG and acquired ownership of Vector's Mark, and the goodwill associated with Vector's Mark, by assignment prior to the filing of Vector's Application. From the date of the assignment through the present, VIS has used Vector's Mark, and VIS's use of Vector's Mark has inured to the benefit of Vector. Consequently, IRG is Vector's predecessor-in-interest, and VIS is a related party vis-a-vis Vector.

10. Vector's Mark has been continuously used in the United States in connection with Vector's Goods and Services in commerce since at least as early as January 23, 2008, by IRG and subsequently by VIS, and has not been abandoned. Therefore, Vector has common law rights in Vector's Mark in connection with Vector's Goods and Services, with dates of first use anywhere and in commerce at least as early as January 23, 2008.

11. Vector's Mark is symbolic of extensive goodwill and consumer recognition built up through IRG's, VIS's and Vector's investment of substantial time and resources in developing, advertising, and promoting Vector's Goods and Services in connection with Vector's Mark. As a result of that investment, relevant consumers have come to associate Vector's Mark exclusively with Vector and Vector's Goods and Services.

12. Vector's Mark is inherently distinctive when used in connection with Vector's Goods and Services.

13. On April 14, 2014, the United States Patent and Trademark Office issued an office action in Vector's Application (the "first action") that included the following statement, as to the goods recited in Class 009:

Registration of the applied-for mark is refused because of a likelihood of confusion with the marks in U.S. Registration Nos. **374782¹** and 4096191. Trademark Act Section 2(d), 15 U.S.C. §1052(d); see TMEP §§1207.01 et seq.

(Emphasis added). The Examining Attorney also cited four prior pending applications.

14. On October 10, 2014, Vector filed a response to the first action (the "response") by which, *inter alia*, Vector argued that Registrant's Mark was not confusingly similar to Vector's Mark when used in connection with the goods in International Class 009 in Vector's Application.

¹ Applicant believes the Examining Attorney intended to cite Registration No. 3,747,482, and not 374,782.

15. On November 4, 2014, the Examining Attorney issued a suspension notice (“the suspension”) by which prosecution of Vector’s Application was suspended. The basis of the suspension was the four prior pending applications. The Examining Attorney maintained the Section 2(d) refusal based on 482.²

Standing

16. Petitioners restate the allegations set forth in Paragraphs 1 through 15 as if fully set forth herein.

17. Vector has been refused registration of Vector’s Mark in International Class 009 because of the Registration.

18. Therefore, the continued registration of Registrant’s Mark will cause damage to Vector within the meaning of 15 U.S.C. §1064 by preventing Vector from obtaining a registration of Vector’s Mark for the goods recited in International Class 009 of 812 and enjoying the protection and benefits afforded by a registration of Vector’s Mark in Class 009.

19. VIS is a wholly-owned subsidiary and licensee of Vector under Vector’s Mark. VIS uses Vector’s Mark in connection with Vector’s Goods and Services. Therefore, the continued registration of Registrant’s Mark will cause damage to VIS within the meaning of 15 U.S.C. §1064 by preventing VIS from enjoying the protection and benefits afforded by a registration of Vector’s Mark in Class 009.

Priority

20. Petitioners restate the allegations set forth in Paragraphs 1 through 19 as if fully set forth herein.

² The Examining Attorney again incorrectly referred to 482 as “374782.”

21. Registrant's first use of Registrant's Mark and the Registration are junior to Petitioners' rights in Vector's Mark because Vector's dates of first use of Vector's Mark anywhere and in commerce in connection with Vector's Goods and Services predate both Registrant's alleged dates of first use of Registrant's Mark and the filing date of 488 from which the Registration issued.

Hypothetical Likelihood of Confusion

22. Petitioners restate the allegations set forth in Paragraphs 1 through 21 as if fully set forth herein.

23. Vector asserted in the response that Registrant's Mark was not confusingly similar to Vector's Mark.

24. However, The Examining Attorney has held that Vector's Mark, when used in connection with the goods recited in International Class 9 in 812, and Registrant's Mark are confusingly similar. Therefore, hypothetically, if, as the Examining Attorney contends, Vector's Mark so resembles Registrant's Mark as to be likely, when applied to Vector's goods in Class 009, to cause confusion, then the Registration should be cancelled, because Vector has priority of use.

Prayer

WHEREFORE, Petitioners paid the requisite fees to the United States Patent and Trademark Office contemporaneous with the filing of the instant petition to cancel. If such fees are delinquent, deficient or any substitute fees are required, the United States Patent and Trademark Office is authorized to charge the undersigned's Deposit Account No. 03-3280 for the deficiency.

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

VECTOR SECURITY, INC. and)	
VECTOR INTELLIGENT SOLUTIONS, LLC,)	
dba Industry Retail Group)	
)	
Petitioners,)	Cancellation No.: _____
)	
v.)	Mark: THE VAULT
)	
COLORQUICK, LLC)	Registration No.: 3,747,482
)	
Registrant)	

CERTIFICATE OF SERVICE

I hereby certify that a true, complete and correct copy of the foregoing Petition to Cancel has been served on ColorQuick, LLC by mailing said copy on February 8, 2015, via First Class Mail, postage prepaid to:

ColorQuick, LLC
9100 Pennsauken Highway
Pennsauken, NJ 08110
UNITED STATES

with a copy to:

Patricia Smink Rogowski, Esquire
Panitch Schwarze Belisario & Nadel LLP
Applied Bank Center
2200 Concord Pike, Suite 201
Wilmington, DE 19803-2909

/Andrew J. Cornelius/
Andrew J. Cornelius