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Filing date: **03/18/2016**

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	MyTenTwo, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	16133 Ventura Blvd Suite 520 Encino, CA 91436 UNITED STATES		

Attorney information	Joshua M. Gerben, Esq. Gerben Law Firm, PLLC 1050 Connecticut Ave NW Suite 500 Washington, DC 20036 UNITED STATES jgerben@gerbenlawfirm.com Phone:202-294-2287		
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**Registration Subject to Cancellation**

Registration No	4363168	Registration date	07/09/2013
International Registration No.	NONE	International Registration Date	NONE
Registrant	10n2 Technologies Ltd. 44 Leeson Street Lower Dublin, 2 IRELAND		

**Goods/Services Subject to Cancellation**

<p>Class 009. First Use: 0 First Use In Commerce: 0 All goods and services in the class are cancelled, namely: Handheld and mobile digital electronic devices for the sending and receiving of telephone calls, faxes, electronic mail, video, instant messaging, music, audiovisual and other multimedia works, and other digital data; MP3 and other digital-format audio and video players; handheld computers, personal digital assistants, electronic organizers, electronic notepads; blank magnetic data carriers; telephones, mobile phones, computer game programs, videophones, cameras; radio receivers; radio transmitters; video cameras; computer software and firmware, namely, operating system programs, data synchronization programs, and application development tool programs for personal and handheld computers; optical character recognition software, telephony management software; software that allows personal mobile devices to disable texting while driving; telephone-based information retrieval software and hardware; software for the redirection of messages; computer games software; prerecorded computer programs for personal information management; database management software; electronic mail and messaging software; paging software; database synchronization software; computer programs for accessing, browsing and searching online databases; computer hardware and software for providing integrated telephone communication with computerized global information networks; parts and accessories for handheld and mobile digital electronic devices; parts and accessories for mobile telephones; mobile telephone covers; mobile telephone cases; mobile telephone cases made of leather or imitations of leather; mobile telephone covers made of cloth or textile materials; batteries; rechargeable batteries; chargers for electric batteries; headphones; stereo headphones; in-ear headphones; stereo speak-</p>
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ers; audio speakers; audio speakers for home; microphones; apparatus for connecting and charging portable and handheld digital electronic devices; user manuals in electronically readable, machine readable or computer readable form for use with, and sold as a unit with, all the aforementioned goods; parts and fittings for all the aforesaid goods

Class 035. First Use: 0 First Use In Commerce: 0

All goods and services in the class are cancelled, namely: Business management; business administration; office functions; retail store services in the field of entertainment featuring movies, musical and audiovisual works, and music related electronic products, provided via the Internet and other electronic and communications networks; Retail store services featuring computers, computer software, computer peripherals and consumer electronics, and demonstration of products relating thereto; on-line retail store services provided via a global computer network featuring computers, computer software, computer peripherals and consumer electronics, and demonstration of products relating thereto

Class 038. First Use: 0 First Use In Commerce: 0

All goods and services in the class are cancelled, namely: Transmission of data and of information by electronic means; provision of telecommunications connections to computer databases and the Internet; electronic transmission of streamed and downloadable audio and video files via computer and other communications networks; delivery of messages by electronic transmission; provision of telecommunications connections to electronic communications networks, for transmission or reception of audio, video or multimedia content

## Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	TenTwo_Petition to Cancel_v March 18.pdf(268623 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	/Joshua M. Gerben/
Name	Joshua M. Gerben, Esq.
Date	03/18/2016

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

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MyTenTwo, Inc.,

Petitioner,

v.

10n2 Technologies Ltd.

Registrant,

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Cancellation No.: \_\_\_\_\_

Mark: 10N2

Registration No: 4363168

**PETITION TO CANCEL**

MyTenTwo, Inc. (“Petitioner”) hereby petitions for the cancellation of Registration No. 4363168 for the mark 10N2, registered to 10n2 Technologies Ltd. (“Registrant”), and states as follows:

1. Petitioner is a Delaware corporation.
2. The United States Patent and Trademark Office (“USPTO”) records identify Registrant, an Irish private company limited by shared, and, having an address of 44 Leeson Street Lower Dublin IRELAND 2, as the owner of U.S. Registration No. 4363168 for the mark 10N2, in International Class 9 for “Handheld and mobile digital electronic devices for the sending and receiving of telephone calls, faxes, electronic mail, video, instant messaging, music, audiovisual and other multimedia works, and other digital data; MP3 and other digital format audio and video players; handheld computers, personal digital assistants, electronic organizers, electronic notepads; blank magnetic data carriers; telephones, mobile phones, computer game programs, videophones, cameras; radio receivers; radio transmitters; video cameras; computer software and firmware, namely, operating system programs, data synchronization programs, and

application development tool programs for personal and handheld computers; optical character recognition software, telephony management software; software that allows personal mobile devices to disable texting while driving; telephone-based information retrieval software and hardware; software for the redirection of messages; computer games software; prerecorded computer programs for personal information management; database management software; electronic mail and messaging software; paging software; database synchronization software; computer programs for accessing, browsing and searching online databases; computer hardware and software for providing integrated telephone communication with computerized global information networks; parts and accessories for handheld and mobile digital electronic devices; parts and accessories for mobile telephones; mobile telephone covers; mobile telephone cases; mobile telephone cases made of leather or imitations of leather; mobile telephone covers made of cloth or textile materials; batteries; rechargeable batteries; chargers for electric batteries; headphones; stereo headphones; in-ear headphones; stereo speakers; audio speakers; audio speakers for home; microphones; apparatus for connecting and charging portable and handheld digital electronic devices. user manuals in electronically readable, machine readable or computer readable form for use with, and sold as a unit with, all the aforementioned goods; parts and fittings for all the aforesaid goods”, International Class 35 for “Business management; business administration; office functions; retail store services in the field of entertainment featuring movies, musical and audiovisual works, and music related electronic products, provided via the Internet and other electronic and communications networks; Retail store services featuring computers, computer software, computer peripherals and consumer electronics, and demonstration of products relating thereto; online retail store services provided via a global computer network featuring computers, computer software, computer peripherals and consumer

electronics, and demonstration of products relating thereto” and International Class 38 for “Transmission of data and of information by electronic means; provision of telecommunications connections to computer databases and the Internet; electronic transmission of streamed and downloadable audio and video files via computer and other communications networks; delivery of messages by electronic transmission; provision of telecommunications connections to electronic communications networks, for transmission or reception of audio, video or multimedia content” (the “Registered Mark”).

3. On February 18, 2015, Petitioner filed applications for the marks TENTWO and TENTWO and Design in connection with “Computer application software for mobile phones and handheld computers, namely, software for providing users with access to the features of an external driving safety device; Computer application software for mobile phones and handheld computers, namely, software for restricting the use of text messaging, phone calls, navigation, and music in a moving vehicle; Electronic device for monitoring and restricting the use of mobile phones and handheld computers while driving; Computer hardware and software for restricting the use of electronic devices, namely, mobile phones and handheld computers in a moving vehicle” in International Class 9. The applications were assigned Serial Nos. 86/538,092 & 86/546,670, respectively (the “Petitioner’s Applications”).

4. On May 28, 2015, the USPTO Examining Attorney refused registration of Petitioner’s Applications under Trademark Act Section 2(d), based on a likelihood of confusion with the Registered Mark.

#### **ABANDONMENT BASED ON NON-USE**

5. On information and belief, Registrant has abandoned the mark 10N2 in connection with “Handheld and mobile digital electronic devices for the sending and receiving of telephone calls,

faxes, electronic mail, video, instant messaging, music, audiovisual and other multimedia works, and other digital data; MP3 and other digital format audio and video players; handheld computers, personal digital assistants, electronic organizers, electronic notepads; blank magnetic data carriers; telephones, mobile phones, computer game programs, videophones, cameras; radio receivers; radio transmitters; video cameras; computer software and firmware, namely, operating system programs, data synchronization programs, and application development tool programs for personal and handheld computers; optical character recognition software, telephony management software; software that allows personal mobile devices to disable texting while driving; telephone-based information retrieval software and hardware; software for the redirection of messages; computer games software; prerecorded computer programs for personal information management; database management software; electronic mail and messaging software; paging software; database synchronization software; computer programs for accessing, browsing and searching online databases; computer hardware and software for providing integrated telephone communication with computerized global information networks; parts and accessories for handheld and mobile digital electronic devices; parts and accessories for mobile telephones; mobile telephone covers; mobile telephone cases; mobile telephone cases made of leather or imitations of leather; mobile telephone covers made of cloth or textile materials; batteries; rechargeable batteries; chargers for electric batteries; headphones; stereo headphones; in-ear headphones; stereo speakers; audio speakers; audio speakers for home; microphones; apparatus for connecting and charging portable and handheld digital electronic devices. user manuals in electronically readable, machine readable or computer readable form for use with, and sold as a unit with, all the aforementioned goods; parts and fittings for all the aforesaid goods” in International Class 9, “Business management; business administration; office functions; retail store services in the field of entertainment featuring movies, musical and

audiovisual works, and music related electronic products, provided via the Internet and other electronic and communications networks; Retail store services featuring computers, computer software, computer peripherals and consumer electronics, and demonstration of products relating thereto; online retail store services provided via a global computer network featuring computers, computer software, computer peripherals and consumer electronics, and demonstration of products relating thereto” and International Class 35 for “Transmission of data and of information by electronic means; provision of telecommunications connections to computer databases and the Internet; electronic transmission of streamed and downloadable audio and video files via computer and other communications networks; delivery of messages by electronic transmission; provision of telecommunications connections to electronic communications networks, for transmission or reception of audio, video or multimedia content” in International Class 38 (“Registrant’s Goods and Services”) with no intent to resume use.

6. On information and belief, Registrant is no longer using the Registered Mark and has presumptively abandoned the Registered Mark in connection with Registrant’s Goods and Services based on a failure to use the mark in commerce for at least three years.

7. On information and belief, Petitioner’s search of social media, online shopping and other marketplaces and promotional websites uncovered no use of the 10N2 mark by Registrant in the last three years.

8. On information and belief, Registrant does not maintain an active website or social media pages promoting its products.

9. On information and belief, Registrant became insolvent in 2013 and its assets were liquidated.

10. On information and belief, Registrant has abandoned the Registered Mark within the meaning of Section 45 of the Lanham Act, 15 U.S.C. § 1127.

11. Because Registrant's registration gives it at least a *prima facie* exclusive right in the Registered Mark, Petitioner maintains that its legal use and registration of its TENTWO mark will be impaired by continued registration of the Registered Mark.

12. In fact, on May 28, 2015, a USPTO Trademark Examining Attorney issued a § 2(d) refusal of Petitioner's Applications because the Trademark Examining Attorney was concerned that the Registered Mark and Petitioner's, if co-existing, could cause confusion in the marketplace.

13. In view of the above, the Registered Mark is not entitled to continued federal registration, as Registrant has abandoned all use of the mark and has no intent to resume use of the mark.

14. By reason of all of the foregoing, Petitioner will be gravely damaged by the continuance of Registrant's registration.

**WHEREFORE**, Petitioner is damaged by U.S. Registration No. 4363168 and prays that the same be canceled immediately, and that this Petition for Cancellation be sustained in favor of Petitioner.

Respectfully submitted,



Joshua M. Gerben, Esq.  
Eric Perrott  
Attorneys for Petitioner  
Gerben Law Firm, PLLC  
1050 Connecticut Ave NW  
Suite 500  
Washington, DC 20036

Dated: March 18, 2016

Phone: 202.294.2287

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Email: [jgerben@gerbenlawfirm.com](mailto:jgerben@gerbenlawfirm.com)

**CERTIFICATE OF SERVICE**

I hereby certify that on March 18, 2016, a true and correct copy of the foregoing Petition to Cancel is being served by overnight mail on Registrant as shown in the correspondence record in the Office, as follows:

10n2 Technologies Ltd  
44 Leeson Street  
Lower Dublin  
IRELAND 2

Respectfully submitted,



Dated: March 18, 2016

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