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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	Microwave Vision SA		
Entity	Societe Anonyme	Citizenship	France
Address	17 avenue de Norvège Villebon sur Yvette, 91140 FRANCE		

Attorney information	Anna Kuhn Law Office of Anna Kuhn, PLLC 3307 Northland Drive, Suite 310 Austin, TX 78731 UNITED STATES ptomail@annakuhnlaw.com Phone:5129223090		
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Registrations Subject to Cancellation

Registration No	4902795	Registration date	02/16/2016
Registrant	SHENZHEN SUNYIELD TECHNOLOGIES CO., LTD 1/F, BLOCK 1, PENG HUA INDUSTRIAL PARK SHENZHEN, GUANGDONG, CHINA		

Goods/Services Subject to Cancellation

Class 009. First Use: 2011/08/10 First Use In Commerce: 2015/02/03 All goods and services in the class are cancelled, namely: Aerials; Amplifiers; Digital multimeters; Dynamometers; Electronic monitors and monitor modules for monitoring electric current and electrical signals; Frequency meters; High frequency switches; Oscillographs; Radios; Semiconductor devices
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Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act Sections 14(1) and 2(d)		
No use of mark in commerce before application, amendment to allege use, or statement of use was filed	Trademark Act Sections 14(1) and 1(a), (c), and (d)		
Fraud on the USPTO	Trademark Act Section 14(3); In re Bose Corp., 580 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. 2009)		
Other	Improper assignment in violation of Trademark Act Section 10.		
Registration No	4902796	Registration date	02/16/2016
Registrant	SHENZHEN SUNYIELD TECHNOLOGIES CO., LTD 1/F, BLOCK 1, PENG HUA INDUSTRIAL PARK SHENZHEN, GUANGDONG, CHINA		

Goods/Services Subject to Cancellation

Class 042. First Use: 2011/08/10 First Use In Commerce: 2015/02/03

All goods and services in the class are cancelled, namely: Computer programming; Computer software consultancy; Computer system design services; Computer systems analysis; Data conversion of computer programs and data, not physical conversion; Installation of computer software; Maintenance of computer software; Rental of computer software; Rental of web servers; Technological consultation in the technology field of computer hardware systems

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act Sections 14(1) and 2(d)
No use of mark in commerce before application, amendment to allege use, or statement of use was filed	Trademark Act Sections 14(1) and 1(a), (c), and (d)
Fraud on the USPTO	Trademark Act Section 14(3); In re Bose Corp., 580 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. 2009)
Other	Improper assignment in violation of Section 10 of the Trademark Act.

Mark Cited by Petitioner as Basis for Cancellation

U.S. Application No.	79177771	Application Date	09/23/2015
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SATIMO		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 0 First Use In Commerce: 0 Scientific (other than for medical use), nautical, surveying, optical, weighing, measuring, signaling, checking (supervision), life-saving apparatus and instruments; antenna testing apparatus, antenna testing apparatus for radio communication; antennas; antennas for radio communication; radio-electric multi-sensor detectors located underground; apparatus for recording, transmission or reproduction of sound or images; magnetic recording media; magnetic or optical data media; data storage media such as disks, diskettes, tapes, cassettes; sound recording, magnetic and optical disks; audio and video compact disks; videotapes; memory cards or integrated circuit cards; magnetic cards; transmitters (telecommunications); transmitters of electronic signals; magnetic encoders; calculating machines; data processing equipment; computers; computer peripheral devices; readers (data processing equipment); optical character readers; software (recorded programs); telecommunication apparatus</p> <p>Class 010. First use: First Use: 0 First Use In Commerce: 0 Scientific apparatus and instruments for medical use</p> <p>Class 042. First use: First Use: 0 First Use In Commerce: 0 Technical research; physics research services; mechanical research services;</p>		

	measuring services for antennas and mobiletelephones; testing of materials; surveying (engineering work); engineering; technical project study; programming for computers; design of computer systems; development (design), installation, updating and maintenance of software; rental of computers, of computer software; consultancy relating to computers; technical consultancy relating to information technology; analysis for the installation ofcomputer systems; recovery of computer data
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Attachments	79177771#TMSN.png(bytes) Petition for Cancellation SATIMO 6.1.2016.pdf(265672 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	/Anna Kuhn/
Name	Anna Kuhn
Date	06/01/2016

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

MICROWAVE VISION SA	§	
	§	In the matter of Registration Nos.
Petitioners,	§	4902795 and 4902796
	§	
v.	§	For the mark SATIMO
	§	
SHENZHEN HELI-LIANBANG	§	Registered on February 16, 2016
SCIENCE & TECHNOLOGY CO., LTD.	§	
	§	Cancellation No. _____
Registrant.	§	

PETITION FOR CANCELLATION

Microwave Vision SA (hereinafter “Petitioner”) believes that it will be damaged by the continued registration of the mark SATIMO shown in Registration Nos. 4902795 and 4902796 (hereinafter “Registrations”). The Registrations were issued on February 16, 2016 to Shenzhen Heli-Lianbang Science & Technology Co., Ltd. (hereinafter “Registrant.”). Petitioner hereby seeks cancellation of the Registrations pursuant to Section 14 of the Lanham Act, 15 U.S.C. § 1064.

The grounds for cancellation of the Registrations are as follows:

Introduction

1. Petitioner Microwave Vision SA (“MV” or “Petitioner”) is a Société Anonyme of France. The company was incorporated in France in 1989 under the name “Société d’Applications Technologiques de l’Imagerie Micro-Onde,” and has been commonly referred to by the acronym of that name, “SATIMO,” both before and after the official company name was changed to “Microwave Vision” in 2009. The Petitioner is the parent company and owner of a number of entities incorporated in France and other countries. That group of

companies is collectively referred to as the “Microwave Vision Group” and by that name’s acronym “MVG”.

2. Petitioner designs, manufactures and markets products that allow for the visualization, testing and analysis of electromagnetic waves from mobile communications devices, antennas, and other equipment. These products have application in a number of industries and endeavors, including telecom, aerospace, defense, university, research and development, industrial safety, and material measurement.
3. Many of Petitioner’s products, and related services provided by Petitioner, are branded SATIMO.
4. Petitioner’s SATIMO products and services are marketed and sold throughout the world by Petitioner and its authorized distributors, including in the United States.
5. Petitioner began using the mark SATIMO in United States commerce at least as early as the late 1980s and has used the mark in the United States continuously since that time. The goods and services in connection with which Petitioner has used the SATIMO mark in the United States include planar, cylindrical, and spherical near-field antenna measurement systems, non-destructive test systems, antennas, SAR systems, antenna measurement & analysis software, RF safety monitors, Over The Air (OTA) and MIMO measurement systems, and automotive measurement systems. Petitioner has maintained a business office in Atlanta, Georgia since 1998.
6. Petitioner has invested considerable resources in development and promotion of the SATIMO products and services in the United States and around the world. As a result, the

SATIMO brand has come to symbolize extremely valuable goodwill. Potential customers recognize and rely upon the SATIMO brand to distinguish Petitioner's goods and services from those of others.

7. Petitioner filed an application for registration of its SATIMO mark on September 23, 2015. The application is pending under Serial No. 79/177,771, and covers the following goods and services: "scientific (other than for medical use), nautical, surveying, optical, weighting, measuring, signaling, checking (supervision), life-saving apparatus and instruments; antenna testing apparatus, antenna testing apparatus for radio communication; antennas; antennas for radio communication; radio-electric multi-sensor detectors located underground; apparatus for recording, transmission or reproduction of sound or images; magnetic recording media; magnetic or optical data media; data storage media such as disks, diskettes, tapes, cassettes; sound recording, magnetic and optical disks; audio and video compact disks; videotapes; memory cards or integrated circuit cards; magnetic cards; transmitters (telecommunications); transmitters of electronic signals; magnetic encoders; calculating machines; data processing equipment; computers; computer peripheral devices; readers (data processing equipment); optical character readers; software (recorded programs); telecommunication apparatus" in Class 9; "scientific apparatus and instruments for medical use" in Class 10; and "technical research; physics research services; mechanical research services; measuring services for antennas and mobile telephones; testing of materials; surveying (engineering work); engineering; technical project study; programming for computers; design of computer systems; development (design), installation, updating and maintenance of software; rental of computers, of computer software; consultancy relating to computers; technical consultancy relating to information

technology; analysis for the installation of computer systems; recovery of computer data” in Class 42.

8. An Office Action issued on January 19, 2016 concerning Petitioner’s application to register SATIMO. In the Office Action, the Examining Attorney indicated that the applications for the Registrations (which were still pending on that date) could be the basis for a refusal to register Petitioner’s mark under Section 2(d) of the Trademark Act.
9. The Registrations were initially applied for by Shenzhen Sunyield Technologies Co., Ltd. (“Sunyield”). On information and belief, Sunyield is a Chinese company, which was formed on July 7, 2011 with an individual named Linbin Chen (“Chen”) designated as its “Manager.” On that date, Chen was actually an employee of Petitioner, and working at Petitioner’s registered office in Hong Kong. Chen’s employment was terminated for cause two weeks after the date of Sunyield’s establishment.
10. Chen’s employment agreement with Petitioner, executed and effective on January 3, 2007, specified that all intellectual property relating to Chen’s work with Petitioner was owned by Petitioner and not Chen.
11. On information and belief, since at least 2011, Chen and Sunyield have engaged in a deliberate and global scheme to misappropriate Petitioner’s intellectual property and deceive Petitioner’s actual and potential customers. Sunyield has attempted to register, and in some cases, registered various trademarks, copyrights, and patents that encompass Petitioner’s intellectual property. Sunyield has also falsely held itself out to prospective customers as Petitioner itself, as well as the Petitioner’s agent, and has impersonated at least one actual employee of Petitioner’s. In order to further this scheme, Chen even went

so far as to, through his wife, establish a shell company in Hong Kong named “Societe Applications Technologiques Imagerie Micro Onde Limited” (an ungrammatical version of Petitioner’s original French name, but close enough to likely fool Sunyield’s Chinese customers), using that entity to apply for and register, without the Petitioner’s knowledge or authorization, the “SATIMO” and “MVG” marks in Hong Kong. Petitioner has filed applications with the Hong Kong Intellectual Property Department to invalidate those registrations. On at least one occasion, Sunyield has delivered a counterfeit SATIMO-branded product to a customer in China. Petitioner is currently engaged in multiple legal disputes with Chen and Sunyield in China and Hong Kong, in an effort to halt Chen’s and Sunyield’s widespread and relentless infringement of Petitioner’s trademarks, copyrights, and patents.

12. On February 3, 2015, Sunyield filed the United States trademark applications that eventually matured into the Registrations (the “Applications”). The Applications were filed on an intent-to-use basis under Section 1(b) of the Trademark Act.
13. The application that became Reg. No. 4902795 was filed for use in connection with “aerials; amplifiers; digital multimeters; dynamometers; electronic monitors and monitor modules for monitoring electric current and electrical signals; frequency meters; high frequency switches; oscillographs; radios; semiconductor devices” in Class 9.
14. The application that became Reg. No. 4902796 was filed for use in connection with “computer programming; computer software consultancy; computer system design services; computer systems analysis; data conversion of computer programs and data, not physical conversion; installation of computer software; maintenance of computer software;

rental of computer software; rental of web servers; technological consultation in the technology field of computer hardware systems” in Class 42.

15. On June 4, 2015, while the Applications were still pending and before a Statement of Use was filed, an assignment was recorded with respect to each Application. The assignments were dated April 10, 2015, and purported to transfer ownership of the Applications from Sunyield to Shenzhen Heli-Lianbang Science & Technology Co., Ltd. (“Registrant”).
16. On information and belief, Registrant is a Chinese limited liability company with a place of business in Shenzhen, China.
17. On November 29, 2015, Statements of Use were filed in both Applications. The Statements of Use were submitted and verified by Sunyield, despite the fact that the marks purportedly had been assigned by Sunyield to Registrant in April, 2015, and the assignments had been recorded in June, 2015.
18. Each Statement of Use claimed a date of first use *anywhere* of August 10, 2011 and a date of first use *in commerce* of February 3, 2015, which was also the day the applications were filed.
19. On information and belief, in March, 2015, after the Statements of Use were filed, Chen made statements indicating that Sunyield’s SATIMO products were sold only in China and had not been exported.
20. On information and belief, the photograph Sunyield submitted as a specimen of use for the application in Class 9, which eventually matured into Reg. No. 4902795, was not taken in

the United States, but was actually taken inside of Sunyield's business location in Shenzhen, China.

21. The Registrations were issued by the Patent and Trademark Office on February 16, 2016.

First Basis for Cancellation – Priority and Likelihood of Confusion

22. Petitioner has used the mark SATIMO in United States commerce continuously since at least the 1990s, long prior to Registrant's filing dates or alleged first use dates. As between Petitioner and Registrant, Petitioner has priority in the mark SATIMO.

23. The Registrations are for the mark SATIMO, which is identical to Petitioner's mark.

24. The goods and services covered by the Registrations are identical or closely related to the goods and services provided by Petitioner in the United States under the SATIMO mark, and for which Petitioner is seeking registration of its SATIMO mark.

25. There is a likelihood of confusion between the SATIMO mark shown in the Registrations and Petitioner's SATIMO mark.

Second Basis for Cancellation - Fraud

26. The applications for the Registrations were filed by Sunyield on February 3, 2015. Each application included a declaration signed under penalty of perjury by Baoguang Han, who was indicated to be "Director" of Sunyield.

27. Mr. Han, being warned that willful false statements could jeopardize the validity of the applications, declared that "to the best of the signatory's knowledge and belief, no other person has the right to use the mark in commerce, either in the identical form or in such

near resemblance as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion or mistake, or to deceive.”

28. On November 29, 2015, Mr. Han again submitted a declaration in each of the applications, this time in connection with the Statements of Use. Mr. Han declared that “the applicant is using the mark in commerce on or in connection with all the goods/services in the application or notice of allowance,” and again reiterated that no other persons had the right to use the mark in commerce in such a way as would be likely to cause confusion. Finally, Mr. Han declared that “the specimen shows the mark as used on or in connection with the goods/services...in commerce.”
29. Upon information and belief, such statements were false at the time they were made.
30. Upon information and belief, Sunyield knew, by virtue of Chen’s prior employment with Petitioner and otherwise, that Petitioner was entitled to use the mark SATIMO in the United States.
31. Upon information and belief, Sunyield knew that it was not using the SATIMO mark in United States commerce for all the goods and services in the applications for the Registrations.
32. Upon information and belief, Sunyield knew that the specimens it submitted in support of the applications did not show use of the mark SATIMO in United States commerce.
33. The U.S. Patent and Trademark Office relied upon Sunyield’s material false statements in allowing the Registrations to issue.

Third Basis for Cancellation – No Use in Commerce

34. On information and belief, neither Registrant nor Sunyield had used the mark SATIMO in commerce for any of the goods and services listed in the applications for the Registrations at the time the Statements of Use were filed, rendering the Registrations void.
35. In addition, the Statements of Use were submitted and verified by Sunyield, not Registrant, after the applications for the Registrations were purportedly assigned from Sunyield to Registrant. No valid Statement of Use was ever filed, rendering the Registrations void.

Fourth Basis for Cancellation – Prohibited Assignment

36. On June 4, 2015, an assignment was recorded in each of the applications for the Registrations. Each assignment document purported to show that on April 3, 2015, Sunyield assigned to Registrant the SATIMO mark and the associated applications for the Registrations.
37. In April and June of 2015, the applications were pending on an intent-to-use basis. Statements of Use were not filed until November 29, 2015.
38. The assignment documents that were recorded do not indicate that Registrant is a successor to any portion of Sunyield's business.
39. On information and belief, Sunyield did not transfer any portion of the business to which the SATIMO mark pertained to Registrant at the time of the assignment of the applications for the Registrations.

40. On information and belief, Registrant is not a successor to the entire business of Sunyield nor to the portion of the business to which the marks pertain.

41. Because the assignment of the Section 1(b) applications was to an entity that is not the successor to the applicant's business and occurred before filing an allegation of use, the applications and resulting Registrations are void *ab initio*, and the Registrations must be canceled.

WHEREFORE, Petitioners pray that Registration Nos. 4902795 and 4902796 be canceled and that this Petition for Cancellation be sustained.

Dated: June 1, 2016

Respectfully submitted,



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Attorneys for Petitioner
Microwave Vision SA

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served on Registrant
by overnight courier, addressed to

Baoguang Han
3011-12, 30/F, Office Tower
Convention Plaza, 1 Harbour Road
HONG KONG



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