

TTAB

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

The American Society For  
Testing and Materials,

Petitioner,

v.

Performance Dynamics, Inc.,

Registrant.

Cancellation No. 92040198

ASTM

Registration No. 2,409,568

Registered: November 28, 2000



07-19-2002

U.S. Patent & TMOfc/TM Mail Rcpt Dt. #74

**ANSWER**

**BOX TTAB - NO FEE**

Honorable Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

Madam Commissioner:

Registrant, Performance Dynamics, Inc., hereby answers the Petition to Cancel

Registration as follows:

1. Registrant admits that Petitioner is The American Society for Testing and Materials, with its headquarters at 100 Barr Harbor Drive, P.O. Box C 700, West Conshohocken, PA 19428-2959. Registrant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Petition paragraph 1, and therefore denies all other allegations of Petition paragraph 1.
2. Admitted.
3. Registrant admits that Petitioner has petitioned to cancel Registrant's Registered Mark, Registration Number 2,409,568. Registrant is without knowledge or information sufficient to form a belief as to the truth of the

CERTIFICATE OF MAILING UNDER  
37 C.F.R. 1.8

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to: BOX TTAB - NO FEE, Honorable Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513, on the date below:

7/16/02  
Date

*John E. Roberts*  
John E. Roberts

02 JUL 25 AM 8:33  
TRADEMARK TRIAL AND  
APPEAL BOARD

1a

remaining allegations of Petition paragraph 3, and therefore denies all other allegations of Petition paragraph 3.

4. Registrant incorporates herein by reference Answer paragraphs 1 through 3, above.
5. Admitted.
6. Registrant admits the filing dates, registration dates and registration numbers shown on Petition Exhibits 2 and 3. Registrant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Petition paragraph 6, and therefore denies all other allegations of Petition paragraph 6.
7. Registrant admits that The American Society for Testing and Materials was chartered in 1902. Registrant denies that Petitioners initials are a famous and distinctive mark, entitled to protection under the Federal Trademark Dilution Act of 1995. Registrant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Petition paragraph 7, and therefore denies all other allegations of Petition paragraph 7.
8. Registrant admits that Petitioner develops and publishes voluntary consensus standards. Registrant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Petition paragraph 8, and therefore denies all other allegations of Petition paragraph 8.
9. Registrant admits that others have used "ASTM" as a prefix in referring to standards developed or published by Petitioner. Registrant is without knowledge or information sufficient to form a belief as to the truth of the

remaining allegations of Petition paragraph 9, and therefore denies all other allegations of Petition paragraph 9.

10. Registrant admits that others have used "ASTM" as a prefix in referring to standards developed or published by Petitioner. Registrant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Petition paragraph 10, and therefore denies all other allegations of Petition paragraph 10.

11. Registrant admits that Petition Exhibit 5, after defining "ASTM" as The American Society for Testing and Materials, uses "ASTM" to refer to Petitioner. Registrant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Petition paragraph 11, and therefore denies all other allegations of Petition paragraph 11.

12. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Petition paragraph 12, and therefore denies all allegations of Petition paragraph 12.

13. Registrant admits Petition Exhibit 7 describes one of Registrant's systems, known as "ASTM AdvantEDGE". Registrant denies the remaining allegations of Petition paragraph 13.

14. Registrant incorporates herein by reference Answer paragraphs 1 through 13, above.

15. Registrant admits the filing dates, registration dates and registration numbers shown on Petition Exhibits 2 and 3. Registrant is without knowledge or information sufficient to form a belief as to the truth of the remaining

allegations of Petition paragraph 15, and therefore denies all other allegations of Petition paragraph 15.

16. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Petition paragraph 16, and therefore denies all allegations of Petition paragraph 16.

17. Registrant incorporates herein by reference Answer paragraphs 1 through 16, above.

18. Registrant admits the filing dates, registration dates and registration numbers shown on Petition Exhibits 2 and 3. Registrant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Petition paragraph 18, and therefore denies all other allegations of Petition paragraph 18.

19. Registrant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Petition paragraph 19, and therefore denies all allegations of Petition paragraph 19.

20. Registrant admits that Petition Exhibit 8 shows hits for web pages based on a search of the letters ASTM, including web addresses (URL's) comprising the letters ASTM. Registrant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Petition paragraph 20, and therefore denies all other allegations of Petition paragraph 20.

21. Denied.

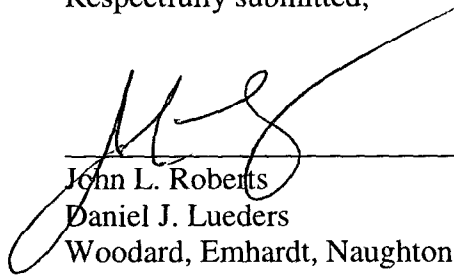
22. Registrant denies Petitioner's statement regarding the August 10, 2001 letter. Registrant admits the remainder of Petition paragraph 22.

23. Registrant denies the truth of the statements referred to from the September 19, 2001 letter. Registrant admits the remainder of Petition paragraph 23.

24. Registrant admits that Registrant has not complied with all of Petitioner's requests.

WHEREFORE, Registrant requests that this cancellation proceeding be dismissed, and further requests such other relief as the Board may deem appropriate.

Respectfully submitted,



---

John L. Roberts  
Daniel J. Lueders  
Woodard, Emhardt, Naughton, Moriarty &  
McNett  
Bank One Center/Tower  
111 Monument Circle, Suite 3700  
Indianapolis, IN 46204-5137  
(317) 634-3456

Attorneys for Registrant  
Performance Dynamics Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that on this date I served a copy of the foregoing by depositing a copy thereof in the United States Mail, first class, postage prepaid and addressed as follows:

Thomas B. O'Brien, Jr.  
Klett Rooney Lieber & Schorling  
Two Logan Square, 12th Floor  
Philadelphia, PA 19103

On this 16th day of July, 2002.

By: \_\_\_\_\_

  
John L. Roberts

20:JLR:175994