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TRADEMARK TRIAL AND APPEAL BOARD  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD  
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PROFICIENT SYSTEMS, INC., )  
)  
Petitioner, )  
)  
v. )  
)  
COMMUNICATION INTELLIGENCE )  
CORPORATION, )  
)  
Respondent, )  
\_\_\_\_\_ )

Trademark: PROFICIENT  
Reg. No. 1,486,811  
Cancellation No. \_\_\_\_\_



08-02-2002  
U.S. Patent & TMO/TM Mail Rcpt Dt. #79

PETITION FOR PARTIAL CANCELLATION

Petitioner, Proficient Systems, Inc. ("Petitioner"), believes that it is and will be harmed and damaged by the referenced registration for the mark PROFICIENT obtained by Respondent, Communication Intelligence Corporation ("Respondent"), and pursuant to Section 18 of the Lanham Act, 15 U.S.C. § 1068, and 37 C.F.R. § 2.111 petitions for partial cancellation of the same. The grounds for partial cancellation are as follows:

1.

Petitioner is a Georgia corporation with a principal place of business located at 2859 Paces Ferry Road, Suite 820, Atlanta, Georgia 30339.

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2.

On information and belief, Respondent is a Delaware corporation with a principal place of business located at 275 Shoreline Drive, Suite 500, Redwood City, California 94065, and is the current owner of a federal registration of the PROFICIENT mark (Registration No. 1,486,811).

3.

Petitioner has used the PROFICIENT and Design mark since at least as early as January 28, 2002 and filed a federal registration application for the mark PROFICIENT and Design (Serial No. 76/331,392) for “computer software for use in establishing the proficiency of product experts or sales agents, identifying potential customers on a company’s website, matching potential customers to product experts or sales agents, initiating contact between the customer and expert, and facilitating real-time communication and interaction between the customer and expert via the participants’ web browser and telephone for purposes of conducting business transactions and providing information or assistance to potential customers” in International Class 9.

4.

On information and belief, Respondent is the owner of a federal registration for the mark PROFICIENT (Registration No. 1,486,811) issued on May 3, 1988 for “computer programs on diskette” in International Class 9.

5.

On information and belief, the identification of goods in Registration No. 1,486,811 for the PROFICIENT mark is broader than the goods Respondent provides, either presently or at the time it filed its federal registration application.

6.

On information and belief, Respondent’s goods are limited to providing and developing computer software for handwriting recognition, and to the extent that the mark ever was used in connection with them, Respondent has abandoned its use of the mark in connection with the other goods recited in its registration.

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7.

Accordingly, Petitioner requests partial cancellation of Registration No. 1,486,811 and a narrowing of the identification of services to the following amended identification of goods: "computer software, namely, computer software for handwriting recognition."

8.

On information and belief, Petitioner submits that this amended identification of goods more accurately describes Respondent's actual goods, if any, and serves to avoid a likelihood of confusion between Petitioner's PROFICIENT and Design mark and Respondent's PROFICIENT mark.

9.

Petitioner is and will be damaged because its federal registration application for the PROFICIENT and Design mark (Serial No. 76/331,392) will not be passed to publication due to the overly broad identification of goods listed in Respondent's registration for the PROFICIENT mark (Registration No. 1,486,811).

10.

Accordingly, U.S. registration no. 1,486,811 for the PROFICIENT mark should be cancelled in part as indicated above.

11.

A duplicate copy of this Petition For Partial Cancellation and a check for the required fee of \$300.00 are enclosed. The Commissioner is authorized to debit the deposit account of Kilpatrick Stockton LLP (deposit account no. 11-0860) for any deficiency in the required fee.

WHEREFORE, the Petitioner requests that the Board grant this Petition For Partial Cancellation of the mark PROFICIENT.

Dated: July 30, 2002.

Respectfully submitted,

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Christine M. Cason  
  
Attorneys for Petitioner  
Proficient Systems, Inc.

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner of Patents and Trademarks, BOX TTAB FEE 2900 Crystal Drive, Arlington, Virginia 22202 on July 30, 2002.

Christine M. Cason  
Christine M. Cason  
Date: 7/30/02

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July 30, 2002

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VIA FIRST CLASS MAIL

Assistant Commissioner of Patents  
and Trademarks  
BOX TTAB FEE  
2900 Crystal Drive  
Arlington, VA 22202



Re: Proficient Systems, Inc. v. Communication  
Intelligence Corporation  
TM: PROFICIENT; Reg. No. 1,486,811  
Our Ref.: 46883.249756

08-02-2002

U.S. Patent & TMO/c/TM Mail Rpt Dt. #79

Dear Sir or Madam:

Enclosed is an original and two copies of Petition for Partial Cancellation for the referenced matter and a check for \$300.00 for the required fee.

Please return the enclosed self-addressed, stamped postcard to confirm your receipt of these materials.

Best regards.

Sincerely,

*Christine M. Cason*

Christine M. Cason

CMC:mps  
Enclosures

cc: Mr. Steve Hufford (w/encls.)  
Theodore H. Davis, Jr. (w/encls.)