

ESTTA Tracking number: **ESTTA365180**

Filing date: **08/26/2010**

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	Brainjuicer Limited		
Entity	Limited Company	Citizenship	United Kingdom
Address	13-14 Margaret Street London, W1W 8RN UNITED KINGDOM		

Attorney information	James R Menker Holley & Menker, PA PO Box 331937 Atlantic Beach, FL 32233 UNITED STATES eastdocket@holleymenker.com Phone:904-247-2620		
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Registration Subject to Cancellation

Registration No	3619661	Registration date	05/12/2009
Registrant	GRIFFIN MEDIA GROUP 327 Park Avenue South New York, NY 10010 UNITED STATES		

Goods/Services Subject to Cancellation

Class 035. First Use: 2003/03/24 First Use In Commerce: 2003/03/24 All goods and services in the class are cancelled, namely: Market analysis provided by non-downloadable e-mails	
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Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	2010-8-26 Petition to Cancel 3619661 - E-MINDREADER-COM.pdf (4 pages) (372020 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	/jmenker/
Name	James R Menker

Date	08/26/2010
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Brainjuicer Limited,)	
)	
Petitioner,)	
)	Cancellation No. _____
v.)	
)	Reg. No. 3619661
Griffin Media Group,)	
)	
Registrant.)	
)	

PETITION TO CANCEL

Brainjuicer Limited (hereinafter “Petitioner”), a limited company organized under the laws of the United Kingdom and having an address at 13-14 Margaret Street, London, W1W 8RN, United Kingdom, is or will be damaged by the continued registration of the mark E-MINDREADER.COM, which is set forth in Reg. No. 3619661 and owned by Griffin Media Group (hereinafter “Registrant”), a corporation organized under the laws of the State of New York and having an address at 327 Park Avenue South, New York, New York, 10010, United States, and hereby requests the cancellation of the same.

As grounds for cancellation, Petitioner, by its attorneys, avers as follows:

1. On April 16, 2004, Registrant filed an application, Ser. No. 76587171, to register the mark E-MINDREADER.COM for “telecommunications services including e-mail market analysis”.

2. On May 12, 2009, the United States Patent and Trademark Office issued Reg. No. 3619661 for the mark E-MINDREADER.COM for “market analysis provided by non-downloadable e-mails”.

3. On July 18, 2008, Petitioner’s International Registration No. 0974389 for the mark MindReader was extended to the United States as application Ser. No. 79/057768 for services in International Classes 35 and 38.

4. On information and belief, Registrant does not and has never used the mark E-MINDREADER.COM in connection with “market analysis provided by non-downloadable e-mails”. Therefore, Registrant failed to satisfy the requirements for registration under Section 1 of the Trademark Act, 15 U.S.C. § 1051, and was, therefore, not entitled to obtain a registration with respect to such services.

5. On information and belief, Registrant does not and has never offered the services of “market analysis provided by non-downloadable e-mails”.

6. On information and belief, the only goods and/or services that Registrant offers is providing computer software for tracking direct marketing campaign emails.

7. On information and belief, Registrant no longer owns the domain name <www.e-mindreader.com> and the domain name <www.e-mindreader.com> no longer resolves to an active website.

8. On information and belief, Registrant, through intentional nonuse, has abandoned the mark E-MINDREADER.COM with respect to the services set forth in Reg. No. 3619661.

9. Any goodwill that may have been associated with the mark set forth in 3619661 with respect to “market analysis provided by non-downloadable e-mails” has been destroyed by Registrant’s intentional nonuse and abandonment of the mark with respect to such services.


10. Petitioner is or will be damaged by the existence of this registration. Specifically, an Examining Attorney is or will be of the opinion that the mark set forth in application Ser. No. 79/057768 consists of or comprises a mark which so resembles the mark set forth in Reg. No. 3619661 as to be likely to cause confusion, or to cause mistake, or to deceive, under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

WHEREFORE, Petitioner respectfully requests that Reg. No. 3619661 be cancelled in accordance with Section 14 of the Trademark Act, 15 U.S.C. § 1064. The required filing fee is submitted herewith.

Respectfully submitted,

BRAINJUICER LIMITED

By:


James R. Menker

Petitioner’s Attorneys
Holley & Menker, P.A.
P.O. Box 331537
Atlantic Beach, FL 32233
(904) 247-2620

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing "PETITION TO CANCEL" was served on Registrant at the address of record 327 Park Avenue South, New York, NY 10010, via first class mail, postage prepaid, today August 26, 2010.

By: 
Laura K. Greer