

ESTTA Tracking number: **ESTTA459492**

Filing date: **03/01/2012**

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	Polygon US Corporation		
Entity	Corporation	Citizenship	Delaware
Address	15 Sharpner's Pond Road Building F North Andover, MA 01845 UNITED STATES		

Attorney information	Pasqualae A. Razzano Fitzpatrick, Cella, Harper & Scinto 1290 Avenue of the Americas New York, NY 10104-3800 UNITED STATES prazzano@fchs.com Phone:212 218 2100		
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**Registration Subject to Cancellation**

Registration No	3282974	Registration date	08/21/2007
Registrant	HARMON SOLUTIONS GROUP, LLC 404 S. BARSTOW EAU CLAIRE, WI 54701 UNITED STATES		

**Goods/Services Subject to Cancellation**

Class 036. First Use: 2006/06/13 First Use In Commerce: 2006/06/13 All goods and services in the class are cancelled, namely: INSURANCE CLAIMS PROCESSING
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**Grounds for Cancellation**

Priority and likelihood of confusion	Trademark Act section 2(d)
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**Mark Cited by Petitioner as Basis for Cancellation**

U.S. Registration No.	3704069	Application Date	02/25/2008
Registration Date	11/03/2009	Foreign Priority Date	NONE
Word Mark	CODE BLUE		

Design Mark	<h1>CODE BLUE</h1>
Description of Mark	NONE
Goods/Services	<p>Class 037. First use: First Use: 2003/10/31 First Use In Commerce: 2003/10/31  EMERGENCY REMEDIATION SERVICES FOR BUILDINGS DAMAGED BY WATER, MOISTURE, MOLD AND FIRE, NAMELY, REMOVAL OF STANDING WATER, REMOVAL OF DEBRIS, REMOVAL OF UNSALVAGEABLE STRUCTURAL MATERIAL AND DRYING THE BUILDING STRUCTURE</p> <p>Class 040. First use: First Use: 2003/10/31 First Use In Commerce: 2003/10/31  EMERGENCY REMEDIATION SERVICES RELATING TO DOCUMENTS AND BUILDING CONTENTS, NAMELY, DRYING AND RESTORATION OF DOCUMENTS AND TO REMEDIATION AND CONTROL OF MOLD CAUSED BY WATER, MOISTURE OR FIRE DAMAGE; EMERGENCY REMEDIATION SERVICES FOR BUILDINGS DAMAGED BY WATER, MOISTURE, MOLD AND FIRE, NAMELY, STABILIZATION OF ATMOSPHERIC CONDITIONS IN THE NATURE OF AIR PURIFICATION AND DEODORIZING</p>

Attachments	77404954#TMSN.jpeg ( 1 page )( bytes ) Petition for Cancellation.PDF ( 6 pages )(193924 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	/Pasquale A. Razzano/
Name	Pasquale A. Razzano
Date	03/01/2012

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

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POLYGON US CORPORATION, :  
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Petitioner, : Cancellation No.:  
 :  
v. : Reg. No.: 3,282,974  
 :  
CODE BLUE, LLC, :  
 : Renewal Date: August 21, 2012  
 :  
Respondent. :  
 :  
-----X

**PETITION FOR CANCELLATION**

BOX TTAB  
Commissioner for Trademarks  
Attn: Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

Polygon US Corporation, a Delaware corporation with its principal place of business at 15 Sharpner's Pond Road, Building F, North Andover, MA 01845 (hereinafter "Petitioner"), believes that it is being and will continue to be damaged by Registration No. 3,282,974 for the trademark CODEBLUE for "insurance claims processing services" in International Class 36, owned by Code Blue LLC, by assignment (hereinafter "Respondent"), and hereby petitions to cancel said registration pursuant to 15 U.S.C. § 1064 and 37 C.F.R. § 2.111.

As grounds therefor, Petitioner alleges that:

1. Petitioner and its predecessors in interest have for many years been engaged in providing emergency remediation services for buildings, building contents and documents damaged by water, moisture, mold and fire.

2. Petitioner and its predecessors in interest have been using the trademark CODE BLUE for its various remediation services in International Classes 37 and 41 since at least as early as October 2003. Petitioner is the owner, by assignment, of U.S. Trademark Registration No. 3,704,069 for its services. A true copy of that registration is attached as Exhibit 1.

3. Upon information and belief, Respondent Code Blue LLC is a Delaware limited liability company with a place of business at 404 South Barstow St., Eau Claire, Wisconsin.

4. Upon information and belief, Respondent is in the business of insurance claims processing for third party insurance companies and/or their customers. Such insurance claims processing services include the provision of property damage investigation and restoration services which are in direct competition with Petitioner's services. Respondent or its predecessors claim to have used the mark CODEBLUE in connection with such services since June 13, 2006. On information and belief as part of its claim processing services respondent recommends, hires and manages personnel who perform the mediation services under the mark CODEBLUE.

5. The mark of Respondent's registration is and will be damaging to Petitioner in that it is likely to cause confusion as to the source of services by Respondent.

6. Petitioner and its predecessors, since long prior to the registration date of Registration No. 3,282,974, has had valid and enforceable rights in and to its mark

CODE BLUE in connection to the provision of its remediation services. Such services including providing the same for insurance companies.

7. Petitioner and its predecessors, since long prior to the registration date of Registration No. 3,282,974, has advertised and promoted throughout the United States the sale and performance in interstate commerce of its services under the CODE BLUE mark. As a result, the aforementioned mark has become identified in the minds of the public and trade as evidencing services that emanate solely from Petitioner.

8. Respondent's services, if they are being offered for sale and/or performed under the mark CODEBLUE, upon information and belief, would be offered and performed in the same or similar channels of trade and would be marketed to the same or a similar class of consumers as Petitioner's services offered under its mark CODEBLUE.

9. By reason of the similarity of the marks, and the fact that the services and channels of trade of the parties are related, Respondent's use, if any, of the trademark CODEBLUE in association with its insurance claims processing services which include remediation services as aforesaid, is likely to cause confusion with Petitioner's mark CODE BLUE.

10. The consuming public, upon seeing Respondent's use, if any, of the trademark CODEBLUE, in association with its services, is likely to believe that the services are offered, endorsed, sponsored or approved by Petitioner, or that there is a trade connection or affiliation between Respondent and its services, on the one hand, and Petitioner and its services, on the other.

11. Petitioner will be damaged by the confusion resulting to the public if Respondent is permitted to maintain its Registration No. 3,282,974. Any faults or defects

which might be found in Respondent's services would reflect adversely upon and seriously injure the valuable reputation and good will of Petitioner.

12. For all of the foregoing reasons, Registration is not entitled to registration of the mark CODEBLUE and is not entitled to the exclusive use thereof.

WHEREFORE, Petitioner believes that it is being and will continue to be damaged by Registration No. 3,282,974 for the services listed in the registration and respectfully petitions that the registration be canceled in its entirety.

The fee required under 37.C.F.R. § 2.6(a)(16) is enclosed herewith. Please credit any overpayment or charge underpayment to Deposit Account No. 503939.

Respectfully submitted,

Dated: March 1, 2012

By: 

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Attorneys for Petitioner,  
Polygon US Corporation

# **EXHIBIT 1**

# United States of America

United States Patent and Trademark Office

## CODE BLUE

**Reg. No. 3,704,069** MUNTERS CORPORATION (NEW YORK CORPORATION)  
Registered Nov. 3, 2009 79 MONROE STREET  
AMESBURY, MA 01969

**Int. Cls.: 37 and 40** FOR: EMERGENCY REMEDIATION SERVICES FOR BUILDINGS DAMAGED BY WATER, MOISTURE, MOLD AND FIRE, NAMELY, REMOVAL OF STANDING WATER, REMOVAL OF DEBRIS, REMOVAL OF UNSALVAGEABLE STRUCTURAL MATERIAL AND DRYING THE BUILDING STRUCTURE, IN CLASS 37 (U.S. CLS. 100, 103 AND 106).

SERVICE MARK  
PRINCIPAL REGISTER

FIRST USE 10-31-2003; IN COMMERCE 10-31-2003.

FOR: EMERGENCY REMEDIATION SERVICES RELATING TO DOCUMENTS AND BUILDING CONTENTS, NAMELY, DRYING AND RESTORATION OF DOCUMENTS AND TO REMEDIATION AND CONTROL OF MOLD CAUSED BY WATER, MOISTURE OR FIRE DAMAGE; EMERGENCY REMEDIATION SERVICES FOR BUILDINGS DAMAGED BY WATER, MOISTURE, MOLD AND FIRE, NAMELY, STABILIZATION OF ATMOSPHERIC CONDITIONS IN THE NATURE OF AIR PURIFICATION AND DEODORIZING, IN CLASS 40 (U.S. CLS. 100, 103 AND 106).

FIRST USE 10-31-2003; IN COMMERCE 10-31-2003.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SER. NO. 77-404,954, FILED 2-25-2008.

MARIAM MAHMOUDI, EXAMINING ATTORNEY



*David J. Kyros*

Director of the United States Patent and Trademark Office