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

Proceeding	92056123
Party	Plaintiff Advantek Consulting, Inc.
Correspondence Address	STEPHEN C THOMAS HAYWORTH CHANEY & THOMAS PA 202 N HARBOR CITY BLVD, SUITE 300 MELBOURNE, FL 32935 UNITED STATES sthomas@hctbusinesslaw.com
Submission	Withdrawal of Cancellation
Filer's Name	Stephen C. Thomas
Filer's e-mail	sthomas@hctbusinesslaw.com, klane@hctbusinesslaw.com
Signature	/Stephen C. Thomas/
Date	08/22/2013
Attachments	92056123 Withdrawal with Prejudice.pdf(376212 bytes )

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

ADVANTEK CONSULTING, INC.	)	
	)	
PETITIONER	)	Cancellation No. 92056123
	)	
v.	)	
	)	
DUCOOL, USA	)	
	)	
RESPONDENT	)	

**VOLUNTARY WITHDRAWAL WITH PREJUDICE**

Advantek Consulting, Inc. (“Petitioner”) respectfully requests that the above-referenced proceeding be withdrawn with prejudice. In support of this request, Petitioner states:

1. This proceeding is presently suspended through August 22, 2013 for settlement negotiations.
2. Petitioner and Respondent have entered into a Consent Agreement, which is attached as Exhibit “A”. Under the terms of the Consent Agreement, both parties are required to take steps to reduce any potential likelihood of confusion in the use of their respective marks, and, if Petitioner’s mark registered on the principal register by the examiner in light of the Consent Agreement, Petitioner agreed to voluntarily dismiss this proceeding with prejudice.
3. The Consent Agreement was filed with the trademark Examiner for Petitioner’s Application Serial No. 85/281983 on April 10, 2013. Petitioner’s mark subsequently registered on July 30, 2013 as Registration No. 4,374,351 after the examiner reviewed and considered the Consent Agreement.

4. Petitioner now voluntarily withdraws this proceeding with prejudice under the terms of the Consent Agreement.

**WHEREFORE**, Petitioner requests that TTAB Cancellation Proceeding No. 92056123 be withdrawn with prejudice.

Respectfully submitted,

/Stephen C. Thomas/ August 22, 2013  
Stephen C. Thomas  
Patent Bar Reg. No. 57,078  
Florida Bar No. 0641006  
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*Attorneys for Petitioner ADVANTEK  
CONSULTING, INC.*

#### **CERTIFICATE OF MAILING**

I hereby certify that on this 22<sup>nd</sup> day of August, 2013, a true copy of the foregoing Withdrawal with Prejudice was served by first class mail, postage prepaid, addressed to counsel for Respondent at the addresses shown below:

Robyn S. Lederman, Esq.  
BROOKS & KUSHMAN P.C.  
1000 Town Center, 22<sup>nd</sup> Floor  
Southfield, MI 48075  
[rlederman@brookskushman.com](mailto:rlederman@brookskushman.com)

/Stephen C. Thomas/  
Stephen C. Thomas  
USPTO Reg. No. 57,078

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**Applicant:**            **Advantek Consulting, Inc.**  
**Serial No.:**           **85281983**  
**Mark:**                 **ADVANTEK**  
**Examining Atty:**    **Linda M. King**  
**Law Office:**         **116**

**CONSENT AGREEMENT**

This Consent being made this 31st day of January 2013, by DuCool, USA, Inc. (“DuCool” also known as Advantix Systems, Inc.), a corporation organized under the laws of Delaware, with business address at 13800 NW 2<sup>nd</sup> Street, Suite 100, Sunrise, Florida 33325; and Advantek Consulting, Inc. (“Advantek”), a corporation organized under the laws of Florida, with business address at Atlantis Center Suite 210, 2194 Hwy A1A, Indian Harbour Beach, Florida 32937, (both also referred to as the “parties”) as follow:

DuCool is the owner of the following two U.S. Trademark Registrations in Class 11 and Class 37 (the “ADVANTIX Marks”):

**ADVANTIX** (U.S. Reg. No. 4067320) for “Air conditioners; electric, thermal, and renewable -energy powered space cooling apparatus and instruments; air-conditioning, air cooling and ventilation apparatus and instruments; dehumidifiers; equipment for water condensation and extraction from air and water desalination, namely, dehumidifiers; dehumidification systems comprising dehumidifiers, compressors for dehumidifiers, metering devices for measuring fluid levels in dehumidifiers, heat exchangers for dehumidifiers, solenoids, air driers, humidity gauges, pressure transducers, dehumidifier valves, heat accumulators, cooling and heating coils, water pumps, water strainers for dehumidifiers, air filters, rubber hoses for dehumidifiers, clamps for dehumidifier hoses, liquid gateways being orifices for natural diffusion process, manifolds being parts for dehumidifiers, honeycomb absorption media for dehumidifiers, digital controllers and displays for dehumidifiers, dehumidifier switches, electrical sensors, electrical enclosures for dehumidifiers, circuit breakers, electrical overload controls, electric contactors, electric relays, humidity monitoring devices, electrical fuses, power supplies, dehumidifier fans and motors for dehumidifiers, sold as a unit” in Class 11;

**ADVANTIX** (U.S. Reg. No. 4096806) for “Energy usage management; Conducting energy audits of commercial and institutional facilities for the purpose of improving energy efficiency; Project management services for others for business

purposes in the fields of cooling, energy management, water extraction from air and water desalination” in Class 35; and “Installation, repair and maintenance of heating and cooling equipment and equipment for water condensation, evaporation, and extraction from air and water desalination; Construction project management services in the fields of cooling, energy management, water extraction from air and water desalination” in Class 37;

Advantek desires to obtain federal registration for the mark **ADVANTEK** for “consulting services in the field of energy measurement to improve energy efficiency; technical air quality monitoring services; and HVAC” in Class 42, such being the subject of Application Serial No. 85281983 (the “ADVANTEK Mark”);

Advantek wishes to avoid any conflict with any use of the mark ADVANTIX by DuCool USA, Inc. and, provided this Consent is accepted by the USPTO such that the refusal to register the ADVANTEK Mark over the ADVANTIX Marks is withdrawn, Advantek shall not oppose, cancel or attempt to cancel, nor otherwise assert its trademark rights in the ADVANTEK Mark against the ADVANTIX Marks;

DuCool wishes to avoid any conflict with any use of the mark ADVANTEK by Advantek Consulting, Inc. and, provided this Consent is accepted by the USPTO such that the refusal to register the ADVANTEK Mark over the ADVANTIX Marks is withdrawn, DuCool shall not oppose, cancel or attempt to cancel, nor otherwise assert its trademark rights in the ADVANTIX Marks against the ADVANTEK Mark; and

The parties agree there would be no likelihood of confusion or conflict between the trademarks described above as a result of their manner of use, the channels of trade in which the respective parties’ goods and/or services move, as well as other attendant circumstances; as the parties will undertake to use their respective marks in a manner so as to avoid a likelihood of consumer confusion, mistake, or conflict; specifically, each party will not use their respective mark in a stylization, color, or font confusingly similar to the other. The parties’ marks are to appear as substantially shown in the graphics below; Advantek agrees to show the logo tagline “Consulting | Engineering” with its ADVANTEK logo when used in all promotional marketing materials, printed or electronic, for the consumer. DuCool agrees to show the tagline “Makers of DuCool

Dehumidification and Cooling” or “Smarter Dehumidification and Cooling” or “Makers of DuCool Systems” either below or in reasonable proximity with its ADVANTIX logo when used in marketing and promotional materials, printed and electronic. Nothing herein shall be construed to prevent DuCool from adopting a different tagline provided the tagline does not include the terms “consulting” or “engineering”. If ADVANTIX is used as a trade name in plain text by itself and the logo with a tagline does not already appear on the same ‘page’ or in reasonable proximity thereto, DuCool shall, when and where reasonably practical, include a footnote stating the full trade name and applicable tagline.



For these reasons, DuCool consents to registration by Advantek of the mark ADVANTEK as reflected in Application Serial No. 85281983.

This Consent Agreement shall not be effective for any purpose whatsoever unless and until the Examining Attorney of the United States Patent and Trademark Office (USPTO) causes the ADVANTEK trademark application serial number 85281983 to be registered in the name of Advantek Consulting, Inc. upon the USPTO Principal Register. Upon registration of ADVANTEK upon Principal Register, Advantek Consulting, Inc. shall dismiss TTAB Cancellation Proceeding No. 92056123 with prejudice. If, however, the

Examining Attorney does not cause the ADVANTEK mark serial number 85281983 to be registered upon the Principal Register on grounds of a likelihood of confusion with the ADVANTIX mark, this Agreement shall be null and void and shall have no effect. In such case, Advantek Consulting, Inc. shall not have waived any right or privilege to proceed forthwith with Cancellation Proceeding No. 92056123, or to take any other action regarding the ADVANTIX trademark. This Consent Agreement shall not be deemed as a waiver by Advantek Consulting, Inc. of any right or privilege it has in the ADVANTEK mark.

This Consent Agreement shall be used as a Letter of Consent for submission to and consideration by the USPTO for purposes of effectuating the terms set forth herein.

Respectfully submitted,

DuCool, USA, Inc.

By: D Joannou 1-31-13

Name: DION JOANNOU

Title: CEO

Advantek Consulting, Inc.

By: Michael West 1-31-13

Name: Michael West

Title: Principal-CEO