

ESTTA Tracking number: **ESTTA546043**

Filing date: **07/01/2013**

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	A.D.C. Automotive Distance Control Systems GmbH		
Entity	GmbH	Citizenship	Germany
Address	Peter-Dornier-Str. 10 Lindau, 88131 GERMANY		

Attorney information	Rex A. Donnelly RatnerPrestia P.O. Box 1596 Wilmington, DE 19899 UNITED STATES tmde@ratnerprestia.com, radonnelly@ratnerprestia.com Phone:302-778-2500		
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**Registration Subject to Cancellation**

Registration No	3820502	Registration date	07/20/2010
Registrant	YANTAI BANTAM REMOTE AUTO INFORMATION SERVICE CO., LTD NO.1 WUZHISHAN ROAD YTETDZ YANTAI, CHINA		

**Goods/Services Subject to Cancellation**

Class 009. First Use: 2008/08/20 First Use In Commerce: 2008/12/09 All goods and services in the class are cancelled, namely: Antennas; Filters for radio interference suppression; Conductive silicone packing for electro-magnetic interference; Transmitters of electronic signals; Electric navigational instruments; Radar; Telephone transmitters; Telecommunications transmitters; Video telephones; Navigation apparatus for vehicles; Portable telephones; Satellite navigational system, namely, a global positioning system (GPS); Walkie-talkies; Audio-video receivers; Vehicle radios; Amusement apparatus adapted for use with an external display screen or monitor; Automatic altitude indicators; Emergency signal transmitters; Theft alarms except anti-theft alarms for vehicles; Burglar alarms except anti-theft alarms for motor vehicles
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**Grounds for Cancellation**

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Abandonment	Trademark Act section 14
Priority and likelihood of confusion	Trademark Act section 2(d)

**Mark Cited by Petitioner as Basis for Cancellation**

U.S. Application No.	85800855	Application Date	12/12/2012
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Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ARS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1999/00/00 First Use In Commerce: 1999/00/00 Sensors for control and steering of vehicle brakes, gears and chassis; Radar; Radar object detectors for use on vehicles; Vehicle safety equipment, namely, object sensors, computer processors, and operating system and application software to detect and respond to location of objects relative to a vehicle		

Attachments	ARS Petition to Cancel.pdf(120566 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 Overnight Courier on this date.

Signature	/rexadonnelly/
Name	Rex A. Donnelly
Date	07/01/2013

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

In the Matter of Registration No. 3,820,502

Mark:



(ARS & design)

Registered: Jul. 20, 2010

A.D.C. Automotive Distance Control Systems GmbH

Petitioner,

v.

Yantai Bantam Remote Auto Information Service Co., Ltd.

Registrant.

**Cancellation No.** \_\_\_\_\_

**PETITION TO CANCEL**

A.D.C. Automotive Distance Control Systems GmbH (“Petitioner”), believes that it will be damaged by the continued existence of U.S. Registration No. 3,820,502 for ARS & design, as depicted above, and hereby petitions to cancel the same. As grounds for this Petition to Cancel, Petitioner respectfully alleges as follows:

1. Petitioner is a German limited liability company (namely, a *gesellschaft mit beschränkter haftung*) having a place of business at Peter-Dornier-Str. 10, Lindau, Germany 88131.

2. Petitioner owns U.S. Application Serial No. 85/800,855 for ARS in standard characters for “*sensors for control and steering of vehicle brakes, gears and chassis; Radar; Radar object detectors for use on vehicles; vehicle safety equipment, namely, object sensors, computer processors, and operating system and application software to detect and respond to location of objects relative to a vehicle.*”

3. Since at least as early as 1999, Petitioner and/or its predecessors in interest have used and promoted Petitioner's ARS mark in the United States and throughout the world.

4. As a result of its longstanding use, Petitioner has acquired valuable goodwill in connection with the ARS mark.

5. Registrant owns U.S. Registration No. 3,820,502 for ARS & design, depicted above (hereinafter "ARS & design"), which includes Chinese characters alleged in the subject registration to have an English translation of "VEHICLE SYSTEM SERVICE NETWORK," in connection with "*Antennas; Filters for radio interference suppression; Conductive silicone packing for electro-magnetic interference; Transmitters of electronic signals; Electric navigational instruments; Radar; Telephone transmitters; Telecommunications transmitters; Video telephones; Navigation apparatus for vehicles; Portable telephones; Satellite navigational system, namely, a global positioning system (GPS); Walkie-talkies; Audio-video receivers; Vehicle radios; Amusement apparatus adapted for use with an external display screen or monitor; Automatic altitude indicators; Emergency signal transmitters; Theft alarms except anti-theft alarms for vehicles; Burglar alarms except anti-theft alarms for motor vehicles.*"

6. Registrant's U.S. Registration No. 3,820,502 was filed June 18, 2009, matured to registration on July 20, 2010, alleges a the date of first use of August 20, 2008, and alleges a date of first use in U.S. commerce of December 9, 2008.

7. Petitioner's first use of the ARS mark in the United States at least as early as 1999 predates Registrant's filing, registration, and first use dates. Accordingly, Petitioner's rights are senior to Registrant's rights.

8. Registrant's registration for ARS & design has been cited by the U.S. Patent and Trademark Office as the basis for refusing to register Petitioner's application for ARS. The USPTO has asserted that Petitioner's Application poses a likelihood of confusion with Registrant's registration.

9. The text portion of Registrant's ARS & design is identical to Petitioner's mark ARS in standard characters.

10. The goods identified in Registrant's registration are closely related to or identical to the goods in Petitioner's application, as both goods descriptions generally include electronic equipment for use in vehicles, and specifically, both contain the identical term "*radar.*" Accordingly, the relevant customers and are likely to be confused, mistaken and/or deceived as to the origin and sponsorship of goods offered under Registrant's mark, and such consumers may further be misled into believing that

Registrant's goods are provided by, or are in some other way directly or indirectly associated or affiliated with, Petitioner, resulting in damage to Petitioner and its reputation.

11. Petitioner has no control over the nature and quality of the goods on which Registrant uses ARS & Design. In the event of false association with Petitioner, any defects, objections or faults found with any goods offered under ARS & Design could inflict serious injury upon Petitioner and its reputation.

12. Upon information and belief, ARS & design, as registered, is not now and/nor was at the time of the application filing date, used in connection with all of the goods listed in the application in United States commerce.

13. As a non-limiting example, Registrant's registration for ARS & design lists the following goods: *theft alarms except anti-theft alarms for vehicles; burglar alarms except anti-theft alarms for motor vehicles*. On information and belief, ARS & design, as registered, is not now and/nor was at the time of the application filing date, used in United States commerce in connection with theft alarms or burglar alarms *not for vehicles*.

14. As another non-limiting example, Registrant's registration lists *radar* among its goods. On information and belief, ARS & design, as registered, is not now and/nor was at the time of the application filing date, used in United States commerce in connection with *radar*.

15. As still another non-limiting example, Registrant's registration lists *antennas; filters for radio interference suppression; conductive silicone packing for electro-magnetic interference*. On information and belief, ARS & design, as sought to be registered, is not now and/nor was at the time of the application filing date, used in United States commerce in connection with *antennas; filters for radio interference suppression; conductive silicone packing for electro-magnetic interference*, sold separately from an integrated assembly.

16. Registrant's application, dated June 18, 2009, was based upon actual use and therefore stated that the mark as applied to be registered was "now in use" in connection with the goods listed in the registration. This statement was materially false at least with respect to the one or more goods listed in the application, and because Registrant knew or should have known the falsity of its statement with respect to such goods, its statement was made with an intent to deceive the Office into issuing a registration for more goods than to which it was entitled to registration.

17. For the foregoing reasons, Registrant's entire registration in class 9 should be canceled, or, in the alternative, those goods named therein on which use had not commenced as of Registrant's application filing date should be canceled as *void ab initio*.

18. On information and belief, to the extent use commenced in the United States of Registrant's ARS & design, in the form in which it is registered, in connection with any of the goods listed in the registration, Registrant has abandoned, with no intent to resume, such use in connection with one or more of the goods listed in the registration, which goods should be canceled from the registration.

WHEREFORE, Petitioner deems that it is and/or will continue to be damaged by U.S. Registration No. 3,820,502 and petitions for cancellation thereof.

The Commissioner is hereby authorized at any time to charge any fees required, or credit any overpayment, to Deposit Account No. 18-0350.

Dated: July 1, 2013

Respectfully submitted,

By: /Rex A. Donnelly/  
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*Attorney for Petitioner*

**CERTIFICATE OF SERVICE**

It is hereby certified that a true copy of the document identified below was served on July 1, 2013 by international courier and via e-mail to the correspondence address of record in the USPTO:

Title of Document:                   Petition to Cancel

Names of Parties Served:       Anita Yu  
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/Rex A. Donnelly/  
Rex A. Donnelly