

ESTTA Tracking number: **ESTTA715390**

Filing date: **12/17/2015**

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	Futurefly Oy		
Entity	Limited Liability Company	Citizenship	FINLAND
Address	Pursimiehenkatu 26 B Helsinki, 00150 FINLAND		

Attorney information	Geza Ziegler Ziegler IP Law Group, LLC. 55 Greens Farms Road Westport, CT 06880 UNITED STATES ptomail@gziplaw.com Phone:203 659 0388		
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Registration Subject to Cancellation

Registration No	4242066	Registration date	11/13/2012
Registrant	INTERACTIV CORPORATION Post Office Box 613104 San Jose, CA 95161 UNITED STATES		

Goods/Services Subject to Cancellation

Class 038. First Use: 2012/04/04 First Use In Commerce: 2012/04/04 All goods and services in the class are cancelled, namely: Telecommunications gateway services, namely, transmission of real-time data, messages, graphics, images, audio and video by means of wireless communication networks, and the Internet

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

Attachments	Petition to cancel 4242066 (RAWR design).pdf(390438 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	/gcz44004/
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Name	Geza Ziegler
Date	12/17/2015

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

Futurefly Oy,
A Finland Limited Liability Co.

v.

Interactiv Corporation,
A California Corporation

In the matter of Registration No. 4,242,066
For the design mark with literal elements RAWR
Date Registered 11/13/2012
Cancellation No. _____

PETITION FOR CANCELLATION

Futurefly Oy (the “Petitioner”), a limited liability company organized under the laws of Finland, having its principal place of business at Pursimiehenkatu 26 B Helsinki 00150 Finland, believes that it is damaged by Registration No. 4,242,066, and hereby petitions to cancel the same under the Provision of 15 U.S.C. §1064(3).

The grounds for the Petition to Cancel are:

1. Petitioner is a leading developer of mobile and software applications. Petitioner creates traditional non-game consumer applications by uniting them with gameplay. Petitioner’s project is an asynchronous mobile messaging app with 3D avatars, animations, mini-games and other such rich content from games.
2. Petitioner is the record owner of Application Serial No. 86/744,270 for the mark RAWR (“Petitioner’s Mark”) in Class 038 for the services of “Providing on-line electronic facilities for the transmission and receipt of voice, data, graphics, images, audio and video to, from and among users” (“Petitioner’s Services”), attached hereto as Exhibit A (the “Application”).
3. Upon information and belief, the registrant of the damaging mark is Interactiv Corporation, a California corporation, with its most recent address listed at the United States Patent and Trademark Office being P.O. Box 613104, San Jose, California 95161 (the “Registrant”).

4. On April 23, 2012, Registrant filed an application to register the design mark with literal elements RAWR (the “Registrant’s Mark”) under Section 1(a) of the Lanham Act, 15 U.S.C. §1051(a). The registration was issued on Nov. 13, 2012. (attached hereto as Exhibit B)
5. The Registrant’s application was filed in Class 038 for use of the Mark on “Telecommunications gateway services, namely, transmission of real-time data, messages, graphics, images, audio and video by means of wireless communication networks, and the Internet” (“Registrant’s Services”).
6. Petitioner has received an Office Action from the USPTO Examining Attorney citing the Registrant’s Registration as the grounds for a Section 2(d) refusal of its application for the Petitioner’s Mark.

First Basis for Cancellation—Fraud in the Application

A. Fraudulent Allegation of Use in Commerce

7. Registrant’s application contains the statements that “[t]he Petitioner... is using the mark in commerce,” and that “the mark was first used at least as early as April 4, 2012, and first used in commerce at least as early as the same date, and is now in such commerce. The application also contains the standard declaration as to the truth of the Petitioner’s statements in the application.
8. Upon information and belief, Registrant did not use the Mark in connection with the Services in commerce on or any-time prior to April 23, 2012, the filing date of the Petitioner’s application. Upon information and belief, Petitioner has not used the Mark in connection with Petitioner’s Services in interstate commerce in the United States.
9. Upon information and belief, Petitioner made the false statements as to the use of the specimen with the intent to procure a registration to which Petitioner was not entitled, and Petitioner was successful in procuring favorable examination, allowance, and publication of the application.

B. Fraudulent Specimen Use

10. Petitioner filed a specimen of use with its Application that purported to be “a jpeg image of the website's homepage rawrnw.com.” The alleged specimen did not contain a URL address bar or any other evidence that it was an active website (attached hereto as Exhibit C).

11. Upon information and belief, the domain name Petitioner purported to be the home page of its service was not registered with any domain name registry as of the date of Registrant’s application.

12. Upon information and belief, Petitioner made the false statements as to the use of the specimen with the intent to procure a registration to which Petitioner was not entitled, and Petitioner was successful in procuring favorable examination, allowance, and publication of the application.

Second Basis for Cancellation—Non-Use

13. The Application for the Petitioner’s Mark was based on actual use. The Application provides “The Petitioner is submitting one (or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services.”

14. Upon information and belief, Petitioner was not using the Registrant’s Mark in any commerce in the United States with or in connection with the Registrant’s Services as of the date the Registrant’s Application was filed.

15. Upon information and belief, Petitioner made the false statements as to the use of the specimen with the intent to procure a registration to which Petitioner was not entitled, and Petitioner was successful in procuring favorable examination, allowance, and publication of the application.

Third Basis for Cancellation—Abandonment

16. Upon information and belief, Registrant is not currently offering the Registrant’s Services under the Registrant’s Mark, and has not used the Registrant’s Mark in connection with the Registrant’s Services since the Registration was granted.

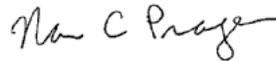
Prayer for Relief

17. Continued registration of the Registrant's Mark will result in damage to Petitioner pursuant to the allegations stated herein in that it will prevent Petitioner from obtaining the federal registration of the Petitioner's Mark.

WHEREFORE, Petitioner prays that the Registration No. 4,242,066 be canceled and this Petition to Cancel be sustained because: (a) the Registrant obtained the registration via fraudulent representations to the USPTO, (b) the Registrant had not used the Registrant's Mark as of the alleged date of first use, and (c) the Registrant has not used the Registrant's Mark on the Registrant's Services since the Registration was issued.

Please direct all correspondence to Geza Ziegler at the address set forth below.

Respectfully submitted,



Nancy C. Prager, Esq.
Prager Law, LLC
3355 Lenox Rd. Suite 750
Atlanta, GA 30326

Dated: December 17, 2015



Geza Ziegler
Ziegler IP Law Group LLC
55 Greens Farms Road
Westport, CT 06880

Attorneys for the Petitioner

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

Futurefly Oy,
A Finland Limited Liability Co.

v.

Interactiv Corporation,
A California Corporation

In the matter of Registration No. 4,242,066

For the design mark with literal elements RAWR

Date Registered 11/13/2012

Cancellation No. _____

PETITION FOR CANCELLATION

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing PETITION FOR CANCELLATION, duly signed by attorneys for the Petitioner, has been served upon Registrant this 17th of December, 2015, by mailing a copy via first class mail through the United States Postal Service addressed to:

Interactiv Corporation
P.O. Box 613104
San Jose, California 95161

By:



Geza Ziegler

Trademark/Service Mark Application, Principal Register**Serial Number: 86744270****Filing Date: 09/01/2015****The table below presents the data as entered.**

Input Field	Entered
SERIAL NUMBER	86744270
MARK INFORMATION	
*MARK	RAWR
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	RAWR
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Futurefly Oy
*STREET	Pursimiehenkatu 26 B
*CITY	Helsinki
*COUNTRY	Finland
*ZIP/POSTAL CODE (Required for U.S. applicants)	00150
LEGAL ENTITY INFORMATION	
TYPE	limited liability company
STATE/COUNTRY WHERE LEGALLY ORGANIZED	Finland
GOODS AND/OR SERVICES AND BASIS INFORMATION	
INTERNATIONAL CLASS	009
	Software and software applications to enable transmission, access, organization, and

*IDENTIFICATION	management of text messaging, instant messaging, on-line blog entries, voice messaging, video messaging and information via the Internet and other communications networks; computer software for use in relation to digital animation and special effects of images.
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	038
*IDENTIFICATION	Providing on-line electronic facilities for the transmission and receipt of voice, data, graphics, images, audio and video to, from and among users
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	042
*IDENTIFICATION	Providing on-line software and software applications and rental of software and software applications, all of the afore to enable transmission, access, organization, and management of text messaging, instant messaging, on-line blog entries, voice messaging, video messaging and information via the Internet and other communications networks; Providing on-line software and software applications and rental of software and software applications for use in relation to digital animation and special effects of images.
FILING BASIS	SECTION 1(b)
ATTORNEY INFORMATION	
NAME	Geza C. Ziegler
ATTORNEY DOCKET NUMBER	MDFF.3292.USt1
FIRM NAME	Ziegler IP Law Group LLC.
STREET	55 Greens Farms Road
CITY	Westport
STATE	Connecticut
COUNTRY	United States
ZIP/POSTAL CODE	06880
PHONE	2036590388

FAX	2032225299
EMAIL ADDRESS	ptomail@gziplaw.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
OTHER APPOINTED ATTORNEY	Joseph V. Gamberdell, Jr.
CORRESPONDENCE INFORMATION	
NAME	Geza C. Ziegler
FIRM NAME	Ziegler IP Law Group LLC.
STREET	55 Greens Farms Road
CITY	Westport
STATE	Connecticut
COUNTRY	United States
ZIP/POSTAL CODE	06880
PHONE	2036590388
FAX	2032225299
*EMAIL ADDRESS	ptomail@gziplaw.com; gziegler@gziplaw.com
*AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
APPLICATION FILING OPTION	TEAS RF
NUMBER OF CLASSES	3
FEE PER CLASS	275
*TOTAL FEE DUE	825
*TOTAL FEE PAID	275
SIGNATURE INFORMATION	
SIGNATURE	/gcz44004/
SIGNATORY'S NAME	Geza C. Ziegler
SIGNATORY'S POSITION	Attorney of Record
SIGNATORY'S PHONE NUMBER	2036590388
DATE SIGNED	09/01/2015

Trademark/Service Mark Application, Principal Register

Serial Number: 86744270

Filing Date: 09/01/2015

To the Commissioner for Trademarks:

MARK: RAWR (Standard Characters, see [mark](#))

The literal element of the mark consists of RAWR.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Futurefly Oy, a limited liability company legally organized under the laws of Finland, having an address of

Pursimiehenkatu 26 B
Helsinki 00150
Finland

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 009: Software and software applications to enable transmission, access, organization, and management of text messaging, instant messaging, on-line blog entries, voice messaging, video messaging and information via the Internet and other communications networks; computer software for use in relation to digital animation and special effects of images.

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services.

International Class 038: Providing on-line electronic facilities for the transmission and receipt of voice, data, graphics, images, audio and video to, from and among users

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services.

International Class 042: Providing on-line software and software applications and rental of software and software applications, all of the afore to enable transmission, access, organization, and management of text messaging, instant messaging, on-line blog entries, voice messaging, video messaging and information via the Internet and other communications networks; Providing on-line software and software applications and rental of software and software applications for use in relation to digital animation and special effects of images.

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services.

The applicant's current Attorney Information:

Geza C. Ziegler and Joseph V. Gamberdell, Jr. of Ziegler IP Law Group LLC.
55 Greens Farms Road
Westport, Connecticut 06880
United States

The attorney docket/reference number is MDFF.3292.USt1.

The applicant's current Correspondence Information:

Geza C. Ziegler
Ziegler IP Law Group LLC.
55 Greens Farms Road
Westport, Connecticut 06880
2036590388(phone)
2032225299(fax)
ptomail@gziplaw.com;gziegler@gziplaw.com (authorized)

E-mail Authorization: I authorize the USPTO to send e-mail correspondence concerning the application to the applicant or applicant's attorney at the e-mail address provided above. I understand that a valid e-mail address must be maintained and that the applicant or the applicant's attorney must file the relevant subsequent application-related submissions via the Trademark Electronic Application System (TEAS). Failure to do so will result in an additional processing fee of \$50 per international class of goods/services.

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

Declaration

The signatory believes that: if the applicant is filing the application under 15 U.S.C. § 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant is using the mark in commerce on or in connection with the goods/services in the application; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e), the applicant is entitled to use the mark in commerce; the applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /gcz44004/ Date: 09/01/2015
Signatory's Name: Geza C. Ziegler
Signatory's Position: Attorney of Record
RAM Sale Number: 86744270
RAM Accounting Date: 09/02/2015

Serial Number: 86744270

Internet Transmission Date: Tue Sep 01 16:15:34 EDT 2015

TEAS Stamp: USPTO/BAS-XX.XXX.XX.XX-20150901161534003

755-86744270-540f14bf67f19c9e2fdaca72520

296b2d2692439c42f90196ee1eccf0612c22d2-C

C-2778-20150901160244325031

RAWR

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 85604839

Filing Date: 04/23/2012

NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.

The table below presents the data as entered.

Input Field	Entered
TEAS Plus	YES
MARK INFORMATION	
*MARK	\\TICRS\EXPORT11\IMAGEOUT11\856\048\85604839\xml1\FTK0002.JPG
*SPECIAL FORM	YES
USPTO-GENERATED IMAGE	NO
LITERAL ELEMENT	RAWR
*COLOR MARK	YES
*COLOR(S) CLAIMED (If applicable)	The color(s) red is/are claimed as a feature of the mark.
*DESCRIPTION OF THE MARK (and Color Location, if applicable)	The mark consists of stylized red color three-dimensional (3-D) letters R, A, W, and R.
PIXEL COUNT ACCEPTABLE	YES
PIXEL COUNT	726 x 250
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	INTERACTIV CORPORATION
DBA/AKA/TA/FORMERLY	AKA INTERACTIV
*STREET	1659 N CAPITOL AVE #225
*CITY	SAN JOSE

*STATE (Required for U.S. applicants)	California
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	95132
EMAIL ADDRESS	INTERACTIVCORP@GMAIL.COM
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
LEGAL ENTITY INFORMATION	
*TYPE	CORPORATION
* STATE/COUNTRY OF INCORPORATION	California
GOODS AND/OR SERVICES AND BASIS INFORMATION	
*INTERNATIONAL CLASS	038
*IDENTIFICATION	Telecommunications gateway services, namely, transmission of real-time data, messages, graphics, images, audio and video by means of wireless communication networks, and the Internet
*FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 04/04/2012
FIRST USE IN COMMERCE DATE	At least as early as 04/04/2012
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT11\IMAGEOUT\11\856\048\85604839\xml1\FTK0003.JPG
SPECIMEN DESCRIPTION	a jpeg image of the website's homepage rawrnw.com
ADDITIONAL STATEMENTS SECTION	
*TRANSLATION (if applicable)	
*TRANSLITERATION (if applicable)	
*CLAIMED PRIOR REGISTRATION (if applicable)	
*CONSENT (NAME/LIKENESS) (if applicable)	
*CONCURRENT USE CLAIM (if applicable)	
CORRESPONDENCE INFORMATION	
*NAME	INTERACTIV CORPORATION

FIRM NAME	INTERACTIV CORPORATION
*STREET	1659 N CAPITOL AVE #225
*CITY	SAN JOSE
*STATE (Required for U.S. applicants)	California
*COUNTRY	United States
*ZIP/POSTAL CODE	95132
*EMAIL ADDRESS	INTERACTIVCORP@GMAIL.COM
*AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
NUMBER OF CLASSES	1
FEE PER CLASS	275
*TOTAL FEE PAID	275
SIGNATURE INFORMATION	
* SIGNATURE	/James Chu/
* SIGNATORY'S NAME	James Chu
* SIGNATORY'S POSITION	CEO
* DATE SIGNED	04/22/2012

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 85604839

Filing Date: 04/23/2012

To the Commissioner for Trademarks:

MARK: RAWR (stylized and/or with design, see [mark](#))

The literal element of the mark consists of RAWR.

The color(s) red is/are claimed as a feature of the mark. The mark consists of stylized red color three-dimensional (3-D) letters R, A, W, and R.

The applicant, INTERACTIV CORPORATION, AKA INTERACTIV, a corporation of California, having an address of

1659 N CAPITOL AVE #225
SAN JOSE, California 95132
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 038: Telecommunications gateway services, namely, transmission of real-time data, messages, graphics, images, audio and video by means of wireless communication networks, and the Internet

In International Class 038, the mark was first used by the applicant or the applicant's related company or licensee predecessor in interest at least as early as 04/04/2012, and first used in commerce at least as early as 04/04/2012, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) a jpeg image of the website's homepage rawrnow.com.

[Specimen File 1](#)

The applicant's current Correspondence Information:

INTERACTIV CORPORATION
INTERACTIV CORPORATION

1659 N CAPITOL AVE #225
SAN JOSE, California 95132
INTERACTIVCORP@GMAIL.COM (authorized)

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /James Chu/ Date Signed: 04/22/2012
Signatory's Name: James Chu
Signatory's Position: CEO

RAM Sale Number: 8240
RAM Accounting Date: 04/23/2012

Serial Number: 85604839
Internet Transmission Date: Mon Apr 23 01:31:20 EDT 2012
TEAS Stamp: USPTO/FTK-XX.XXX.XXX.XXX-201204230131203
92663-85604839-49052db539498e079b8d7afe2
4951a95-CC-8240-20120423011358546067

RAWR

[Register](#)
[Log in](#)



ken 9:33 pm on April 22, 2012

[Link](#)



jennifer 9:29 pm on April 22, 2012

[Link](#)



online 9:16 pm on April 22, 2012

[Link](#)

Tags: [Tag it](#)
RAWRR!





RAWRR

[Toggle Comment Threads](#) | [Keyboard Shortcuts](#)



[Register](#)
[Log in](#)



ken 9:33 pm on April 22, 2012

[Link](#)



jennifer 9:29 pm on April 22, 2012

[Link](#)



online 9:16 pm on April 22, 2012

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Tags: [Tag it](#)
RAWRR!

