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Filing date: **04/25/2022**

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

Proceeding no.	92070823
Party	Defendant Ikonix USA LLC
Correspondence address	THOMAS J MOORE BACON & THOMAS PLLC 201 N UNION ST STE 430 ALEXANDRIA, VA 22314-2649 UNITED STATES Primary email: mail@baconthomas.com Secondary email(s): tjmoore@baconthomas.com, jmiller@baconthomas.com 703-683-0500
Submission	Motion to Join/Substitute Party
Filer's name	Thomas J. Moore
Filer's email	mail@baconthomas.com, tjmoore@baconthomas.com
Signature	/Thomas J. Moore/
Date	04/25/2022
Attachments	2022-04-25 Respondent Motion to Substitute.pdf(415619 bytes)

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

ICware Systems, Inc. dba BatchTest Corporation, and
BatchTest Corporation,

Petitioner,

v.

Ikonix USA, LLC,

Respondent

Cancellation No. 92070823

RESPONDENT'S MOTION TO SUBSTITUTE

Ikonix USA, LLC (referred to as “Respondent” below) hereby serves upon ICware Systems, Inc. dba BatchTest Corporation, and BatchTest Corporation (referred to as “Petitioner” below) the following motion, pursuant to the Federal Rules of Civil Procedure and the relevant rules of the Trademark Trial and Appeal Board (referred to as the “Board” or the “TTAB” below) of the U.S. Patent and Trademark Office (“PTO”).

Respondent moves this honorable Board to substitute the individual, Dinesh Patel (U.S. citizen), having an address of 2118 Walsh Ave, Suite 240, Santa Clara, CA 95050 (referred to as “Mr. Patel” below), as the sole Petitioner in this cancellation. The grounds are that Mr. Patel is the sole assignee of the trademark BATCHTEST, including U.S. Applications Nos. 88723304 and 88750323, by an Assignment executed April 2, 2022, from Petitioner, and recorded by the PTO at reel 7684, frame 0839, on April 7, 2022 (referred to as the “Assignment” below). A copy of the Assignment (provided to the undersigned by Mr. Patel’s email of April 12, 2022) is submitted herewith as Exhibit A. This substitution is in accord

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with Trademark Trial and Appeal Board Manual of Practice 2021-06 (referred to as the “TBMP” below), which provides in pertinent part “If a mark pleaded by a plaintiff is assigned and a copy of the assignment is filed with the Board, **the assignee ordinarily will be substituted for the originally named party** if the assignment occurred prior to the commencement of the proceeding, if the discovery and testimony periods have closed, if the assignor is no longer in existence, **or if the defendant raises no objection to substitution;**” TBMP §512.01 (fifth paragraph).

Respondent notes that a report on the settlement efforts will be filed separately today, in accord with the Board’s Order dated January 5, 2022.

CONCLUSION

Respondent respectfully submits that the present motion should be granted, and that the Board should allow additional time for discovery after the Board acts on the present motion, in view of the change in ownership of Petitioner’s asserted trademark.

BACON & THOMAS, PLLC
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Date: April 25, 2022

Respectfully submitted,

/Thomas J. Moore/

Thomas J. Moore
Attorney for Respondent
Ikonix USA, LLC

Exhibit A

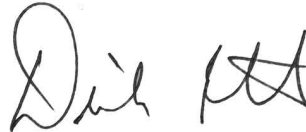
TRADEMARK ASSIGNMENT

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, **BatchTest Corporation** ("Assignor"), a California corporation having an address at 2118 Walsh Ave, Suite 240, Santa Clara, CA 95050, for itself and its successors and assigns, hereby assigns to **Dinesh Patel**, a United States citizen with his address at 2118 Walsh Ave, Suite 240, Santa Clara, CA 95050 ("Assignee"), his successors and assigns, all right, title, interest in and to the mark "BATCATEST" with respect to the United States of America, its territories and possessions, including U.S. Trademark Applications No. **88723304** and **88750323**, for the mark "BATCATEST", together with all goodwill associated therewith.

This Trademark Assignment includes the right to claim for any and all damages by reasons of past infringement of such mark, with the right to sue for and collect the same for Assignee's own use and enjoyment and for the use and enjoyment of its successors and assigns.

IN WITNESS WHEREOF, Assignor has caused this Trademark Assignment to be executed by its duly authorized representative as of this 2nd day of April 2022.

BatchTest Corporation



Dated: April 2, 2022

By: _____

Name: Dinesh Patel

Title: President

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of this document is being served on Petitioner by emailing it on the undersigned date addressed to the correspondence address of record in the TTABVUE database at the website of the U.S. Patent and Trademark Office as follows:

Dinesh Patel
BatchTest Corporation
2118 Walsh Ave, Suite 240
Santa Clara, CA 95050
BatchTest_TM@batchtest.com
btcroot@gmail.com

Date: April 25, 2022

/Thomas J. Moore/
Thomas J. Moore