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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 has filed a petition to cancel the registration indicated below.

**Petitioner Information**

Name	RGB Systems, Inc.		
Entity	Corporation	Citizenship	California
Address	1025 E. Ball Rd. Anaheim, CA 92805 UNITED STATES		

Attorney information	John C. Holman, Robert S. Pierce Jacobson Holman PLLC 400 7th St., NW, Ste. 700 Washington, DC 20004 UNITED STATES trademark@jhip.com, rpierce@jhip.com, jholman@jhip.com 202-638-6666
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**Registration Subject to Cancellation**

Registration No.	5111292	Registration date	12/27/2016
Registrant	Kenu, Inc. 560 Alabama St San Francisco, CA 94110 UNITED STATES		

**Goods/Services Subject to Cancellation**


Class 009. First Use: 2016/06/30 First Use In Commerce: 2016/06/30 All goods and services in the class are subject to cancellation, namely: Earphones; microphones; portable speakers; speaker docks; dock speakers for mobile audio players; headsets for use with-computers, mobile devices, and audio equipment
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**Grounds for Cancellation**

Priority and likelihood of confusion	Trademark Act Sections 14(1) and 2(d)
Other	Statement of Use void for lack of use, Trademark Action section 1(d)

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

U.S. Application No.	88031533	Application Date	07/10/2018
Registration Date	NONE	Foreign Priority	NONE

		Date	
Word Mark	SHARELINK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2014/09/29 First Use In Commerce: 2014/09/29 Audiovisual equipment, namely, receivers and computer software applications used to enable wireless communication between portable computing devices and audio-visual presentation equipment		

Attachments	88031533#TMSN.png( bytes ) petition for cancellation.pdf(82653 bytes )
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Signature	/Robert S. Pierce/
Name	Robert S. Pierce
Date	05/06/2019

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

In re the registration of:

Kenu, Inc.  
Reg. No. 5111292  
Mark: SHARELINK  
Reg. Date: Dec. 27, 2016

RGB SYSTEMS, INC., )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 KENU, INC., )  
 )  
 Respondent. )

**PETITION FOR CANCELLATION**

RGB Systems, Inc. believes that it is being damaged by the registration of the mark shown in the above-identified registration and hereby petitions to cancel it.

As grounds for cancellation, RGB Systems alleges:

1. RGB Systems is a California corporation, located and doing business at 1025 East Ball Road, Anaheim, California 92805.
2. Since 29 September 2014, before the alleged date of first use in commerce for the registration sought to be canceled herein, RGB Systems has and still is engaged in the distribution and sale of audiovisual equipment, namely, receivers and computer software applications used to enable wireless communication between portable computing devices and

audio-visual presentation equipment in International Class 9 in commerce in the United States under and in connection with the trademark SHARELINK. RGB Systems has continuously used the SHARELINK mark in commerce on or in connection with its goods, advertised, offered for sale, and sold by RGB Systems, and to identify and designate itself the source of its goods and to distinguish those goods and businesses from those of others.

3. On 10 July 2018, RGB Systems applied to register SHARELINK based on actual use of the mark on audiovisual equipment, namely, receivers and computer software applications used to enable wireless communication between portable computing devices and audio-visual presentation equipment in International Class 9. The Patent and Trademark Office accorded the application Ser. No. 88031533.

4. The PTO issued an office action on 5 November 2018 refusing to registration RGB Systems mark due to likelihood of confusion with the registration sought to be canceled herein.

5. On information and belief, Kenu, Inc. is a Delaware corporation, located and doing business at 560 Alabama Street, San Francisco, California 94110.

6. On information and belief, Kenu, Inc. owns Reg. No. 5111292 SHARELINK, registered on 27 December 2016, alleging a date of first use in commerce since 30 June 2016 on earphones; microphones; portable speakers; speaker docks; dock speakers for mobile audio players; headsets for use with computers, mobile devices, and audio equipment in International Class 9. The underlying application was filed on 9 March 2016.

#### **COUNT 1 - LIKELIHOOD OF CONFUSION**

7. On information and belief, Kenu's registered SHARELINK mark is confusingly

similar to RGB Systems's SHARELINK mark.

8. On information and belief, the goods set forth in the registration are or will be sold through the same or similar channels of trade, or to the same general class of purchasers, in and to which RGB Systems's goods and business are or will marketed or sold.

9. On information and belief, the registration or use of Kenu's SHARELINK mark, as set forth in the registration, is likely to cause confusion, mistake, or to deceive as to origin, sponsorship, or association of Kenu's goods sold under its SHARELINK mark *vis-a-vis* RGB Systems's SHARELINK mark or to mislead buyers of Kenu's goods or RGB Systems's goods, or the public in general, into believing that Kenu's goods are sold by, emanate from, are endorsed by, or are in some direct or indirect way are associated or affiliated with RGB Systems or its SHARELINK mark, goods or business, or vice versa, to RGB Systems's damage and detriment.

10. Therefore, RGB Systems believes it will be damaged by the use and registration of Kenu's SHARELINK mark as set forth in Reg. No. 5111292.

## **COUNT II - AMENDMENT TO ALLEGE USE IS VOID**

11. RGB Systems restates and realleges ¶¶ 1-10 inclusive of this notice of opposition and hereby incorporates same as if fully set forth herein.

12. Trademark Act Section 1(b), 15 U.S.C. § 1051(b), allows a party to apply to register a mark based on a *bona fide* intention to use the mark on the goods identified in the application. No mark can be registered until an applicant has met the requirements of Trademark Act Sections 1(c) and (d). 15 U.S.C. § 1051(b)(3).

13. Trademark Act Section 1(b), 15 U.S.C. § 1051(b), requires an applicant to file with the PTO within six months of the notice of allowance a verified statement that the mark is

in use in commerce and specifying the date of the applicant's first use of the mark in commerce and those goods specified in the notice of allowance on or in connection with which the mark is used in commerce together with such number of specimens as may be required by the Director and payment of the prescribed fee.

14. On information and belief, Kenu filed a statement of use on 2 November 2016 alleging use of the mark in commerce on earphones; microphones; portable speakers; speaker docks; dock speakers for mobile audio players; headsets for use with computers, mobile devices, and audio equipment in International Class 9 starting on 30 June 2016.

15. On information and belief, Kenu is not using its SHARELINK mark on microphones; portable speakers; speaker docks; dock speakers for mobile audio players; headsets for use with computers, mobile devices, and audio equipment and was not using this mark on these goods on 2 November 2016.

16. Accordingly, the amendment to allege use filed on 2 November 2016 is void, and this defect cannot be cured because under 15 U.S.C. 1051(d) more than six months has elapsed since the notice of allowance was issued and no request for extension of time has been filed. Therefore, the registration should be canceled.

WHEREFORE, RGB Systems, Inc., Petitioner, believes and alleges that it will be damaged by the registration of the SHARELINK mark of Reg. No. 5111292 and therefore, RGB Systems respectfully requests that:

- (a) judgment in the present opposition be entered in favor of RGB Systems;
- (b) the present cancellation be sustained; and
- (c) registration of Reg. No. 5111292 be canceled.

Respectfully submitted,

RGB Systems, Inc.

By: /Robert S. Pierce/

John C. Holman

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