

ESTTA Tracking number: **ESTTA1125642**

Filing date: **04/08/2021**

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	Picture Engine Company, Inc		
Entity	Corporation	Citizenship	Colorado
Address	550 LYKINS AVE BOULDER, CO 80304 UNITED STATES		

Correspondence information	JON CARLSON CEO PICTURE ENGINE COMPANY, INC 550 LYKINS AVE BOULDER, CO 80304 UNITED STATES Primary Email: treerock@icloud.com No phone number provided.
----------------------------	--

Registration Subject to Cancellation

Registration No.	6255115	Registration date	01/26/2021
Registrant	OpenSky Project, Inc. 1250 BROADWAY, 36TH FLOOR - MORECOMMERCE NEW YORK, NY 10001 UNITED STATES		

Goods/Services Subject to Cancellation

Class 009. First Use: 2015/06/23 First Use In Commerce: 2015/06/23 All goods and services in the class are subject to cancellation, namely: Downloadable mobile applications for the automated placing of bids for online auctions; downloadable mobile applications for ordering merchandise and consumer goods
Class 035. First Use: 2015/06/23 First Use In Commerce: 2015/06/23 All goods and services in the class are subject to cancellation, namely: Online auction services featuring the automated placing of bids; online ordering services featuring a wide variety of merchandise and consumer goods of others
Class 042. First Use: 2015/06/23 First Use In Commerce: 2015/06/23 All goods and services in the class are subject to cancellation, namely: Providing temporary use of on-line non-downloadable software for the automated placing of bids for online auctions; providing temporary use of on-line non-downloadable software for ordering of merchandise and consumer goods

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act Sections 14(1) and 2(d)
--------------------------------------	---------------------------------------

The mark is merely descriptive	Trademark Act Sections 14(1) and 2(e)(1)
The mark is or has become generic	Trademark Act Section 14(3), or Section 23 if on Supplemental Register
The mark is not inherently distinctive and has not acquired distinctiveness	Trademark Act Sections 14(1) and 1,2 and 45; and Section 2(f)
Dilution by blurring	Trademark Act Sections 14(1) and 43(c)
Registrant not rightful owner of mark for identified goods or services	Trademark Act Sections 14(1) and 1
Other	My Company has been using this term and claimed copyright on it, in the form of "Auction Sniper for eBay" for both an iOS and MacOS app on the Apple App Store for 8 years, the copyright has been clearly marked by My company "Picture Engine Company, Inc" with no gaps in that claim for the entire time. This is easily demonstrated by records with "Apple Inc" Also the term "Auction Sniper" itself has always been in use generically by Thousands of people and companies since at least 1998. both terms "Auction" and "Sniper" are so generic and dilutive, that is a shame no one checked with the companies using the term first with just about any auction site, such as eBay before granting such a trademark.

Mark Cited by Petitioner as Basis for Cancellation

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	"AUCTION SNIPER FOR EBAY" copyright 2013 by Picture Engine Company, Inc easily documented on Apple App Store for both iOS apps and Mac OS apps, (two different stores)		
Goods/Services	"Auction Sniper for eBay" in use on the iOS Apple App Store. "Auction Sniper for eBay" in use on the Mac OS Apple App Store. both for 8 years, since April/May of 2013		

Attachments	petitionforcancelation.txt(1391 bytes)
-------------	---

Signature	/joncarlson/
Name	Jon Carlson
Date	04/08/2021

This has already damaged my company, as the trademark holder which was granted in Jan of this year, has already asked Apple to remove my app from App Store for grounds of trademark, This company that did this is simply going through the app store and filing trademarks on names of apps, This appears to be their ownly business.

My Company has been using this term and claimed copyright on it, in the form of "Auction Sniper for eBay" for both an iOS and MacOS app on the Apple App Store for 8 years, the copyright has been clearly marked by my company "Picture Engine Company, Inc" with no gaps in that claim for the entire time. This is easily demonstrated by records with "Apple Inc" Also the term "Auction Sniper" itself has always been in use generically by Thousands of people and companies since at least 1998.

both terms "Auction" and "Sniper" are so generic and dilutive, that is a shame no one checked with the companies using the term first with just about any auction site, such as eBay before granting such a trademark.

"AUCTION SNIPER FOR EBAY" copyright 2013 by Picture Engine Company, Inc

easily documented on Apple App Store for both iOS apps and Mac OS apps, (two different stores)

"Auction Sniper for eBay" in use on the iOS Apple App Store.

"Auction Sniper for eBay" in use on the Mac OS Apple App Store.

both for 8 years, since April/May of 2013