

ESTTA Tracking number: **ESTTA1214608**

Filing date: **06/09/2022**

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	Superb AI, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	400 CONCAR DRIVE #04-127 SAN MATEO, CA 94402 UNITED STATES		
Attorney information	RAJESH FOTEDAR COGNITION IP P.C. 201 MISSION ST., SUITE 1200 SAN FRANCISCO, CA 94105 UNITED STATES Primary email: rfotedar@cognitionip.com Secondary email(s): rfotedar@cognitionip.com, tm-notifications@cognitionip.com 6057725660		
Docket no.	5672-026727		

Registration subject to cancellation

Registration no.	6557106	Registration date	11/09/2021
Register	Supplemental		
Registrant	Super.AI Inc. SUITE 8A - #338 1100 BELLEVUE WAY NE BELLEVUE, WA 98004 UNITED STATES		

Additional registrant information

Additional registrant information provided by the petitioner	CANOTIC INC. UNITED STATES No email provided No phone number provided
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Goods/services subject to cancellation

Class 009. First Use: Mar 1, 2020 First Use In Commerce: Mar 1, 2020 All goods and services in the class are subject to cancellation, namely: Downloadable artificial intelligence (AI) software for structuring, organizing, assessing, integrating, defining, annotating and analyzing data; downloadable software for structuring, organizing, assessing, integrating, defining, annotating and analyzing data; downloadable data processing software for developing, reviewing, and deploying machine learning models
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Class 042. First Use: Mar 1, 2020 First Use In Commerce: Mar 1, 2020

All goods and services in the class are subject to cancellation, namely: Computer services featuring online, non-downloadable cloud-based artificial intelligence (AI) software for structuring,organizing, assessing, integrating, defining, annotating and analyzing data; platform as a service (PAAS) online, non-downloadable software for structuring, organizing, assessing, integrating, defining, annotating and analyzing data; software as a service (SAAS) online, non-downloadable software for structuring, organizing, assessing, integrating, defining,annotating and analyzing data; online, non-downloadable data processing software for developing, reviewing, and deploying machine learning models; Computer services featuring online, non-downloadableartificial intelligence (AI) software for structuring, organizing, assessing, integrating, defining, annotating and analyzing data

Grounds for cancellation

Priority and likelihood of confusion	Trademark Act Sections 23(a) and 2(d)
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Mark cited by petitioner as basis for cancellation

U.S. application no.	90105162	Application date	08/11/2020
Register	Supplemental		
Registration date	NONE	Foreign priority date	NONE
Word mark	SUPERB AI		
Design mark			
Description of mark	NONE		
Goods/services	Class 042. First use: First Use: Dec 12, 2019 First Use In Commerce: Dec 12, 2019 Providing temporary use of an online nondownloadable software platform featuring technology allowing users to create and manage machine learning training data;providing functionality for user collaboration, namely, providing temporary useof online nondownloadable software for enabling remote users to collaborate on data and documents relating to projects,project creation and management, dataset and data management including filtering and searching, issue tracking and taskmanagement, user account management andadministration, and labeling and annotation of data; application service provider services featuring application programming interface (API) software for uploading and downloading data and uploading and downloading information to and from the software platform; providing functionality, namely, providing temporary use of online nondownloadable software for use in performing data visualization and analytics, and for use in report generation; providing functionality, namely, providing temporary use of online nondownloadable software for use in performing machine learning model predictions; providing functionality, namely, providing temporary use of online nondownloadable software for performing machine learning workflow integration and data source integration		

Attachments	for filing Petition for Cancellation Superb.AI.pdf(168426 bytes)
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Signature	/rf/
Name	Rajesh Fotedar
Date	06/09/2022

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

In re Reg. No. 6,557,106
Mark: **SUPER.AI**
Reg. Date: Nov. 09, 2021

Superb AI, Inc.

Petitioner,

vs.

Cancellation No. _____

Super.AI Inc.,

Respondent

FILED ELECTRONICALLY VIA ESTAA

PETITION FOR CANCELLATION

According to 15 U.S.C. § 1092, “whenever any person believes that such person is or will be damaged by the registration of a mark on the supplemental register...on grounds other than dilution by blurring or dilution by tarnishment, such person may at any time, upon payment of the prescribed fee and the filing of a petition stating the ground therefor, apply to the Director to cancel such registration.”

Petitioner Superb AI, Inc. (“Petitioner”) is a corporation organized and existing under the laws of the State of Delaware, having a place of business at #04-127, 400 Concar Drive, San Mateo, California, United States of America. Petitioner believes that it will be damaged by the continued registration of - and hereby petitions to cancel - Registration No. 6,557,106.

Petitioner hereby alleges on knowledge as to its own acts and otherwise on information and belief and as grounds for cancellation as follows:

1. Petitioner is the owner of U.S. Application Serial No. 90105162 for the mark “Superb AI” (“Petitioner’s Mark”) filed on August 11, 2020 under §1(a) of the Lanham Act, 15 U.S.C. § 1051(1)(a), in International Class 042 for *“Providing temporary use of an online nondownloadable software platform featuring technology allowing users to create and manage machine learning training data; providing functionality for user collaboration, namely, providing temporary use of online nondownloadable software for enabling remote users to collaborate on data and documents relating to projects, project creation and management, dataset and data management including filtering and searching, issue tracking and task management, user account management and administration, and labeling and annotation of data; application service provider services featuring application programming interface (API) software for uploading and downloading data and uploading and downloading information to and from the software platform; providing functionality, namely, providing temporary use of online nondownloadable software for use in performing data visualization and analytics, and for use in report generation; providing functionality, namely, providing temporary use of online nondownloadable software for use in performing machine learning model predictions; providing functionality, namely, providing temporary use of online nondownloadable software for performing machine learning workflow integration and data source integration.”*
2. In accordance with §1(a)(2), December 12, 2019 is listed in the Application for Petitioner’s Mark for both the date of first use and the date of first use in commerce of Petitioner’s Mark.

3. The Application for Petitioner's Mark requested registration on the Supplemental Register. Filing on the Supplemental Register is not an admission that the mark has not acquired distinctiveness. (§815.03 T.M.E.P.)
4. Petitioner's Mark is recognized and relied upon by relevant consumers as identifying Petitioner's services, and as distinguishing them from the goods and/or services of others and has come to represent and symbolize extremely goodwill belonging exclusively to Petitioner.
5. Petitioner has continuously and exclusively used Petitioner's Mark in connection with the Goods and Services listed in the Application for Petitioner's Mark. Petitioner has not abandoned Petitioner's Mark at any time since its first use in commerce.
6. On December 10, 2021, an Office Action was issued in the Application for Petitioner's Mark in which registration of Petitioner's Mark was refused, under 15 U.S.C. §1052(d), because of a likelihood of confusion with Registration No. 6,557,106.
7. Upon information and belief, Super.AI Inc. ("Respondent") is a corporation organized and existing under the laws of the State of Delaware, having a place of business at Suite 8A - #338, 1100 Bellevue Way NE, Bellevue Washington, United States of America.
8. Upon information and belief, Respondent is the owner of Registration No. 6,557,106 for the mark "SUPER.AI" ("Respondent's Mark"), which is registered on the Supplemental Register in International Class 009 for "*Downloadable artificial intelligence (AI) software for structuring, organizing, assessing, integrating, defining, annotating and analyzing data;*

downloadable software for structuring, organizing, assessing, integrating, defining, annotating and analyzing data; downloadable data processing software for developing, reviewing, and deploying machine learning models” and in International Class 042 for “Computer services featuring online, non-downloadable cloud-based artificial intelligence (AI) software for structuring, organizing, assessing, integrating, defining, annotating and analyzing data; platform as a service (PAAS) online, non-downloadable software for structuring, organizing, assessing, integrating, defining, annotating and analyzing data; software as a service (SAAS) online, non-downloadable software for structuring, organizing, assessing, integrating, defining, annotating and analyzing data; online, non-downloadable data processing software for developing, reviewing, and deploying machine learning models; Computer services featuring online, non-downloadable artificial intelligence (AI) software for structuring, organizing, assessing, integrating, defining, annotating and analyzing data”.

9. Upon information and belief, Registration No. 6,557,106 is based on U.S. Application Serial No. 90059393 for Respondent’s Mark filed on July 17, 2020 under §1(a) of the Lanham Act, 15 U.S.C. § 1051(1)(a).

10. Upon information and belief, in accordance with §1(a)(2), March 01, 2020 is listed in the U.S. Application for Respondent’s Mark for both the date of first use and the date of first use in commerce of Respondent’s Mark in International Classes 009 and 042.

11. Upon information and belief, Respondent’s Mark is currently registered on the Supplemental Register.

12. Since Respondent's claimed date of first use in commerce of Respondent's Mark is March 01, 2020, Petitioner has priority.

Priority of Rights and Likelihood of Confusion

13. Petitioner incorporates and alleges paragraph nos. 1-12.

14. The Lanham Act "protects qualifying unregistered trademarks." *Two Pesos, Inc. v. Taco Cabana, Inc.*, 505 U.S . 763, 768 (1992). A trademark may not be registered if it resembles an unregistered mark that is in use in commerce, not abandoned, that would likely cause consumer confusion when used in connection to the goods of the applicant.

15. Respondent's Mark "SUPER.AI" so resembles Petitioner's Mark "Superb AI" as to likely cause confusion, mistake, and/or deception as to the source or origin of Petitioner's services, which will result in irreparable damage to the goodwill embodied by Petitioner's Mark.

16. Respondent's Mark "SUPER.AI" mark is highly similar in sight and sound to Petitioner's Mark "Superb AI".

17. Respondent's Mark "SUPER.AI" mark is similar in meaning to Petitioner's Mark "Superb AI".

18. Upon information and belief, the goods and services for which Respondent has registered Respondent's Mark "SUPER.AI" are identical or very closely related to the services listed in the Application for Petitioner's Mark "Superb AI.", as well as being within Petitioner's natural scope of protection.
19. Upon information and belief, both parties' goods and/or services move through the same or similar channels of trade.
20. Petitioner will be damaged by the continued registration of Respondent's Mark because: (1) Respondent's Mark is currently cited as a conflicting mark in a refusal under §2(d) in the Office Action issued on December 10, 2021 and (2) there is a likelihood of confusion between Respondent's Mark and Petitioner's Mark, in which Petitioner has priority, when the Marks are used in connection with their respective Goods and/or Services. Therefore, Registration No. 6,557,106 for Respondent's Mark "SUPER.AI" is a source of damage and injury to Petitioner.

WHEREFORE, Petitioner respectfully requests that its petition to cancel Registration No. 6,557,106 be sustained and that the Trademark Trial and Appeal Board grant any and all further relief to Petitioner that the Board finds necessary and just in the circumstances.

Dated: San Francisco, CA.

June 09, 2022

Respectfully submitted,

/Rajesh Fotedar/

Attorney of Record for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing PETITION FOR CANCELLATION was served upon Respondent's attorney, Carissa Bouwer, by forwarding said copy on June 09, 2022 via email to: carissa.bouwer@dlapiper.com and tmfilings@us.dlapiper.com

/Rajesh Fotedar/

Attorney of Record for Petitioner