

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500
General Email: TTABInfo@uspto.gov

AJL

September 20, 2023

Cancellation No. 92082445

Coginiti Corp

v.

*Noblesoft Technologies Inc.*¹

Ashlyn Lembree, Interlocutory Attorney:

On August 23, 2023, Petitioner filed a copy of a “Trademark Assignment Agreement” in which Petitioner is the named assignee of Registration No. 6430039, the involved registration.² However, the mere filing of that document, without more, is not sufficient for the Board to take action in this proceeding. *See* TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE (TBMP) § 605.03(a) (2023).

The Board refers the parties to TBMP Chapter 600 (“Withdrawal; Settlement”), generally, and as appropriate, for guidance in preparing a filing upon which the Board may take action. The parties are further referred to TBMP §§ 601.02 and

¹ The Board notes Respondent’s answer filed on June 16, 2023.

² Petitioner’s August 23, 2023 submission fails to indicate proof service of a copy of same on Respondent, as required by Trademark Rule 2.119, 37 C.F.R. § 2.119. In this case, the Board exercises its discretion to consider the submission; however, strict compliance is required in all future submission filed with the Board. A copy of the submissions can be viewed using TTABVUE at <http://ttabvue.uspto.gov>.

605.03, as appropriate. If so desired, Petitioner may file a stipulation stating the desired disposition of the proceeding (i.e., “It is hereby stipulated that the petition for cancellation be withdrawn with prejudice,” “It is hereby stipulated that the petition for cancellation be withdrawn without prejudice,” or the like). *See* TBMP § 605.03(a).³

A petitioner may withdraw its petition for cancellation without prejudice at any time before the respondent’s answer is filed by electronically filing with the Board a written withdrawal signed by the petitioner or the petitioner’s attorney. Trademark Rule 2.114(c); *see also* TBMP § 601.02. After the answer is filed, a petition for cancellation may not be withdrawn without prejudice except with the written consent of the registrant or the registrant’s attorney or other authorized representative. Trademark Rule 2.114(c). Written consent must be in the form of a copy of an original, handwritten signature, or a complying electronic signature. The withdrawal should include proof of service upon every other party to the proceeding. *See* TBMP § 601.02.⁴

In view thereof, Petitioner is allowed until **thirty days from the date of this order** in which to submit an appropriate motion, in a form complying with

³ The parties are advised that a withdrawn petition for cancellation will appear in TTABVue as “BD DECISION: CAN DENIED,” because the terminology used in TTABVue for Board decisions in cancellation proceedings is that the petition is either “denied” or “granted.” In the event a petition for cancellation is withdrawn, the “denied” terminology is used inasmuch as a withdrawn petition for cancellation is not “granted.”

⁴ The Board additionally notes that recordation of the assignment in the Assignment Recordation Branch of the USPTO is advisable because it will aid the assignee in its effort to prove ownership of the registration at trial, if any. *See* TBMP § 512.01; *see also* Trademark Act §§ 7 and 10, 15 U.S.C. §§ 1057 and 1060. The Board further refers the parties to Sections 503.01(a) and (b) and 504.01 of the TRADEMARK MANUAL OF EXAMINING PROCEDURE (TMPEP) (2022) concerning manually updating ownership records with Trademark Operations and correspondence information of record upon recordation of an assignment.

requirements for motions more fully provided below, failing which proceedings will be resumed.

A submission filed in a proceeding before the Board should include a heading, caption, and title. The heading should read, “IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD,” and it should be followed by the caption identifying the parties’ names and the number of the proceeding. TBMP § 106.01. The document should also use a title describing its nature. *Id.* In addition, Trademark Rule 2.126(a)(1) requires that all electronic submissions made to the Trademark Trial and Appeal Board via ESTTA be double-spaced.⁵ Furthermore, the parties are reminded that any motion filed must indicate proof of service of a copy of same on the opposing party, as required by Trademark Rule 2.119. The Board may refuse to consider filings that do not meet the requirements of Trademark Rule 2.126(a)(1) or any other applicable rule in the future.

Proceedings are otherwise suspended.

⁵ Petitioner’s August 23, 2023 submission is single-spaced.