

ESTTA Tracking number: **ESTTA385203**

Filing date: **12/22/2010**

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 requests to cancel indicated registration.

Petitioner Information

Name	Everclear Communications, Inc.		
Entity	Corporation	Citizenship	Canada
Address	117 Girton Blvd Winnipeg, MB R3P0A4 CANADA		

Attorney information	James T. Nikolai Nikolai & Mersereau, P.A. 900 Second Avenue South Suite 820 Minneapolis, MN 55402 UNITED STATES Jim@nm-iplaw.com Phone:612-339-7461
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Registrations Subject to Cancellation

Registration No	3041791	Registration date	01/10/2006
Registrant	FACEBOOK, INC. 1601 South California Avenue Palo Alto, CA 94304 UNITED STATES		

Goods/Services Subject to Cancellation

Class 035. First Use: 2004/02/04 First Use In Commerce: 2004/02/04 All goods and services in the class are cancelled, namely: providing an online directory information service featuring information regarding, and in the nature of, collegiate life, classifieds, virtual community and social networking
Class 038. First Use: 2004/02/04 First Use In Commerce: 2004/02/04 All goods and services in the class are cancelled, namely: providing online chat rooms for registered users for transmission of messages concerning collegiate life, classifieds, virtual community and social networking

Grounds for Cancellation

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)		
Registration No	3801147	Registration date	06/08/2010
Registrant	Facebook, Inc. 1601 South California Avenue Palo Alto, CA 94304 UNITED STATES		

Goods/Services Subject to Cancellation

Class 009. First Use: 2006/08/00 First Use In Commerce: 2006/08/00 All goods and services in the class are cancelled, namely: Computer software development tools for
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social networking, building social networking applications and for allowing data retrieval, upload, access and management; application programming interface (API) for third-party software and online services for social networking, building social networking applications and for allowing data retrieval, upload, access and management

Class 038. First Use: 2004/02/00 First Use In Commerce: 2004/02/00
All goods and services in the class are cancelled, namely: providing access to computer databases; electronic transmission of instant messages and data

Class 041. First Use: 2004/02/00 First Use In Commerce: 2004/02/00
All goods and services in the class are cancelled, namely: Electronic publishing services, namely, publishing of online works of others featuring user-created text, audio, video, and graphics; providing on-line journals and web logs featuring user-created content

Class 042. First Use: 2004/02/00 First Use In Commerce: 2004/02/00
All goods and services in the class are cancelled, namely: Providing temporary use of non-downloadable software applications for classifieds, virtual community, social networking, photo sharing, and transmission of photographic images

Grounds for Cancellation

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>		808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)	
Registration No	3814888	Registration date	07/06/2010
Registrant	Facebook, Inc. 1601 South California Avenue Palo Alto, CA 94304 UNITED STATES		

Goods/Services Subject to Cancellation

Class 042. First Use: 2007/06/00 First Use In Commerce: 2007/06/00
All goods and services in the class are cancelled, namely: Providing temporary use of non-downloadable software applications for video sharing

Grounds for Cancellation

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>		808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)	
Registration No	3881770	Registration date	11/23/2010
Registrant	Facebook, Inc. 1601 South California Avenue Palo Alto, CA 94304 UNITED STATES		

Goods/Services Subject to Cancellation

Class 035. First Use: 2004/02/04 First Use In Commerce: 2004/04/00
All goods and services in the class are cancelled, namely: Advertising and information distribution services, namely, providing classified advertising space via the global computer network; promoting the goods and services of others over the Internet; providing on-line computer databases and on-line searchable databases in the field of classifieds

Class 038. First Use: 2004/02/04 First Use In Commerce: 2004/02/04
All goods and services in the class are cancelled, namely: Providing online chat rooms and electronic bulletin boards for registered users for transmission of messages concerning collegiate life, general interest, classifieds, virtual community, social networking, photo sharing, and transmission of photographic images; provision of on-line forums for the transmission of photographic images; provision of on-line forums for communications on topics of general interest

Class 041. First Use: 2004/02/04 First Use In Commerce: 2004/02/04
All goods and services in the class are cancelled, namely: Providing on-line computer databases and on-line searchable databases in the field of collegiate life concerning college athletics, concerts, entertainment events, art, performing arts, music, dance and academics; providing on-line computer

databases and on-line searchable databases featuring collegiate student groups concerning subjects in the fields of academics and entertainment

Class 042. First Use: 2004/02/04 First Use In Commerce: 2004/02/04

All goods and services in the class are cancelled, namely: Computer services, namely, hosting online web facilities for others for organizing and conducting online meetings, gatherings, and interactive discussions; and computer services in the nature of customized web pages featuring user-defined information, personal profiles and information; computer services, namely, creating an on-line community for registered users to participate in discussion, get feedback from their peers, form virtual communities, and engage in social networking; peer-to-browser photo sharing services, namely, providing a website featuring technology enabling users to upload, view and download digital photos

Class 045. First Use: 2004/02/04 First Use In Commerce: 2004/02/04

All goods and services in the class are cancelled, namely: Internet based introduction and social networking services; providing on-line computer databases and on-line searchable databases in the field of social networking

Grounds for Cancellation

Torres v. Cantine Torresella S.r.l.Fraud

808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)

Related
Proceedings

Opposition No. 91191915

Attachments

Scan001.PDF (18 pages)(182361 bytes)

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/jamest nikolai/
Name	James T. Nikolai
Date	12/22/2010

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

In the matter of Registration No. 3,041,791 for the mark FACEBOOK, Registration No. 3,801,147 for the mark FACEBOOK, Registration No. 3,814,888 for the mark FACEBOOK, and Registration No. 3,881,770 for the mark FACEBOOK

Everclear Communications Inc.,

December 22, 2010

Petitioner,

v.

Cancellation No.

Facebook, Inc.,

Registrant.

PETITION FOR CANCELLATION

TTAB
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Petitioner, Everclear Communications, Inc., believes that it is damaged by Registration No. 3,041,791, Registration No. 3,801,147, Registration No. 3,814,888, and Registration No. 3,881,770 all for the mark FACEBOOK and hereby requests cancellation of same under the provisions of 15 U.S.C. § 1064. As grounds for cancellation, Petitioner asserts that:

Count I

U.S. Trademark Registration No. 3,041,791

1. Facebook filed Application Serial No. 78/574,726 for the mark THEFACEBOOK on a use basis on February 24, 2005,

claiming a date of first use and a date of first use in commerce of February 4, 2004, for the following services: "providing online directory information services featuring information regarding, and in the nature of, collegiate life, classifieds, virtual community and social networking" in International Class 35 and "providing online chat rooms for registered users for transmission of messages concerning collegiate life, classifieds, virtual community and social networking" in International Class 38.

2. The specimen submitted by Facebook to the United States Patent and Trademark Office on February 24, 2005 with its application to register the mark makes no mention of "classifieds" or "providing online chat rooms for registered users for transmission of messages".

3. Facebook did not use the mark FACEBOOK or the mark THEFACEBOOK in connection with "classifieds" or "providing online chat rooms for registered users for transmission of messages" on or before February 4, 2004.

4. Facebook never provided any of the services listed in its application on or before February 4, 2004 in commerce. On that date, Facebook only offered services to a limited number of people.

5. Facebook did not use the mark FACEBOOK on February 4,

2004 or for a period of time thereafter. Instead, Facebook used the mark THEFACEBOOK. The original application filed on February 24, 2005, the specimen submitted therewith and the original certificate of registration demonstrates that Facebook used the mark THEFACEBOOK.

6. Facebook adopted the mark THEFACEBOOK rather than FACEBOOK to distinguish its services from similar goods and services offered by Harvard University and other educational institutions using the term "facebook". A number of educational institutions before February 4, 2004 routinely published directories called a "facebook" to help people identify others at the school. Such books were used to help students and faculty search for people at the school, find out who is in a particular class, look up friends of friends, and see pictures of people in a student's social network.

7. Many such educational institutions which published a "facebook" in print form for years were, by February 4, 2004, also publishing their "facebook" online or were in the process of doing so.

8. On or about July 13, 2006, Facebook filed with the U.S. Patent and Trademark Office a request to amend the mark covered by the registration from THEFACEBOOK to FACEBOOK.

9. Facebook asserted in its request to amend the mark

that:

"This amendment is proper under 37 C.F.R. § 2.173(a) because it does not materially alter the mark in that it only deletes the insignificant definite article "THE" from the mark. As such, the modified mark contains the complete essence of the original mark and creates the same exact commercial impression."

Facebook's request to amend the mark also demonstrates Facebook never told the U.S. Patent and Trademark Office about others using the term "facebook" in connection with related goods and services and that the mark THEFACEBOOK was originally adopted to distinguish Facebook's services from the goods and services offered by others using the term "facebook".

10. In filing its request to amend the mark, Facebook withheld material information from the U.S. Patent and Trademark Office.

11. Facebook has misrepresented the nature of its use in commerce of the mark THEFACEBOOK on the dates claimed in the application and at the time it submitted its application, and Facebook misrepresented when such use in commerce began in its application. Facebook also withheld information material to its request to amend the mark from THEFACEBOOK to FACEBOOK.

Facebook has attempted to procure and then amend its registration of the FACEBOOK mark by false means and/or by knowingly and willingly making false and/or fraudulent declarations or representations to the United States Patent and

Trademark Office. Such false statements were made with the intent to induce authorized agents of the United States Patent and Trademark Office to grant and then amend U.S. Trademark Registration No. 3,041,791.

12. In view of Facebook's conduct, Registration No. 3,041,791 should be cancelled.

13. Facebook is asserting in corresponding opposition proceeding (Opposition No. 91191915) its fraudulently procured registration as a basis for denying Petitioner the registration it seeks for the mark TALKBOOK, all to the injury and damage of Petitioner.

Count II

U.S. Trademark Registration No. 3,801,147 and

U.S. Trademark Registration No. 3,814,888

14. Petitioner again alleges and incorporates by reference Paragraphs 1-13 of this Petition for Cancellation.

15. Facebook filed Application Serial No. 77/039,123 on November 7, 2006. In this application Facebook sought registration of the mark FACEBOOK for a number of goods and services under Section 1(b) of the Trademark Act, including, among others, "electronic publishing services, namely, publication of text, audio, video and graphic works online" in International Class 41.

16. On or about December 18, 2009, Facebook filed a Statement of Use in connection with Application Serial No. 77/039,123. This Statement of Use contains false and misleading statements made with the intent that such statement be relied upon by the United States Patent and Trademark Office. By way of example, Facebook's Statement of Use includes the following:

For International Class 041:
Current identification: Electronic publishing services, namely, publishing of online works of others featuring user-created text, audio, video, and graphics; providing on-line journals and web logs featuring user-created content.

This mark is in use in commerce on or in connection with all goods or services listed in the application or Notice of Allowance or as subsequently modified for this specific class.

The mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as 02/00/2004, and first used in commerce at least as early as 02/00/2004, and is now in use in such commerce. The applicant is submitting one specimen for the class showing the mark as used in commerce on or in connection with any item in the class, consisting of a(n) The specimen is a page from Applicant's website which reflects use of Applicant's mark in connection with the electronic publishing of online works of others.

17. The Statement of Use filed by Facebook and signed by Richard Nessary, Facebook's Lead Counsel, IP and Competition, included the following Declaration:

Applicant requests registration of the above-identified trademark/service mark in the United States Patent and Trademark Office on the

Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq., as amended). Applicant is the owner of the mark sought to be registered, and is using the mark in commerce on or in connection with the goods/services identified above, as evidenced by the attached specimen(s) showing the mark as used in commerce.

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements may jeopardize the validity of the form or any resulting registration, declares that he/she is properly authorized to execute this form on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the form is being filed under 15 U.S.C. Section 1126(d) or (e), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

18. Facebook did not provide "electronic publishing services, namely, publishing online works of others featuring user-created...video" before the end of February 2004, the date claimed in the Statement of Use.

19. An article published on February 9, 2004, in the Harvard Crimson Newspaper quotes Mark Zuckerberg, Facebook's

Founder. The article, in listing the features then being offered, does not include publishing user-created video. The article further indicates, in a statement attributed to Mr. Zuckerberg, that the website thefacebook.com did not have the capability to upload videos.

20. Facebook did not publish online works of others featuring user-created video until some time well after February of 2004.

21. Facebook did not use the mark FACEBOOK on or in connection with any goods or services before the end of February 2004. No related company, licensee or predecessor in interest of Facebook used the mark FACEBOOK on or in connection with any goods or services before the end of February 2004. At that time, Facebook used the mark THEFACEBOOK.

22. At the time Facebook filed its Application Serial No. 77/039,123, and throughout the United States Patent and Trademark Office proceedings related to that application, Facebook never disclosed to the United States Patent and Trademark Office that others were using the term "Facebook" for related goods and services, some of whom continue to do so to this day.

23. Facebook misrepresented the mark it was using, the nature of its use in commerce and the date it first used the

mark or any mark in commerce related to the goods and services covered by Registration No. 3,801,147. Facebook attempted to procure and did procure Registration No. 3,801,147 by knowingly and willingly making false and/or fraudulent declarations or representations to the PTO, *inter alia*, falsely alleging in connection with its Application and in its Statement of Use, supported by a Declaration under 18 U.S.C. § 1001, that its first use of the FACEBOOK mark was in February 2004 for the claimed services, when no such use of the FACEBOOK mark was made until well after February 2004. These false statements were made with the intent to induce authorized agents of the United States Patent and Trademark Office to grant Registration No. 3,801,147.

24. On or about April 16, 2010, the United States Patent and Trademark Office divided Application Serial No. 77/039,123 and assigned Serial No. 77/979,375 to the child application. The child application resulted in the grant of Registration No. 3,801,147 and the parent application in the grant of Registration No. 3,814,888.

25. Registration No. 3,814,888 is also tainted by the false statements and fraudulent conduct of Facebook and its representatives. That registration, like Registration No. 3,801,147, should therefore be cancelled.

26. Facebook is asserting, or is likely to assert, these fraudulently procured registrations in Opposition No. 91191915 as a basis for denying Petitioner registration of Petitioner's TALKBOOK mark all to the injury and damage of Petitioner.

Count III

U.S. Trademark Registration No. 3,881,770

27. Petitioner again alleges and incorporates by reference Paragraphs 1-26 of this Petition for Cancellation.

28. Facebook filed Application Serial No. 78/920,322 on June 29, 2006. In this application Facebook sought registration of the mark FACEBOOK for a variety of services under Section 1(b) of the Trademark Act, including:

- International Class 035: Providing an online directory information service featuring information regarding, and in the nature of, collegiate life, general interest, classifieds, virtual community, social networking, photo sharing, and transmission of photographic images; advertising and information distribution services, namely, providing classified advertising space via the global computer network; promoting the goods and services of others over the Internet; providing on-line computer databases and on-line searchable databases.
- International Class 038: Providing online chat rooms and electronic bulletin boards for registered users for transmission of messages concerning collegiate life, general interest, classifieds, virtual community, social networking, photo sharing, and transmission of photographic images.
- International Class 042: Computer services, namely, hosting online web facilities for others for organizing and conducting online meetings, gatherings, and interactive

discussions; and computer services in the nature of customized web pages featuring user-defined information, personal profiles and information.

- International Class 045: Introduction and social networking services.

29. Throughout the course of the prosecution of Application Serial No. 78/920,322 various amendments were made to the description of the services.

30. On or about August 4, 2010, Facebook filed a Statement of Use in connection with Application Serial No. 78/920,322. This Statement of Use contains false and misleading statements made with the intent that such statement be relied upon by the United States Patent and Trademark Office. By way of example, Facebook's Statement of Use includes the following recitations:

"For International Class 035:

Current identification: Advertising and information distribution services, namely, providing classified advertising space via the global computer network; promoting the goods and services of others over the Internet; providing on-line computer databases and on-line searchable databases in the field of classifieds

The mark is in use in commerce on or in connection with all goods or services listed in the application or Notice of Allowance or as subsequently modified for this specific class.

The mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as 02/04/2004, and first used in commerce at least as early as 04/00/2004, and is now in use in such commerce. The applicant is submitting one specimen for the class showing the mark as used in commerce on or in connection with any item in the class, consisting of a(n) page from Applicant's

website featuring the mark and promoting its advertising and information distribution services.

For International Class 038:

Current identification: Providing online chat rooms and electronic bulletin boards for registered users for transmission of messages concerning collegiate life, general interest, classifieds, virtual community, social networking, photo sharing, and transmission of photographic images; provision of on-line forums for the transmission of photographic images; provision of on-line forums for communications on topics of general interest.

The mark is in use in commerce on or in connection with all goods or services listed in the application or Notice of Allowance or as subsequently modified for this specific class.

The mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as 02/04/2004, and first used in commerce at least as early as 02/04/2004, and is now in use in such commerce. The applicant is submitting one specimen for the class showing the mark as used in commerce on or in connection with any item in the class, consisting of a(n) page from Applicant's website promoting its services.

For International Class 041:

Current identification: Providing on-line computer databases and on-line searchable databases in the field of collegiate life concerning college athletics, concerts, entertainment events, art, performing arts, music, dance and academics; providing on-line computer databases and on-line searchable databases featuring collegiate student groups concerning subjects in the fields of academics and entertainment.

The mark is in use in commerce on or in connection with all goods or services listed in the application or Notice of Allowance or as subsequently modified for this specific class.

The mark was first used by the applicant, or the applicant's related company, licensee, or predecessor

in interest at least as early as 02/04/2004, and first used in commerce at least as early as 02/04/2004, and is now in use in such commerce. The applicant is submitting one specimen for the class showing the mark as used in commerce on or in connection with any item in the class, consisting of a(n) page from Applicant's website promoting its services.

For International Class 042:

Current identification: Computer services, namely, hosting online web facilities for others for organizing and conducting online meetings, gatherings, and interactive discussions; and computer services in the nature of customized web pages featuring user-defined information, personal profiles and information; computer services, namely, creating an on-line community for registered users to participate in discussion, get feedback from their peers, form virtual communities, and engage in social networking; peer-to browser photo sharing services namely, providing a website featuring technology enabling users to upload, view and download digital photos.

The mark is in use in commerce on or in connection with all goods or services listed in the application or Notice of Allowance or as subsequently modified for this specific class.

The mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as 02/04/2004, and first used in commerce at least as early as 02/04/2004, and is now in use in such commerce. The applicant is submitting one specimen for the class showing the mark as used in commerce on or in connection with any item in the class, consisting of a(n) page from Applicant's website promoting its services.

For International Class 045:

Current identification: Internet based introduction and social networking services; providing on-line computer databases and on-line searchable databases in the field of social networking.

The mark is in use in commerce on or in connection with all goods or services listed in the application

or Notice of Allowance or as subsequently modified for this specific class.

The mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as 02/04/2004, and first used in commerce at least as early as 02/04/2004, and is now in use in such commerce. The applicant is submitting one specimen for the class showing the mark as used in commerce on or in connection with any item in the class, consisting of a(n) page from Applicant/s website promoting its services."

31. The Statement of Use filed by Facebook and signed by Michael Richter, Facebook's Deputy General Counsel, included the following Declaration:

"Applicant requests registration of the above-identified trademark/service mark in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq., as amended). Applicant is the owner of the mark sought to be registered, and is using the mark in commerce on or in connection with the goods/services identified above, as evidenced by the attached specimen(s) showing the mark as used in commerce.

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements may jeopardize the validity of the form or any resulting registration, declares that he/she is properly authorized to execute this form on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true."

32. Facebook did not use the mark FACEBOOK on or in connection with any goods or services on or before February 4, 2004. At that time, Facebook used the mark THEFACEBOOK.

33. No related company, licensee or predecessor in interest of Facebook ever used the mark FACEBOOK on or in connection with any goods or services on or before February 4, 2010.

34. Facebook never used the mark FACEBOOK in commerce on or before February 4, 2010. No related company, licensee or predecessor in interest of Facebook ever used the mark FACEBOOK in commerce on or before February 4, 2010.

35. At the time Facebook filed its Application Serial No. 78/920,322, and throughout the USPTO proceedings related to that application, Facebook never disclosed to the United States Patent and Trademark Office in connection with that application that the mark Facebook was using on or before February 4, 2004 was THEFACEBOOK rather than FACEBOOK.

36. At the time Facebook filed its Application Serial No. 78/920,322, and throughout the USPTO proceedings related to that application, Facebook never disclosed to the United States Patent and Trademark Office that others were using the term "Facebook" for related goods and services, some of whom continue to do so to this day.

37. Facebook misrepresented the mark it was using, the nature of its use in commerce and the date it first used the mark or any mark in commerce related to the services covered by Registration No. 3,881,770. Facebook attempted to procure and did procure Registration No. 3,881,770 by knowingly and willingly making false and/or fraudulent declarations or representations to the United States Patent and Trademark Office, *inter alia*, falsely alleging in connection with its Application and in its Statement of Use, supported by a Declaration under 18 U.S.C. § 1001, that its first use of the FACEBOOK mark was on February 4, 2004 for the claimed services, when no such use of the FACEBOOK mark was made until well after February 4, 2004. These false statements were made with the intent to induce authorized agents of the PTO to grant Registration No. 3,881,770.

38. Facebook is asserting, or is likely to assert, these fraudulently procured registrations in Opposition No. 91191915 as a basis for denying Petitioner registration of Petitioner's TALKBOOK mark all to the injury and damage of Petitioner.

WHEREFORE, Petitioner requests Facebook's Registration. Nos.
3,041,791; 3,801,147; 3,814,888 and 3,881,770 each be cancelled.

Respectfully submitted,

NIKOLAI & MERSEREAU, P.A.



James T. Nikolai
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Date: December 22, 2010

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

In the matter of application Serial No. 76/693,743. Published
in the Official Gazette on March 17, 2009.

Facebook, Inc.,

December 22, 2010

Opposer,

v.

Opposition No. 91191915

Everclear Communications Inc.,

Applicant.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the following documents:

1. Petition for Cancellation; and
2. Certificate of Service.

was served upon Anne H. Peck, Esq., COOLEY LLP, 777 - 6th Street,
N.W., Suite 1100, Washington, D.C. 20001-2421 by First Class
Mail this 22nd day of December, 2010.


Bonnie M. Ryan

On Behalf of James T. Nikolai