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

In the Matter of Registration No. 3,006,315

For the mark: STRIKE ZONE

WWW.FLORIDAMARLINS.COM

Filing Date: November 28, 2000 Registration Date: October 11, 2005

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Petitioner,) CANCELLATION NO
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Р.)
Respondent.)
	Р.

PETITION FOR CANCELLATION

Petitioner, DIRECTV, Inc., a California corporation with an address at 2230 East Imperial Highway, El Segundo, California 90245 (hereinafter "Petitioner"), is or will be damaged by Registration No. 3,006,315 for the mark STRIKE ZONE WWW.FLORIDAMARLINS.COM, owner of record is FLORIDA MARLINS, L.P. (hereinafter "Respondent"), and hereby petitions to cancel the registration of the same.

As grounds for cancellation, Petitioner, by its attorneys, avers as follows:

- 1. Petitioner is the owner of two (2) pending trademark applications for marks that incorporate the terms STRIKE ZONE, as set forth herein in paragraphs 3 and 4.
- 2. On October 11, 2005, the United States Patent and Trademark Office issued Registration No. 3,006,315 for the mark STRIKE ZONE WWW.FLORIDAMARLINS.COM, for the following: entertainment services, namely, providing television programs featuring professional baseball games featuring Florida Marlins baseball (hereinafter referred to as the

"Registration"). Respondent is the record owner of the Registration.

- 3. On March 2, 2007, Petitioner submitted application Ser. No. 77/120,789 for the mark STRIKE ZONE CHANNEL, for the following: (1) entertainment, namely, a continuing sports show broadcast over television, satellite, audio, and video media; (2) entertainment, namely, television news shows; and (3) production and distribution of television shows and movies, to the United States Patent and Trademark Office.
- 4. On March 21, 2007, Petitioner submitted application Ser. No. 77/136,916 for the mark STRIKE ZONE CHANNEL and Design, for the following: (1) entertainment, namely, a continuing sports show broadcast over television, satellite, audio, and video media; (2) entertainment, namely, television news shows; and (3) production and distribution of television shows and movies, to the United States Patent and Trademark Office.
- 5. Petitioner's applications as described herein have been refused registration by the United States Patent and Trademark Office on the grounds that they are likely to be confused with Respondent's Registration.
- 6. Upon information and belief, Respondent, through its intentional nonuse, has abandoned the Registration. Thus, any goodwill that may have been associated with the mark set forth in the Registration has been destroyed by Respondent's intentional abandonment and nonuse of the mark in commerce.
- 7. Upon information and belief, Respondent's mark as set forth in the Registration is not in use in connection with the registered goods and has not been in use for a period of at least two (2) years.
- 8. Upon information and belief, Respondent's use of the mark, when it was in actual use, did not include the WWW.FLORIDAMARLINS.COM element and, therefore, was not an

actual use of the mark as set forth in the Registration.

9. Upon information and belief, Respondent has no intention to resume use of the

Registration. Upon information and belief, Respondent has changed the name of the services for

which the mark was registered and is no longer using the Registration to identify such services.

10. Petitioner has been damaged by the existence of the Registration. Specifically,

upon examination, the Examining Attorney refused Petitioner's applications on the basis that that

the mark set forth in application Ser. Nos. 77/120,789 and 77/136,916 consist of or comprise a

mark with so resembles the mark set forth in the Registration as to be likely to cause confusion,

or to cause mistake, or to deceive, under Trademark Act Section 2(d), 15 U.S.C. 1052(d).

11. For the foregoing reasons, Respondent is not entitled to continue registration of its

mark as set forth in the Registration.

WHEREFORE, Petitioner respectfully requests that Registration No. 3,006,315 be

cancelled and that this Petition for Cancellation be sustained in favor of Petitioner.

The official fee is submitted herewith. Charge any missing fee to Account No. 033975

Order No. 018622-0000124.

Dated: October 24, 2008.

Respectfully submitted,

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