CITED PRIOR-PENDING APPLICATION HAS ABANDONED

The Trademark Office has cited U.S. App. Ser. No. 87930500 ("LUCID" and design) as a potential bar to the registration of the applied for mark. However, U.S. App. Ser. No. 87930500 has abandoned. See TSDR report in **Exhibit A**. Therefore, it appears that this application is no longer a potential bar to this application.

DIVISIONAL REQUEST

Registration has been refused based on a likelihood of confusion <u>IN PART</u> with two cited registrations. However, the refusal of registration applies only to the services in international class 35. Therefore, Applicant has divided this application so that its application for the services not subject to this refusal (i.e., international class 42) can pass to publication. Therefore, Applicant has divided this application as follows:

<u>PARENT APPLICATION: Class 35:</u> Advertising and marketing services, namely, compiling survey pools; Advertising and marketing services, namely, verifying survey responses; Advertising and marketing services, namely, managing and implementing surveys; Designing marketing surveys; Designing business surveys; Business research and surveys

<u>CHILD APPLICATION: Class 42:</u> Application service provider featuring application programming interface (API) software for linking a survey platform with online communities; Platform as a service (PAAS) featuring computer software platforms for conducting, managing, and implementing online surveys; Platform as a service (PAAS) featuring computer software platforms for providing secure financial transactions for online surveys

REQUEST FOR AMENDMENT OF THE RECITATION OF SERVICES IN INTERNATIONAL CLASS 35

The Trademark Office has issued a requirement for an amendment of the recitation of services in international class 35. However, the suggested amendment mirrors the recitation in co-pending App. Serial No. 88/385911 (LUCID), but the recitation in this application (i.e., for the mark LUCID MARKETPLACE) is <u>not</u> identical to the one in App. Serial No. 88/385911

(LUCID). Nevertheless, the language in this application appears to be definite and thus,

Applicant believes that an amendment of the recitation of services in class 35 is not required.

APPLICANT'S LUCID MARKETPLACE MARK IS NOT LIKELY TO CAUSE CONFUSION WITH THE CITED REFERENCES

The Trademark Office has refused registration of the applied-for LUCID MARKETPLACE mark for the services <u>in international classes 35 ONLY</u> based on a finding that this mark is likely to be confused with the following registered marks:

Mark/Name	Status/Key Dates	Full Goods/Services	Owner	Reg. No.
LUCID BRANDS	The registration has been renewed. Dec. 14, 2015 Registered: Oct. 17, 2006	(Int'l Class:35) Advertising and marketing; Advertising services, namely, creating corporate and brand identity for others; Advertising services, namely, creating corporate logos for others; Advertising, marketing and promotion services; Advice in the field of business management and marketing; Arranging and conducting marketing promotional events for others; Business consultation and management regarding marketing activities and launching of new products; Business marketing consulting services; Business marketing services; Conducting business and market research surveys; Conducting marketing studies; Creation of marketing tools designed to increase a client company's knowledge of customer needs, and its competitors' products and services, pricing, advertising strategy and sales strategy; Development of marketing	Lucid Brands, LLC 219 Cedar Lane Ossining, NEW YORK UNITED STATES 10562	RN: 3157813

		strategies and concepts; Information or enquiries on business and marketing; Market research consultation; Market research services; Market segmentation consultation; Market study and analysis of market studies		
LUCID METHOD	Registered: Feb. 11, 2014	(Int'l Class: 35) Development of market strategies, concepts and tactics, namely, audience development, brand awareness, online community building and digital word of mouth communications with emphasis on clarity, consistency, and credibility	Beale Communications, LLC 365 Canal Street, Suite 700 New Orleans, LOUISIANA UNITED STATES 70130	RN: 4479869

Taking into account the relevant *DuPont* factors, a likelihood of confusion determination in this case involves a two-part analysis. First, the marks are compared for similarities in appearance, sound, connotation and commercial impression. *In re E. I. DuPont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973). Second, the goods or services are compared to determine whether they are similar or related or whether the activities surrounding their marketing are such that confusion as to origin is likely. *In re National Novice Hockey League, Inc.*, 222 USPQ 638 (TTAB 1984); *In re August Storck KG*, 218 USPQ 823 (TTAB 1983); *In re Int'l Tel. and Tel. Corp.*, 197 USPQ 910 (TTAB 1978); *Guardian Prods. Co.*, v. *Scott Paper Co.*, 200 USPQ 738 (TTAB 1978); TMEP §§1207.01 *et seq.*

I. The Cited Marks Are NOT Strong and Are Entitled to Only a Narrow Scope of Protection

In evaluating a likelihood of confusion between marks, a relevant factor to consider is the strength of the cited mark. *In re E.I. DuPont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973). Generally, the strength of a mark depends on two factors: (1) Distinctiveness of

the mark; and (2) the extent to which the mark is recognized by the relevant consuming class. *Aveda Corp. v. Evita Marketing, Inc.*, 706 F.Supp. 1419, 1428 (D. Minn. 1989). The strength of the mark is generally determined by whether an owner's use has been exclusive. *Clamp Mfg. Co. v. Enco Mfg. Co.*, 870 F.2d 512, 517 (9th Cir. 1989).

Whether a mark is classified as "strong" or "weak" is a very important element in deciding likelihood of confusion. *Independent Grocers' Alliance Distributing Co. v. Potter-McCune Co.*, 404 F.2d 622, 160 U.S.P.Q. 46 (C.C.P.A. 1968); *Time, Inc. v. T.I.M.E., Inc.*, 123 F. Supp. 446, 102 U.S.P.Q. 275 (D. Cal. 1954). If the common element of conflicting marks is a word that is "weak" then this reduces the likelihood of confusion. A portion of a mark may be "weak" in the sense that such portion is descriptive, highly suggestive, or is in common use by many other sellers in the market. *McCarthy on Trademarks and Unfair Competition* § 23:48 (4th ed.). For example, no likelihood of confusion was found between plaintiff's DULUTH NEWS–TRIBUNE newspaper and defendant's SATURDAY DAILY NEWS & TRIBUNE newspaper, the court noting that the combination of the "common words" "news" and "tribune" was "relatively weak." *Duluth News-Tribune v. Mesabi Publ. Co.*, 84 F.3d 1093, 38 U.S.P.Q.2d 1937 (8th Cir. 1996).

Here, the term LUCID is used and registered by a number of unrelated third parties in the advertising and business consulting space, as demonstrated by the amount of third party registrations comprised of this term, including the following:

Mark/Name	Status/Key Dates	Full Goods/Services	Owner	App. No./Reg.
			Information	No.
LUCID METHOD	Registered February 11, 2014 Int'l Class: 35 First Use: September 1, 2009	(Int'l Class: 35) development of market strategies, concepts and tactics, namely, audience development, brand awareness, online community building and digital	Beale Communication s, LLC (Washington Limited Liability	RN: 4479869 SN: 85797345

Mark/Name	Status/Key Dates	Full Goods/Services	Owner Information	App. No./Reg. No.
	Filed: December 7, 2012	word of mouth communications with emphasis on clarity, consistency, and credibility	Company) 1920 5th Place Kirkland Washington 98033	
LUCID BRANDS	Renewed October 17, 2016 Int'l Class: 35 First Use: May 26, 2005 Filed: October 27, 2005 Registered: October 17, 2006	(Int'l Class: 35) advertising and marketing; advertising services, namely, creating corporate and brand identity for others; advertising services, namely, creating corporate logos for others; advertising, marketing and promotion services; advice in the field of business management and marketing; arranging and conducting marketing promotional events for others; business consultation and management regarding marketing activities and launching of new products; business marketing consulting services; business marketing services; conducting business and market research surveys; conducting marketing studies; creation of marketing tools designed to increase a client company's knowledge of customer needs, and its competitors' products and services, pricing, advertising strategy and sales strategy; development of marketing strategies and concepts; information or enquiries on business and marketing; market research consultation; market research services; market segmentation consultation; market study and analysis of market studies	Lucid Brands, LLC, Scott LermanUsa Susan Keiser Usa (New York LTD. Partnership) 219 Cedar Lane Ossining New York 10562	RN: 3157813 SN: 78741931

Mark/Name	Status/Key Dates	Full Goods/Services	Owner Information	App. No./Reg. No.
LUCID DREAM	Registered July 31, 2018 Int'l Class: 35,41,42 First Use: March 11, 2016 Filed: June 14, 2017	(Int'l Class: 35) design and development of advertising and marketing materials in the nature of mixed reality, virtual reality, and augmented reality experiences for others for use in trade show and convention exhibits, kiosks, and showrooms; production and creation of advertising and marketing materials, namely, virtual reality content, and augmented reality content for use in enterprise sales and marketing; production and creation of recruiting materials namely, virtual reality content, and augmented reality content for use in employment recruiting; production and creation of advertising and marketing materials, namely, omni-directional, spherical, 360- degree, 3d stereoscopic, and panoramic video content for use in enterprise sales and marketing; production and creation of recruiting materials namely, omni-directional, spherical, 360-degree, 3d stereoscopic, and panoramic video content for use in employment recruiting (Int'l Class: 41) production and creation of virtual reality content, augmented reality content for training purposes; production and creation of omni-directional, spherical, 360-degree, 3d stereoscopic, and panoramic video content for training purposes; educational services, namely, conducting classes, workshops, seminars, lectures, training, and demonstrations in the field of mixed reality, augmented reality, and virtual	VRX Studios LLC (North Carolina Limited Liability Company) Suite B007 334 Blackwell St. Durham North Carolina 27701	No. RN: 5527700 SN: 87488483

Mark/Name	Status/Key Dates	Full Goods/Services	Owner Information	App. No./Reg. No.
		reality technology and distribution of training material in connection therewith (Int'l Class: 42) computer programming services, namely, design and development of computer software and mobile applications in the field of mixed reality, virtual reality, and augmented reality; software development for others in the field of mixed reality, and augmented reality, virtual reality, and augmented reality; design and development of visual displays of mixed reality, virtual reality, and augmented reality experiences for others for use in trade show and convention exhibits, kiosks, and showrooms		
LUCID HEALTH and Design	Renewed October 13, 2019 Int'l Class: 35 First Use: March 2, 2009 Filed: March 24, 2009 Registered: October 13, 2009	(Int'l Class: 35) advertising and marketing; advertising and marketing services, namely, promoting the goods and services of others; advertising services, public relations and marketing services, namely, promoting and marketing the goods and services of others through all public communication means; branding services, namely, consulting, development, management and marketing of brands for businesses; business advice and analysis of markets; business consultation and management regarding marketing activities and launching of new products; business management and consulting services for the health care industry, namely, customer service, accounting services, and web-based advertising and marketing services; business marketing consulting services;	Lucid Health, Inc. (Maryland Corp.) 10114 Vista Pointe Dr. Tampa Florida 21209	RN: 3695458 SN: 77698200

Mark/Name	Status/Key Dates	Full Goods/Services	Owner	App. No./Reg.
	·		Information	No.
		business marketing services;		
		business research; business		
		research and surveys; business		
		research consultation; business		
		research using focus groups;		
		conducting business and market		
		research surveys; conducting		
		business research and surveys;		
		conducting marketing studies;		
		conducting on-line business		
		management research surveys;		
		consultation services in the field		
		of company, business sector and		
		industry data and research;		
		consumer research; creation of		
		marketing tools designed to		
		increase a client company's		
		knowledge of customer needs,		
		and its competitors' products and		
		services, pricing, advertising		
		strategy and sales strategy;		
		development of marketing		
		strategies and concepts; market		
		analysis; market manipulation,		
		research and analysis, whether or		
		not via the internet; market		
		reports and studies; market		
		research; market research and		
		market intelligence services;		
		market research consultation;		
		market research services;		
		market research studies;		
		market segmentation		
		consultation; market study and		
		analysis of market studies;		
		marketing and branding		
		services, namely, performing		
		consumer insight and brand		
		strategy of company logos;		
		marketing consultation in the		
		field of health related market		
		research; marketing consulting;		
		marketing services, namely		
		consumer marketing research;		
		promotion and marketing		
		services and related		
		consulting; promotional		
		marketing and representation		

Mark/Name	Status/Key Dates	Full Goods/Services	Owner Information	App. No./Reg. No.
		services for sales to the public sector; providing advertising, marketing and promotional services for the pharmaceutical and medical industry; providing advertising, marketing and promotional services for the pharmaceutical and medical products of others; providing business marketing information; statistical evaluations of marketing data		
LUCID	Registered January 29, 2019 Int'l Class: 35 First Use: June 1, 2017 Filed: May 15, 2018	(Int'l Class: 35) business consultation in the field of artificial intelligence	Healthpointe Solutions, Inc. (Delaware Corp.) Building a, Suite 150 17875 Von Karman Avenue Irvine California 92614	RN: 5665561 SN: 87921928
LUCID THINKING	Registered April 3, 2018 Int'l Class: 35 First Use: August 1, 2017 Filed: September 5, 2017	(Int'l Class: 35) business consulting services in the fields of business leadership development and business management	Kieser, Erik (United States Citizen) 5038 Fulton Avenue Sherman Oaks California 91423	RN: 5437764 SN: 87595920

See TESS reports in Exhibit B.

The dilution of the term LUCID in connection with advertising and marketing services under current market conditions suggests that consumers look to other marketplace conditions to differentiate the source of the respective services – whether it be other terms used in the mark, the retail setting, promotional materials, or the like. *See Colgate-Palmolive Co. v. Carter-Wallace, Inc.*, 432 F.2d 1400, 1402 (C.C.P.A. 1970) (the mere presence of the word 'peak' in the

trademark PEAK PERIOD does not by reason of that fact alone create a likelihood of confusion or deception). *See also In re Merchandising Motivation, Inc.*, 184 U.S.P.Q. 364, 1974 WL 20101 (T.T.A.B. 1974) (MMI MENSWEAR was found not to be confusingly similar to MEN'S WEAR because the term MEN'S WEAR); *Rocket Trademarks Pty Ltd. v. Phard S.p.A.*, 98 U.S.P.Q.2d 1066, 1076, 2011 WL 810221 (T.T.A.B. 2011) (no confusion was likely between senior ELEMENT and junior ZU ELEMENTS, both for apparel). As a result, consumers will not confuse the source of Applicant's services with those of the cited registrants under the current market conditions.

Moreover, Applicant further notes that the Trademark Register reflects current marketplace conditions regarding the strength of LUCID-formative marks in the advertising and marketing space. As set forth in **Exhibit C**, the following brand names also identify sources of marketing and advertising services: LUCID AGENCY, LUCID MARKETING, LUCID ADVERTISING, LUCID DIGITAL, LUCID DIGITAL MARKETING SERVICES, and LUCID CREATIVE, among others. Therefore, consumers will not confuse the source of Applicant's LUCID MARKETPLACE services with those of the cited registrants under the current market conditions.

II. The Cited Marks Differ in Appearance, Sound and Meaning.

Marks must be considered in their entireties when determining whether there is a likelihood of confusion. Here, the marks at issue are LUCID MARKETPLACE versus LUCID BRANDS and LUCID METHOD (each registration is owned by an unrelated third party). In this instance, the respective marks are dissimilar in overall appearance, sound and meaning. Although the terms "MARKETPLACE," "BRANDS," and "METHOD" (in the relevant references) are disclaimed and as such, are arguably the less dominant features of the marks, disclaimers do not remove the disclaimed portion from the mark for purposes of this analysis. *In re National Data Corp.*, 753 F.2d

1056, 224 USPQ 749 (Fed. Cir. 1985). Moreover, the terms BRANDS and METHOD, added to LUCID, connotes a completely different overall commercial impression than just the term LUCID. Nevertheless, purchasers are not aware of the law governing descriptive terms, disclaimers and dominant portions of a mark and thus, they view brand names in their entireties. Consumers who encounter the respective marks in the marketplace will continue to distinguish the marks based on the overall differences in the looks, sounds and meanings of the marks.

III. Providing Direct Human Data to Industries In the Nature of Market Research, Advertising Technology, And Business Consultancy Differs From General Advertising and Marketing Services

Applicant offers highly specialized services in the nature of providing direct human data to industries in the nature of market research, advertising technology, and business consultancy. See **Exhibit D**. Unlike the Registrants who provide general marketing and branding services, Applicant specializes in conducting surveys so that its customers can determine campaign successes, audience analysis, ad impressions, targeting tactics and the impact their advertising efforts have in the marketplace. Therefore, the differences between the respective marks, coupled with the dissimilar nature of the services provided by the parties, indicates that consumers would simply not be confused by their respective sources.

IV. The Relevant Class of Purchasers Are Sophisticated and Would Not Confuse the Sources of Applicant's Services With Those Offered by the Registrants

Factors such as the sophistication of purchasers, coupled with the expense of the service and the likely care purchasers of the service would exercise, can reduce the likelihood of confusion and result in the registration of what otherwise might be similar marks. *In re Digitad Corp.*, 45 U.S.P.Q.2d 1841 (T.T.A.B. 1998). The complexity and expense related to the sale and purchase of marketing surveys also dictates that consumers acquiring such services expend a significant amount of care and sophistication when making purchasing decisions. Moreover, the

fact that marketing surveys and advertising services are typically expensive and require great care and knowledge when purchasing them requires further careful analyses by the consuming public. As such, the highly sophisticated target consumers of both the Applicant's and cited Registrants' services will be able to clearly distinguish the significant overall differences in the marks and associated services of the parties sufficient to avoid consumer confusion.

V. Conclusion.

In light of all of the foregoing, Applicant respectfully requests that the United States

Patent and Trademark Office withdraw the § 2(d) refusal and allow Applicant's application to

proceed to early publication.

EXHIBIT A

Generated on: This page was generated by TSDR on 2019-12-24 12:11:58 EST

Mark: LUCID



US Serial Number: 87930500 Application Filing May 21, 2018

Date:

Filed as TEAS RF: Yes Currently TEAS RF: Yes

Register: Principal

Mark Type: Service Mark

TM5 Common Status
Descriptor:



DEAD/APPLICATION/Refused/Dismissed or Invalidated

This trademark application was refused, dismissed, or invalidated by the Office and this application is no longer active.

Status: Abandoned because the applicant failed to respond or filed a late response to an Office action. To view all documents in this file, click

on the Trademark Document Retrieval link at the top of this page.

Status Date: Dec. 19, 2019

Date Abandoned: Dec. 10, 2019

Mark Information

Mark Literal LUCID

Elements:

Standard Character No

Claim:

Mark Drawing 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)

Type

Description of The mark consists of Stylized LUCID below a cloud with four semicircular parts on a solid background of black or green or red or blue

Mark: or silver or gold.

Color Drawing: Yes

Color(s) Claimed: The color(s) black, white, green, red, blue, silver, gold is/are claimed as a feature of the mark.

Design Search 01.15.06 - Fog; Clouds; Advertising, skywriting

Code(s):

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [..] indicate deleted goods/services;
- Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Planning and design of retail premises

International 042 - Primary Class U.S Class(es): 100, 101

Class(es):

Class Status: ACTIVE

Basis: 1(a)

First Use: Jun. 01, 2015 **Use in Commerce:** Jun. 01, 2015

For: Management consulting and advisory services in the areas of corporate growth strategy, innovation and growth processes, organizational transformation, and talent management and development strategies; Management of customer appreciation programs of others; Retail apparel stores; Retail store services featuring a wide variety of consumer goods of others; Retail store services featuring convenience store items and gasoline; Branding services, namely, consulting, development, management and marketing of brands for businesses and/or individuals; Business management advice; Business management and advice; Business management and consultation; Business management and enterprise organization consultancy; Business management consultancy services; Business management consultancy, also via the Internet; Business management consultation; Business management for a trade company and for a service company; Business management for shops; Business management planning; Business management supervision; Business knowledge management services; Business management consulting with relation to strategy, marketing, production, personnel and retail sale matters; Business organization and

management consultancy including personnel management; Business project management services; Commercial management; Consulting services in the fields of business management, human resources, and business organizational design; Corporate event management services; Customer relationship management; Human resources management; Online retail convenience store services featuring in-store order pickup; Online retail department store services featuring in-store order pickup; Personnel management consultation; Personnel management consulting; Sales management services; Supply chain management services; Trade show management services

International 035 - Primary Class U.S Class(es): 100, 101, 102

Class(es):

Class Status: ACTIVE

Basis: 1(a)

First Use: Jun. 01, 2015 Use in Commerce: Jun. 01, 2015

Basis Information (Case Level)

Filed Use: Yes

Filed ITU: No

Currently ITU: No

Filed 44D: No

Currently 44E: No

Currently 66A: No

Filed 66A: No

Currently No Basis: No

Filed No Basis: No

Current Owner(s) Information

Owner Name: Pang, Ian Christian

DBA, AKA, DBA Lucid Cannabis Company

Formerly:

Owner Address: www.lucidmj.com

4820 Yelm Hwy SE

Lacey, WASHINGTON UNITED STATES 98503

Legal Entity Type: LIMITED LIABILITY COMPANY State or Country WASHINGTON

Where Organized:

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Thor A. Hoyte

Attorney Primary thor@celadonlaw.com Email Address: Authorized: Attorney Email Yes

Correspondent

Correspondent THOR A. HOYTE

Name/Address: CELADON LAW & BUSINESS GROUP

6305 HAWKS PRAIRIE RD NE

OLYMPIA, WASHINGTON UNITED STATES 98516

Phone: 253-820-9392

Correspondent e- thor@celadonlaw.com thoyte@icloud.com mail:

Correspondent e- Yes mail Authorized:

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Dec. 19, 2019	ABANDONMENT NOTICE E-MAILED - FAILURE TO RESPOND	
Dec. 19, 2019	ABANDONMENT - FAILURE TO RESPOND OR LATE RESPONSE	
Jun. 07, 2019	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Jun. 07, 2019	NON-FINAL ACTION E-MAILED	6325
Jun. 07, 2019	NON-FINAL ACTION WRITTEN	93652
Jun. 03, 2019	ASSIGNED TO EXAMINER	93652
Sep. 12, 2018	ASSIGNED TO EXAMINER	88577
Sep. 12, 2018	ASSIGNED TO EXAMINER	76638

May 31, 2018 NOTICE OF DESIGN SEARCH CODE E-MAILED

May 30, 2018 NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM

May 24, 2018 NEW APPLICATION ENTERED IN TRAM

TM Staff and Location Information

TM Staff Information

TM Attorney: DICKSON, RACHAEL M **Law Office** LAW OFFICE 125

Assigned:

File Location

Current Location: TMO LAW OFFICE 125 - EXAMINING

ATTORNEY ASSIGNED

Date in Location: Dec. 19, 2019

EXHIBIT B

Lucid Method

Word Mark LUCID METHOD

Goods and **Services**

IC 035. US 100 101 102. G & S: Development of market strategies, concepts and tactics, namely, audience development, brand awareness, online community building and digital word of mouth communications with emphasis on clarity, consistency, and credibility. FIRST

USE: 20090901. FIRST USE IN COMMERCE: 20090901

Standard Characters Claimed

Mark Drawing Code

(4) STANDARD CHARACTER MARK

85797345 **Serial Number**

Filing Date December 7, 2012

Current Basis 1A **Original Filing** 1A **Basis**

Published for Opposition

November 26, 2013

Registration Number

4479869

Registration

February 11, 2014 Date

Owner (REGISTRANT) Beale Communications, LLC LIMITED LIABILITY COMPANY

WASHINGTON 1920 5th Place Kirkland WASHINGTON 98033

Attorney of Record

Tonya J. Gisselberg

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "METHOD" APART FROM

THE MARK AS SHOWN

Type of Mark SERVICE MARK Register **PRINCIPAL**

Live/Dead Indicator

LIVE

Lucid Brands

Word Mark

LUCID BRANDS

Goods and **Services**

IC 035. US 100 101 102. G & S: Advertising and marketing; Advertising services, namely, creating corporate and brand identity for others; Advertising services, namely, creating corporate logos for others; Advertising, marketing and promotion services; Advice in the field of business management and marketing; Arranging and conducting marketing promotional events for others; Business consultation and management regarding marketing activities and launching of new products; Business marketing consulting services; Business marketing services; Conducting business and market research surveys; Conducting marketing studies; Creation of marketing tools designed to increase a client company's knowledge of customer needs, and its competitors' products and services, pricing, advertising strategy and sales strategy; Development of marketing strategies and concepts; Information or enquiries on business and marketing; Market research consultation; Market research services; Market segmentation consultation; Market study and analysis of market studies. FIRST USE: 20050526. FIRST USE IN COMMERCE: 20050704

Standard Characters Claimed

Mark Drawing

Code

(4) STANDARD CHARACTER MARK

Serial Number 78741931

Filing Date October 27, 2005

Current Basis 1A **Original Filing** 1A

Basis

Published for Opposition

July 25, 2006

Registration

3157813

Registration Date

October 17, 2006

Owner

Number

(REGISTRANT) Lucid Brands, LLC Scott Lerman--USA Susan Keiser--USA LIMITED

PARTNERSHIP NEW YORK 219 Cedar Lane Ossining NEW YORK 10562

Disclaimer

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BRANDS" APART FROM THE

MARK AS SHOWN

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Affidavit Text

SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20151214.

Renewal

1ST RENEWAL 20151214

Live/Dead Indicator

LIVE

LUCID DREAM

Word Mark

LUCID DREAM

Goods and **Services**

IC 035. US 100 101 102. G & S: Design and development of advertising and marketing materials in the nature of mixed reality, virtual reality, and augmented reality experiences for others for use in trade show and convention exhibits, kiosks, and showrooms; Production and creation of advertising and marketing materials, namely, virtual reality content, and augmented reality content for use in enterprise sales and marketing; Production and creation of recruiting materials namely, virtual reality content, and augmented reality content for use in employment recruiting; Production and creation of advertising and marketing materials, namely, omni-directional, spherical, 360-degree, 3D stereoscopic, and panoramic video content for use in enterprise sales and marketing; Production and creation of recruiting materials namely, omni-directional, spherical, 360-degree, 3D stereoscopic, and panoramic video content for use in employment recruiting. FIRST USE: 20160311. FIRST USE IN COMMERCE: 20160311

IC 041. US 100 101 107. G & S: Production and creation of virtual reality content, augmented reality content for training purposes; Production and creation of omni-directional, spherical, 360-degree, 3D stereoscopic, and panoramic video content for training purposes; educational Services, namely, conducting classes, workshops, seminars, lectures, training, and demonstrations in the field of mixed reality, augmented reality, and virtual reality technology and distribution of training material in connection therewith. FIRST USE: 20160311. FIRST USE IN COMMERCE: 20160311

IC 042. US 100 101. G & S: Computer programming services, namely, design and development of computer software and mobile applications in the field of mixed reality, virtual reality, and augmented reality; software development for others in the field of mixed reality, virtual reality, and augmented reality; design and development of visual displays of mixed reality, virtual reality, and augmented reality experiences for others for use in trade show and convention exhibits, kiosks, and showrooms. FIRST USE: 20160311. FIRST USE IN COMMERCE: 20160311

Standard Characters Claimed

Mark Drawing (4) STANDARD CHARACTER MARK Code

Serial Number 87488483

Filing Date June 14, 2017

Current Basis 1A **Original Filing** 1A

Basis

Published for May 15, 2018 Opposition

Registration Number

5527700

Registration

July 31, 2018 Date

(REGISTRANT) VRX Studios LLC LIMITED LIABILITY COMPANY NORTH CAROLINA Suite B007 334 Blackwell St. Durham NORTH CAROLINA 27701 Owner

Attorney of Record

Trevor P. Schmidt

Type of Mark

SERVICE MARK

PRINCIPAL

Register Live/Dead Indicator

LIVE



Word Mark

LUCID HEALTH

Goods and Services

IC 035. US 100 101 102. G & S: Advertising and marketing; Advertising and marketing services, namely, promoting the goods and services of others; Advertising services, public relations and marketing services, namely, promoting and marketing the goods and services of others through all public communication means; Branding services, namely, consulting, development, management and marketing of brands for businesses; Business advice and analysis of markets; Business consultation and management regarding marketing activities and launching of new products; Business management and consulting services for the health care industry, namely, customer service, accounting services, and web-based advertising and marketing services; Business marketing consulting services; Business marketing services; Business research; Business research and surveys; Business research consultation; Business research using focus groups; Conducting business and market research surveys; Conducting business research and surveys; Conducting marketing studies; Conducting on-line business management research surveys; Consultation services in the field of company, business sector and industry data and research; Consumer research; Creation of marketing tools designed to increase a client company's knowledge of customer needs, and its competitors' products and services, pricing, advertising strategy and sales strategy; Development of marketing strategies and concepts; Market analysis; Market manipulation, research and analysis, whether or not via the internet; Market reports and studies; Market research; Market research and market intelligence services; Market research consultation; Market research services; Market research studies; Market segmentation consultation; Market study and analysis of market studies; Marketing and branding services, namely, performing consumer insight and brand strategy of company logos; Marketing consultation in the field of health related market research; Marketing consulting; Marketing services, namely consumer marketing research; Promotion and marketing services and related consulting; Promotional marketing and representation services for sales to the public sector; Providing advertising, marketing and promotional services for the pharmaceutical and medical industry; Providing advertising, marketing and promotional services for the pharmaceutical and medical products of others; Providing business marketing information: Statistical evaluations of marketing data. FIRST USE: 20090302. FIRST USE IN COMMERCE: 20090302

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search 26.01.06 - Circles, semi; Semi-circles

Code

26.03.14 - Ovals, three or more: Three or more ovals 26.03.21 - Ovals that are completely or partially shaded

26.17.03 - Dotted line(s); Lines, dotted

Trademark Search Facility Classification Code

SHAPES-CIRCLE Circle figures or designs including semi-circles and incomplete circles

SHAPES-COLORS-2 Design listing or lined for two colors

SHAPES-OVALS Oval figures or designs including incomplete ovals and one or more ovals

Serial Number 77698200

Filing Date March 24, 2009

Current Basis

Original Filing

Basis

Published for Opposition

July 28, 2009

Registration Number

3695458

Registration Date

October 13, 2009

Owner

(REGISTRANT) Lucid Health, Inc. CORPORATION MARYLAND 10114 Vista Pointe Dr.

Tampa FLORIDA 21209

Disclaimer

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "HEALTH" APART FROM THE

MARK AS SHOWN

Mark

Description of The color(s) blue, gray is/are claimed as a feature of the mark. The mark consists of the color gray appears in the wording "HEALTH". The color blue appears in the wording "LUCID" and

the circular design to the left and above the letter "L" in the word "LUCID".

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Affidavit Text

SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20181025.

Renewal

1ST RENEWAL 20181025

Live/Dead

LIVE

Indicator

LUCID

Word Mark LUCID

Goods and Services IC 035. US 100 101 102. G & S: Business consultation in the field of artificial

intelligence. FIRST USE: 20170601. FIRST USE IN COMMERCE: 20170601

Standard Characters

Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

 Serial Number
 87921928

 Filing Date
 May 15, 2018

Current Basis 1A
Original Filing Basis 1A

Published for

Opposition November 13, 2018

Registration Number 5665561

Registration Date January 29, 2019

Owner (REGISTRANT) Healthpointe Solutions, Inc. CORPORATION DELAWARE Building A,

Suite 150 17875 Von Karman Avenue Irvine CALIFORNIA 92614

Attorney of Record John L. Hay

Type of Mark SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

LUCID THINKING

Word Mark LUCID THINKING

Goods and IC 035. US 100 101 102. G & S: Business consulting services in the fields of business leadership development and business management. FIRST USE: 20170801. FIRST **Services**

USE IN COMMERCE: 20170801

Standard Characters Claimed

Mark Drawing

(4) STANDARD CHARACTER MARK Code

Serial Number 87595920

Filing Date September 5, 2017

Current Basis 1A **Original Filing** 1A Basis

Published for

January 16, 2018 Opposition

Registration Number

5437764

Registration Date April 3, 2018

Owner (REGISTRANT) Kieser, Erik INDIVIDUAL UNITED STATES 5038 Fulton Avenue

Sherman Oaks CALIFORNIA 91423

Attorney of Record

Kevin Keener

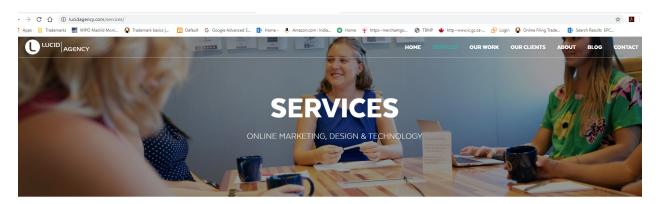
Type of Mark SERVICE MARK Register **PRINCIPAL**

Live/Dead Indicator

LIVE

EXHIBIT C

https://lucidagency.com/services/



SOPHISTICATED INTERACTIVE MARKETING, DESIGN & TECHNOLOGY

Don't kid yourself, Internet Marketing is not for the timid, and neither is success. Your competition is using every possible advantage they have and you should be, too. That swy you're on our website, reading about Lucid Agency, Arizona's premier Internet Marketing Agency. Give us few more minutes

We believe interactive marketing should be easy to understand, so we take the time to come up with innovative and effective campaigns. Our goal is to make your digital project or campaign clear and easily understood, hence our name – Lucid.

Check out how we do it, or peruse our services below and click on anything that catches your eye to dive in.



INTERACTIVE MARKETING

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We are proud to help respected organizations solve complex digital marketing and technology challenges, and we do so by focusing on strategy and results; not trendy tools. We develop a custom strategy for each client based on your objectives, time frame, budget, audience and market strateey.

LET'S DO THIS

MARKETING AUTOMATION

Amplify your marketing efforts and accelerate your sales pipeline.

We're big believers in the value marketing automation can bring to a business. But, before we talk technology, we take in the bigger picture. First, we work with you to create a streamlined marketing and sales process. We'll establish one view of a lead, and determine the all the touchpoints needed to turn that lead into revenue. With that hard work done, we'll work with your teams to optimize your technology investments to scale your results.

LET'S DIG IN





USER EXPERIENCE DESIGN

UX Design is focused on aligning design with functionality, so that any user of your app, website or interface, can find, execute and engage in an efficient, enjoyable and meaningful way.

We take a strategy + data + research approach to UI and UX design. We start by asking the tough questions about who will be using this (typically multiple user groups), what they need to accomplish, and what the barriers have been historically. Only then can we create functional requirements that serve as the foundation for architecture, wireframing, prototype and front-end design... to ultimately build something that will be as usable and functional, as it is aesthetically beautiful.

LEARN MORE ABOUT UX

WEB ARCHITECTURE & DESIGN

Your website is your first impression.

We have been building conversion-friendly and user-focused websites for our clients for over 10 years. We start with business analysis and requirements gathering, then architect, wireframe, prototype and design, all before we start coding. When the planning is done this well, the coding is the easy part (just don't say that to our web engineers).

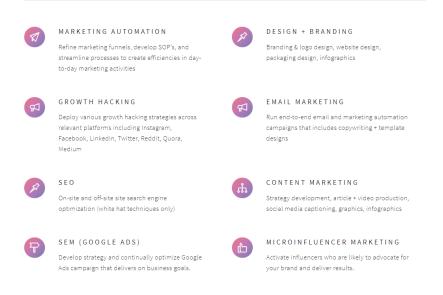
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Our Services



https://www.lucidadvertising.com/digital-marketing/





Digital Marketing: 12 Lucid Ways To Use It

Digital marketing leverages all aspects of online marketing to gain leads and business in real time. Does this still sound vague? Then let's get specific, It also uses optimized online content and platforms to help you find your target customers. Anyone can have a website. But if it is not designed and developed with Search Engine Optimization that will lead oustomers to you, it's really just window dressing.

Digital Marketing: 12 Lucid Ways To Use It

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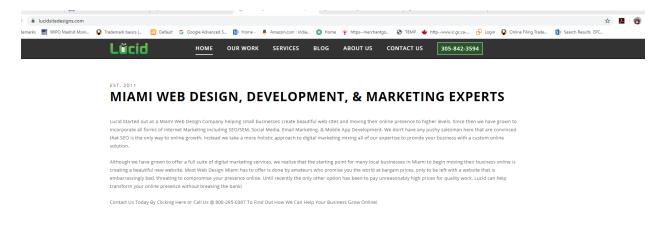
The same thing applies to content. There are a lot of good writers out there, but if you do not know how to research and identify effective keywords and incorporate them correctly, no one will see it. It gets even more complicated when you add in social media networks, email marketing and Google Adwords, but each element is an integral part of a successful online marketing campaign. Considering the vast array of mobile technologies and online platforms, it's the most exciting leadgeneration tool today. We're on the forefront of providing a full suite of services to our clients. But if you're still in the analog age, isn't it time to take a look at digital?

12 Clear Ways Lucid Helps Clients Everywhere Get Digital:

- 1. Website development and digital media
- 2. Content marketing
- 3. Search engine marketing (SEM)
- 4. Professional blogging/video blogging
- 5. Email marketing
- 6. Social media marketing
- 7. Google AdWords expertise & implementation for lead tracking & conversion
- 8. Online <u>branding</u> collateral (logo, e-brochures, proprietary graphics)
- 9. Earned online coverage (PR, online press releases)
- 10. <u>Interactive tools</u>
- 11. EBooks, White papers & infographics
- 12. Mobile marketing

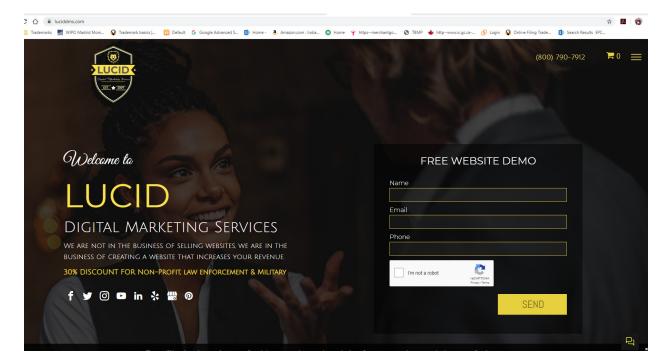
Lucid Advertising Is Now A Google Partner.

https://www.lucidsitedesigns.com/

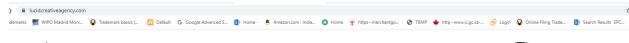




https://www.luciddms.com/



https://www.lucidcreativeagency.com/



The Lucid Creative Agency gets it. They're pros. Every time I work with their crew, I know what I'm going to get: polished work that is unique, engaging, and performs above target. This team is constantly pushing the envelope creatively, and they don't break the bank when it comes to budgeting. I have used them for numerous Photo Shoots and Videos for social media platforms, as well as Event Recap coverage. They have done work for a variety of our brands, and have no problem delivering content that is on-strategy, and adheres to our brand guidelines. I am continually impressed by this team, and I can't recommend the Lucid Creative Agency enough.



- Dan Ottolin, Mike's Hard Lemonade



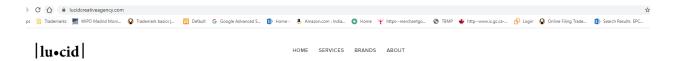
Lucid Creative was a pleasure and a joy to work with. From the ideation phase, to the execution, everything was seamless. I look forward to working with them again in the near future! They are second to none in terms of overall quality, professionalism, and open mindedness.

- Jared Hunter, LinkedIn

* Working with a group of young talented individuals like those in the Lucid Creative Team has been an incredible experience. They are very action-orientated, but always make room for fun, which makes their production sets a warm and friendly environment. The Lucid Creative Team carefully curated, directed, and designed my re-election campaign. They truly are a one stop shop. They literally shined the spotlight on a neighborhood that feels like it has been forgotten by the rest of the city. It is crucial that we continue to support this millennial ceneration on their endeavors of a cultural revolution."

–Alderwoman Susan Sadlowski Garza, 10th Ward





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a multidisciplinary creative team

producing content that is engaging, artistic and action-oriented

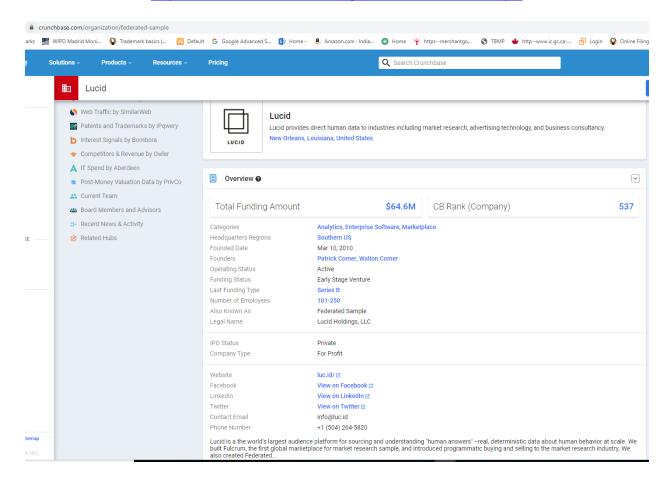
helping clients build their brand, say their message, and tell their story...uniquely

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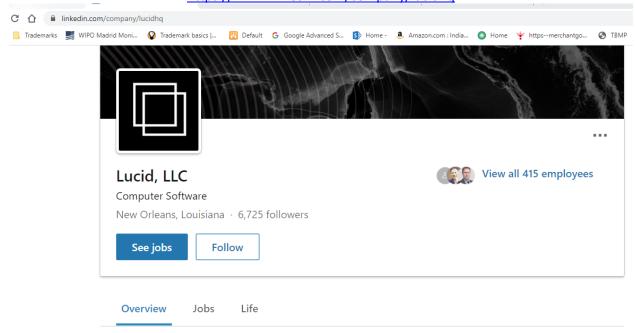
CREATE WITH US

EXHIBIT D

https://www.crunchbase.com/organization/federated-sample



https://www.linkedin.com/company/lucidhq



About us

Lucid unites buyers and sellers of survey sample in over 90 countries – bridging the divide between global questions and human answers. Every day, millions of questions are answered via Lucid's programmatic marketplace – enabling anyone, in any industry, to get real answers. Lucid's clients can ask questions of targeted audiences and measure the effectiveness of their digital advertising. This authentic, first-party data drives powerful insights, in real-time.

Lucid is headquartered in New Orleans with offices in London, New York, Gurgaon, and Sydney.

Website http://luc.id ☑

Industries Computer Software

Company size 201-500 employees

Headquarters New Orleans, Louisiana

Type Privately Held

Founded 2010

Specialties SaaS, Sampling, Advertising Technology, Online Sample, Market Research,

Internet Market Research, Technology, Advertising Effectiveness

Locations

Primary

365 Canal Street 1 Finsbury Market

Suite 3100 London, England EC2 2BN, GB

New Orleans, Louisiana 70130, US Get directions ☑

Get directions <a>C

Axel-Springer-Platz 3 Good Earth Business Bay, Golf Course Extension

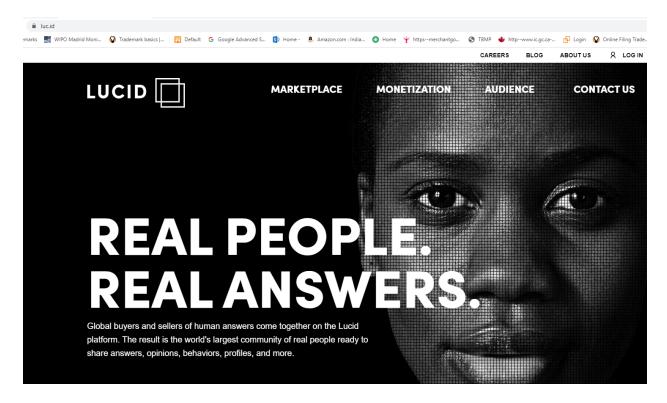
Hamburg, Hamburg 20355, DE Road, Sector 58

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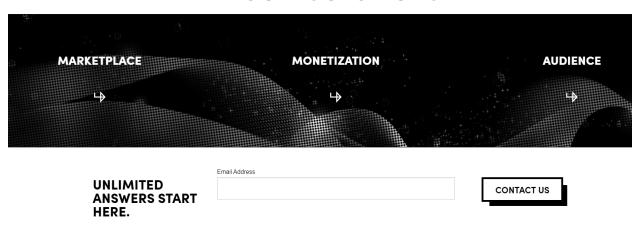
Gurgaon, Haryana 122011, IN

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LUCID SOLUTIONS



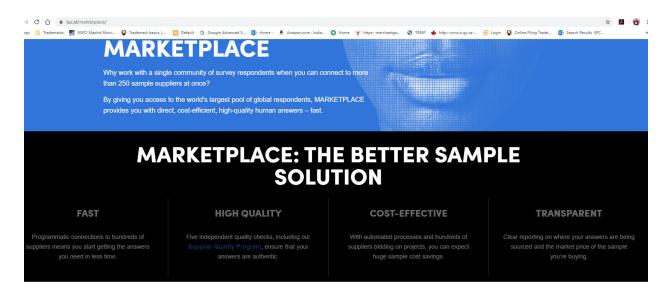


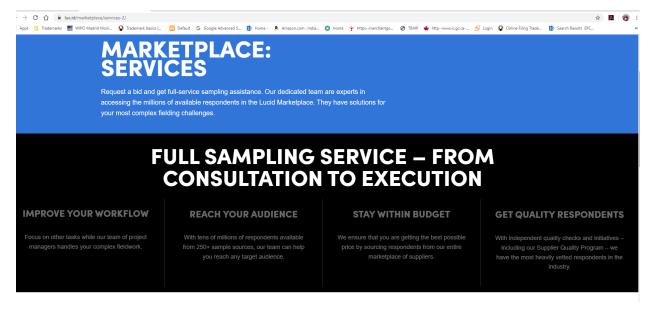
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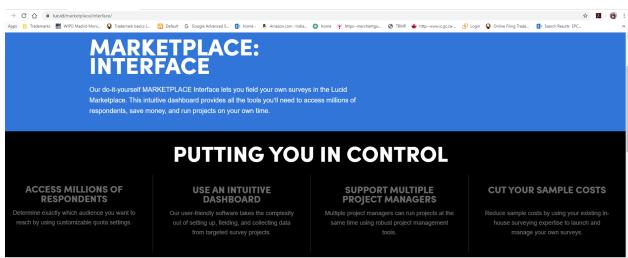
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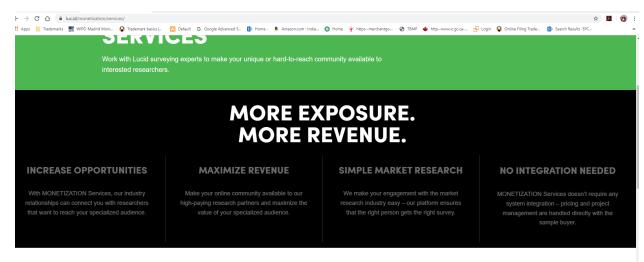


"OUR COMPANY TRIPLED ITS DATA COLLECTION AND SAVED 15-20% ON SAMPLE."

"Five months after licensing Fulcrum, our company tripled its data collection and saved 15-20% on sample we were buying from traditional panels. Fulcrum is an easy-to-use tool that also gives you complete control over your sample source. We've had over \$100K in total savings, without increasing our internal workload or straining our operations team. Working with Lucid has been an incredible move for our business."

David Coletto CEO Abacus Data





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FIND OUT IF YOUR ADS ARE AS EFFECTIVE AS YOU THINK

GAUGE AUDIENCE PERCEPTIONS

Ask consumers who have seen your ads questions about brand awareness, message comprehension, purchase intent, or anything

GET FAST RESULTS

Using our tracking pixel or third-party data, we match your ad impressions against millions of available consumers in real-time — so we can quickly survey your exposed audience and provide results.

REAL-TIME BUSINESS DECISIONS

Use IMPACT MEASUREMENT results to optimize targeting tactics and budget while campaigns are still in-market.

IMPROVE CAMPAIGN STRATEGY

Use ongoing exposed audience analysis to craft more-effective, more-informed media strategies.