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Filing date: **01/17/2019**

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	T-Mobile USA, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	12920 S.E. 38th Street Bellevue, WA 98006 UNITED STATES		

Attorney information	James F. Struthers Richard Law Group 13355 Noel Rd Ste 1350 Dallas, TX 75240 UNITED STATES clarissa@richardlawgroup.com, jim@richardlawgroup.com, david@richardlawgroup.com 214 206-4300
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Registrations Subject to Cancellation

Registration No.	2885673	Registration date	09/21/2004
Registrant	SPOK, INC. 6850 VERSAR CENTER SPRINGFIELD, VA 22151 UNITED STATES		

Goods/Services Subject to Cancellation

Class 038. First Use: 1971/05/04 First Use In Commerce: 1971/05/04 All goods and services in the class are subject to cancellation, namely: TELECOMMUNICATIONS SERVICES, NAMELY PROVIDING TELEPHONE COMMUNICATION SERVICES, CELLULAR TELEPHONE SERVICES AND WIRELESS TELEPHONE AND PERSONAL COMMUNICATION SERVICES TO THE PUBLIC AT LARGE; TELECOMMUNICATION SERVICES, NAMELY LOCAL AND LONG DISTANCE TRANSMISSION OF VOICE, DATA, GRAPHICS BY MEANS OF TELEPHONE, TELEGRAPHIC, CABLE OR SATELLITE TRANSMISSION
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Grounds for Cancellation

Abandonment	Trademark Act Section 14(3)		
Registration No.	1124767	Registration date	09/04/1979
Registrant	SPOK, INC. 6850 VERSAR CENTER SPRINGFIELD, VA 22151 UNITED STATES		

Goods/Services Subject to Cancellation

Class 038. First Use: 1971/05/04 First Use In Commerce: 1971/05/04 All goods and services in the class are subject to cancellation, namely: PROVIDING RADIO PAGING AND RADIO TELEPHONE COMMUNICATIONS TO THE PUBLIC AT LARGE

Grounds for Cancellation

Abandonment	Trademark Act Section 14(3)
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Attachments	METROCALL Petition to Cancel.pdf(20183 bytes)
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Signature	/James F. Struthers/
Name	James F. Struthers
Date	01/17/2019

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

T-Mobile USA, Inc.	§	Cancellation No. _____
	§	
Petitioner	§	Reg. No. 2,885,673
	§	Mark: METROCALL
v.	§	
	§	Reg. No.: 1,124,767
Spok, Inc.	§	Mark: METROCALL (Stylized)
	§	
Registrant	§	Class 38

ATTN: Trademark Trial and Appeal Board
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

PETITION FOR CANCELLATION

T-Mobile USA, Inc. (“Petitioner”), a Delaware corporation whose business address is 12920 S.E. 38th Street, Bellevue, Washington, 98006, believes that it will be damaged by continued registration of the marks shown in Registration Nos. 1,124,767 and 2,885,673 and hereby petitions to cancel the same.

As grounds for cancellation, Petitioner alleges:

1. Spok, Inc. (“Registrant”) is a Delaware corporation whose address of record is 6850 Versar Center, Springfield, Virginia 22151.
2. Registrant is the record owner of U.S. Registration No.’s 1,124,767 and 2,885,673 (the “Registrations”) for, respectively, METROCALL (Stylized – shown below) and METROCALL (“Registrant’s Marks”).

METROCALL

3. Registration No. 1,124,767 (the “’767 Registration”) for METROCALL (Stylized) (the “’767 Mark”) issued on September 4, 1979 and covers “providing radio paging and radio telephone communications to the public at large” in International Class 38 (the “’767 Services”).

4. Upon information and belief, Registrant is not using the ’767 Mark in commerce in connection with the ’767 Services.

5. Upon information and belief, Registrant has not used the ’767 Mark in commerce in connection with the ’767 Services for more than 3 years.

6. Upon information and belief, Registrant has no intention of resuming use of the ’767 Mark in commerce in connection with the ’767 Services.

7. Registration No. 2,885,673 (the “’673 Registration”) for METROCALL (the “’673 Mark”) issued on September 21, 2004 and covers “telecommunications services, namely providing telephone communication services, cellular telephone services and wireless telephone and personal communication services to the public at large; telecommunication services, namely local and long distance transmission of voice, data, graphics by means of telephone, telegraphic, cable or satellite transmission” in International Class 38 (the “’673 Services”).

8. Upon information and belief, Registrant is not using the ’673 Mark in commerce in connection with the ’673 Services.

9. Upon information and belief, Registrant has not used the ’673 Mark in commerce in connection with the ’673 Services for more than 3 years.

10. Upon information and belief, Registrant has no intention of resuming use of the ’673 Mark in commerce in connection with the ’673 Services.

11. Petitioner owns Application Serial No. 88129751 for METRO, 88129835 for METRO (Stylized), and 88129830 for METRO (Stylized) (together, "Petitioner's Applications").

12. The '673 Registration has been cited as a partial bar to registration in Petitioner's Applications.

13. Petitioner is being harmed by the continued existence of the '673 Registration because the '673 Registration is preventing Petitioner from registering its METRO trademark, and may be cited as a bar to Petitioner's future applications.

14. Petitioner is being harmed by the continued existence of the '767 Registration because the '767 Registration may be cited as a bar to Petitioner's future applications.

15. Petitioner seeks cancellation of the Registrations under 15 U.S.C. § 1064(3) on the grounds that Registrant has abandoned the Marks.

WHEREFORE, Petitioner respectfully prays that the Registrations be cancelled and that this Petition be sustained in favor of Petitioner.

Dated: January 17, 2019

Respectfully submitted,

 /James F. Struthers/
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