

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                 | Deno Land Inc.   |                               |          |
| Entity               | Corporation  | Incorporated or registered in | Delaware |
| Address              | 251 LITTLE FALLS DRIVE<br>WILMINGTON, DE 19888<br>UNITED STATES  |                               |          |
| Attorney information | ERIC J. PERROTT, ESQ.<br>GERBEN PERROTT, PLLC<br>1050 CONNECTICUT AVE. SUITE 500<br>WASHINGTON, DC 20852<br>UNITED STATES<br>Primary email: eperrott@gerbenlawfirm.com<br>Secondary email(s): ttabdocket@gerbenlawfirm.com, sed-brooke@gerbenlawfirm.com<br>2025798383 |                               |          |
| Docket no.           | 11476-0001   |                               |          |

### Registration subject to cancellation

|                  |   |                   |            |
|------------------|---|-------------------|------------|
| Registration no. | 2416017   | Registration date | 12/26/2000 |
| Register         | Principal   |                   |            |
| Registrant       | ORACLE AMERICA, INC.<br>500 ORACLE PARKWAY<br>REDWOOD SHORES, CA 94065<br>UNITED STATES |                   |            |

### Goods/services subject to cancellation

|   |
|---|
| Class 009. First Use: Jun 1996 First Use In Commerce: Jun 1996<br>All goods and services in the class are subject to cancellation, namely: computer programs, namely, utility programs, language processors and interpreters  |
| Class 042. First Use: Jun 1996 First Use In Commerce: Jun 1996<br>All goods and services in the class are subject to cancellation, namely: providing computer programs, namely, utility programs, language processors and interpreters, that may be downloaded from a global computer network |

### Grounds for cancellation

|                                   |   |
|-----------------------------------|---|
| Abandonment                       | Trademark Act Section 14(3)   |
| The mark is or has become generic | Trademark Act Section 14(3)   |
| Fraud on the USPTO                | Trademark Act Section 14(3); In re Bose Corp., 580 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. |

|  |       |
|--|-------|
|  | 2009) |
|--|-------|

|             |  |
|-------------|--|
| Attachments | Javascript Petition to Cancel_Nov 22 2024.pdf(209696 bytes ) |
|-------------|--|

|           |                      |
|-----------|----------------------|
| Signature | /Eric Perrott, Esq./ |
| Name      | Eric Perrott, Esq.   |
| Date      | 11/22/2024           |

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

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Deno Land Inc.

Petitioner,

v.

Oracle America, Inc.

Registrant,

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Cancellation No.:

U.S. Registration No.:

2416017

**PETITION TO CANCEL**

Deno Land Inc. (“Petitioner”) hereby petitions for the cancellation of U.S. Registration Number 2416017 for the phrase “JavaScript,” registered to Oracle America, Inc. (“Oracle”), and states as follows:

1. The United States Patent and Trademark Office (“USPTO”) records identify Oracle, a Delaware corporation with an address of 500 Oracle Parkway, Redwood Shores, California 94065 as the owner of the registration for the phrase “JavaScript,” U.S. Registration No. 2416017 (the “Registered Mark”) for “computer programs, namely, utility programs, language processors and interpreters” in International Class 9 and “providing computer programs, namely, utility programs, language processors and interpreters, that may be downloaded from a global computer network” in International Class 42 (the “Oracle’s Goods and Services.”)

2. The term “JavaScript” is the generic term for a general-purpose programming language used globally by millions of developers. It is widely recognized as the generic term for the programming language defined by the ECMA-262 specification, maintained by Ecma International’s TC39, a committee with representatives from major browser vendors and JavaScript developers.

3. Oracle does not control (and has never controlled) any aspect of the specification or how the phrase “JavaScript” can be used by others.

4. Today, millions of companies, universities, academics, and programmers, including Petitioner, use “JavaScript” daily without any involvement with Oracle. The phrase “JavaScript” does not belong to one corporation. It belongs to the public. JavaScript is the generic name for one of the bedrock languages of modern programming, and, therefore, the Registered Mark must be canceled.

5. An open letter to Oracle discussing the genericness of the phrase “JavaScript,” published at <https://javascript.tm/>, was signed by 14,000+ individuals at the time of this Petition to Cancel, including notable figures such as Brendan Eich, the creator of JavaScript, and the current editors of the JavaScript specification, Michael Ficarra and Shu-yu Guo. There is broad industry and public consensus that the term “JavaScript” is generic.

#### **Statutory Cause of Action**

6. Petitioner is a corporation registered in Delaware that develops and maintains the Deno runtime, a JavaScript execution environment. Petitioner is adversely affected by the continued registration of the Registered Mark, as it creates confusion in the marketplace, hinders accurate marketing, and obstructs collaboration within the JavaScript community. Therefore, Petitioner has a statutory cause of action (formerly known as “standing”) to bring this Petition.

#### **Claim 1: JavaScript is Generic**

7. “JavaScript” is a generic term for a general-purpose programming language and, therefore, generic for Oracle’s Goods and Services.

8. The term “JavaScript” is commonly used by the relevant public to identify a specific programming language, and thus, it fails to function as a trademark.

9. The phrase “JavaScript” is incapable of distinguishing Oracle’s Goods and Services from those of others and should be refused registration.

10. Oracle has no control over the use of the phrase “JavaScript” through license or through any other method of controlling the goodwill and quality of the phrase “JavaScript.”

11. Inasmuch as “JavaScript” is generic for Oracle’s Goods and Services and Petitioner and many others must use the term when referencing their goods and services, Petitioner and the relevant consumers will be damaged by the continued registration of the Registered Mark.

12. Given the above, registration no. 2416017 is not entitled to continued registration and should be canceled.

**Claim 2: Oracle Committed Fraud on the USPTO**

13. On December 26, 2019, Oracle submitted a Section 8 and 9 filing for renewal of the Registered Mark through its attorneys. In the renewal filing, Oracle, through its attorneys, signed a sworn declaration that (emphasis added):

the mark is in use in commerce on or in connection with the goods/services . . . as evidenced by the attached specimen(s).

the specimen(s) shows the mark as currently used in commerce on or in connection with the goods/services

. . .

To the best of the signatory’s knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made above have evidentiary support.

14. Oracle, through its attorney, submitted specimens showing screen captures of the Node.js website, a project created by Ryan Dahl, Petitioner’s Chief Executive Officer. Node.js is not affiliated with Oracle, and the use of screen captures of the “nodejs.org” website as a specimen did not show any use of the mark by Oracle or on behalf of Oracle.

15. The statements made by Oracle’s authorized signatory were false at the time that they were made.

16. Moreso, as of December 26, 2019, Oracle knew that it had no connection with Node.js and that its use of Node.js's website to show "use in commerce" of the phrase "JavaScript" by Oracle was not valid.

17. Oracle's knowingly fraudulent statements were material to the USPTO's decision to renew the Registered Mark, reg. no. 2416017.

18. Because Oracle's registration gives it at least a *prima facie* exclusive right in the Registered Mark, Petitioner maintains that the continued registration of the Registered mark will impair Petitioner's and the public's legal use of the phrase "JavaScript." Thus, Petitioner believes that the continuance of Oracle's registrations will continue to cause confusion and harm in the marketplace.

19. In view of the above, the Registered Mark, reg. no. 2416017 is not entitled to continued federal registration, as Oracle has knowingly perpetrated fraud on the USPTO in renewing the Registered Mark.

### **Claim 3: The JavaScript Mark Has Been Abandoned**

20. In the alternative, if the phrase "JavaScript" is not generic, then Oracle has abandoned the Registered Mark with no intent (or ability) to resume use for Oracle's Goods and Services.

21. In the alternative, Oracle has not sold any goods or rendered any services showing the Registered Mark as a source identifier since acquiring the mark from the Registered Mark's original owner, Sun Microsystems, Inc., in 2009.

22. Petitioner's research has uncovered the following factual basis for its claims. All allegations made on information and belief may be proven with information solely within the control of the Oracle:

- a. Petitioner's internet search shows no offerings for Oracle's Goods and Services bearing the Registered Mark as a source identifier in the United States.

- b. Petitioner's search of the relevant marketplaces shows no offerings for Oracle's Goods and Services bearing the Registered Mark as a source identifier in the United States.
- c. Petitioner's Internet search shows that users cannot purchase Oracle's Goods and Services bearing the Registered Mark as a source identifier in the United States.

23. In the alternative, if the phrase "JavaScript" is not generic, then Oracle has abandoned the mark, and it should be canceled.

**WHEREFORE**, U.S. Registration Number 2416017's continued registration harms the public and Petitioner. Petitioner prays that the Board cancel the registrations immediately and that the Board sustain the Petition for Cancellation in favor of Petitioner.

Dated: November 22<sup>nd</sup>, 2024

Respectfully submitted,

Eric Perrott, Esq.

A handwritten signature in black ink, appearing to read 'Eric Perrott', with a stylized flourish at the end.

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