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

In the Matter of Application Serial No. 78/067,169  
Filed June 4, 2001  
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at Page TM 286

TRADEMARK TRIAL AND  
APPEAL BOARD  
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FIRST NATIONAL BANK OF OMAHA, a )  
national banking association, )  
 )  
Opposer, )  
 )  
v. )  
 )  
MASTERCARD INTERNATIONAL )  
INCORPORATED, )  
 )  
Applicant. )

Opposition No. \_\_\_\_\_  
Attorney Docket No. \_\_\_\_\_



02-28-2003  
U.S. Patent & TMO/TM Mail Rpt Dt. #7:

**NOTICE OF OPPOSITION**

First National Bank of Omaha ("FNBO"), a national banking association with its principal place of business at 1620 Dodge Street, Omaha, Nebraska 68197, will be damaged by the registration of the mark ONESMART shown in Application No. 78/067,169 "for software for use in Smart Cards; software for encryption of data in the field of financial services; software for secure data storage and retrieval and transmission of confidential customer and transaction information; computer software for enabling Smart Cards to interact with terminals and readers (U.S. Classes 21, 23, 26, 36 and 38) on the principal register and therefore opposes such registration. As a short and plain statement showing why the opposer believes it would be damaged by the registration of the opposed mark and as grounds for opposition, FNBO alleges as

follows:

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1. FNBO is a national bank. It is engaged in, among other things, the business of issuing and servicing credit card accounts and providing related services.

2. On November 24, 2000, FNBO filed Application No. 76/170,487 to register the mark SMART ONE in connection with "banking services; credit card services; smart card services" in this office. On or about November 21, 2001, FNBO adopted and began to use in commerce the mark SMART ONE to identify such services.

3. On June 4, 2001, well after FNBO filed its application for registration of the mark SMART ONE, MasterCard filed its application for ONESMART.

4. MasterCard's application for registration of ONESMART is made for substantially the same services as FNBO's SMART ONE, namely financial services, including those arising from or related to the use of credit cards and other similar services.

5. Because the overall commercial impression generated by ONESMART is confusingly similar to SMART ONE, registration would be improper.

6. Pursuant to Trademark Act Section 2(d), 15 USC § 1052(d), FNBO opposes registration of ONESMART on the grounds that ONESMART consists of or comprises a mark which so resembles a mark or trade name previously used in the United States by FNBO and not abandoned, namely SMART ONE, as to be likely, when used on or in connection with the goods and or services of the applicant MasterCard, to cause confusion, or to cause mistake, or to deceive.

In view of the foregoing, FNBO respectfully requests that registration of the mark ONESMART be refused.

Please recognize as attorneys for FNBO Bartholomew L. McLeay, Richard P. Jeffries and Jeremy T. Fitzpatrick (all members of the Bar of the State of Nebraska) and the law firm of

Kutak Rock LLP, 1650 Farnam Street, Omaha, Nebraska 68102. Please address all communications to Richard P. Jeffries, Esq. at the above address.

FIRST NATIONAL BANK OF OMAHA,  
Opposer

By 

Bartholomew B. McLeay  
Richard P. Jeffries  
Jeremy T. Fitzpatrick  
Kutak Rock LLP  
The Omaha Building  
1650 Farnam Street  
Omaha, NE 68102-2186  
(402) 346-6000

Its Attorneys