

4. Applicant hereby introduces into evidence printouts of the following third party registrations from the electronic records of the Patent and Trademark Office Trademark Electronic Search System:

Trademark	Reg. No. & Date	Description of Goods and Services
FOCUS FORECASTING ("FORECASTING" disclaimed)	2223457 February 16, 1999	IC 009 - Computer programs recorded on electronic media, namely tapes or discs, for use by businesses to plan inventory needs and to manage and control inventory.
MICRO FOCUS	1461698 October 20, 1987	IC 009 - Computer programs and program instruction manuals supplied as a unit.
UNIFOCUS & design	2503414 November 6, 2001	IC 009 - Computer software for recognizing and analyzing results of surveys taken in the hotel and medical fields. IC 035 - Conducting business and market research surveys, namely, conducting customer surveys for hotels, hospitals, and physicians in respect to the quality and efficiency of the service provided.
UNIFOCUS	2503415 November 6, 2001	IC 009 - Computer software for recognizing and analyzing results of surveys taken in the hotel and medical fields. IC 035 - Conducting business and market research surveys, namely, conducting customer surveys for hotels, hospitals, and physicians in respect to the quality and efficiency of the service provided.
SHARP FOCUS	1596157 May 15, 1990	IC 009 - Computer programs and instruction manuals sold therewith, for use in health care and physician referral services, nurse information protocols, marketing and patient satisfaction surveys, and management of membership data.
SPECTRA FOCUS & design	1678294 March 10, 1992	IC 009 - laboratory equipment; namely, [detectors] * detectors * for sample analysis; computers; computer software for laboratory sample analysis; communication interface device boards and electrical connectors.

Trademark	Reg. No. & Date	Description of Goods and Services
FOCUS ONE	1172993 October 13, 1981	IC 009 - Computer systems designed for use by credit unions comprising a central processing unit, operating and application software recorded on disks, and one or more peripheral devices consisting of control consoles, tape drives, disk drives, line printers, printer terminals and teller display and input terminals.
PHOCUS	1492014 June 14, 1988	IC 009 - Computer programs for photogrammetric evaluation purposes, particularly map-making and making precise measurements by using photographs.

Copies of the aforesaid third party registration printouts are attached hereto at **Tab D**.

5. Applicant hereby introduces into evidence printouts of the following third party registrations from the electronic records of the Patent and Trademark Office Trademark Electronic Search System:

Trademark	Reg. No. & Date	Description of Goods and Services
FOCUS FORECASTING ("FORECASTING disclaimed)	2223450 February 16, 1999	IC 035 - Consulting services in the field of inventory management and control for businesses including the use of computers and computer techniques in the field of inventory management and control for businesses.
FOCUSED CONSULTATION ("CONSULTATION" disclaimed)	2432238 February 27, 2001	IC 035 - Providing business management and consulting services to businesses and organizations participating in electronic commerce on the global communications network; providing business management and consulting services to businesses and organizations in the field of electronic data warehousing.
FOCUSSEND	2544754 March 5, 2002	IC 038 - Electronic transmission of data and documents via the Internet, namely, providing free secure file delivery service that poses no file-size restrictions.
INITIAL FOCUS	1987192 July 16, 1996	IC 042 - Computer consulting services.

Trademark	Reg. No. & Date	Description of Goods and Services
FOCUSWORDS	2387575 September 19, 2000	IC 042 - Computer services, namely, on-line search engines offered via global computer networks which offer visual tools for composing search criteria, enhanced searching, enhanced retrieval of web sites, and providing search formulation and web site summation services.
FOCUS 247	2452584 May 22, 2001	IC 035 - Promoting the sale of goods and services of others through an online global computer network, through the distribution of printed material, audio and video tapes, television and radio broadcasts, and promotional contests.
FOCUS247.COM	2452583 May 22, 2001	IC 035 - Promoting the sale of goods and services of others through an online global computer network, through the distribution of printed material, audio and video tapes, television and radio broadcasts, and promotional contests.
INFORMEDFOCUS	2325433 March 7, 2000	IC 040 - Custom manufacture of computer monitoring systems to meet individual customer manufacturing requirements for industrial processes.
DATA FOCUS	1392702 May 6, 1986	IC 042 - Retail store services in the field of word processors and computer-related office products.
FOCUSED PRESENCE	2111555 November 11, 1997	IC 035 - providing dissemination of advertising for others via an on-line electronic communications network. IC 042 - Computer site design services.

Copies of the aforesaid third party registration printouts are attached hereto at **Tab E**.

6. Applicant hereby introduces into evidence the following printout of electronic records maintained by www.dictionary.com which set forth dictionary listings for the term "FOCUS" which are available to the general public in libraries or are otherwise of general circulation among members of the public.

Copies of the aforesaid dictionary listings printout are attached hereto at **Tab F**.

Paragraphs 1 through 2 above introduce into evidence actual interrogatories propounded by Applicant in this opposition and Opposer's answers thereto. These answers are relevant to this proceeding as they describe the software marketed and sold by Opposer under its marks and show the frequency with which third parties apply for registration of marks containing the term "FOCUS" indicating the lack of fame of Opposer's marks and the inability of Applicant's mark to dilute Opposer's marks.

Paragraph 3 introduces into evidence the Trademark application prosecution file for the mark "FOCUS" Serial number 76/083549 filed on June 30, 2000 by Opposer. This file is relevant to show the Patent and Trademark Office's narrow construction of international class 9, the class of goods in which Opposer's marks are registered, by failing to cite against the application any third party registered mark.

Paragraphs 4 and 5 introduce into evidence third party registrations for trademarks containing the term "FOCUS" for goods and services similar or related to computer software. These third party registrations are relevant to show that: (i) the term "FOCUS" common to both Applicant's and Opposer's marks is merely descriptive or otherwise nondistinctive when applied to computer software and thus would not in and of itself cause consumer confusion; (ii) Opposer's inaction in face of these third party registrations for goods and services similar or related to computer software; and (iii) Opposer's admission that its registered marks can co-exist without likelihood of confusion or dilution with these third party registrations.

Paragraph 6 introduces into evidence dictionary listings for the term "FOCUS" and is relevant to show: (i) the descriptive and/or nondistinctive nature of the term "FOCUS" as applied to the goods and services provided by Opposer under Opposer's marks; and (ii) the generic and/or descriptive nature of the term "FOCUS" as applied to the database language in which the goods and services provided by Opposer are written.

Date: 4-15-2

Respectfully submitted,



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Attorneys for Applicant,
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CERTIFICATE OF SERVICE

I certify that on this 15th day of April, 2002, I served a copy of the above "Applicant's Notice of Reliance" on Alan H. Levine and Howard F. Mandelbaum, Levine & Mandelbaum, 350 Fifth Ave., Suite 7814, New York, NY 10118 first class regular United States Postal Mail, in accordance with 37 C.F.R. § 2.119(b)(4).



Christopher Esposito

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TAB

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April 15, 2002

ET 281218125 US

Trademark Trial & Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202



04-15-2002

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #61

Re: Information Builders, Inc. vs. Techinfocus, LLC
Opposition Nos. 117,490; 117,505 (Jointly administered)

Dear Sir/ Madame:

Enclosed for filing please find an original of "Applicant's Notice of Reliance" in the above matter.

Thank you and please do not hesitate to contact us if you have any questions.

Very truly yours,

Christopher D. Esposito
Paralegal

Enclosure

F:\WDOCS\CLIENTS\21169\00000\00011431.DOC