

2. (a) Response and Amendment, dated May 4, 2001, filed in each of Applications Serial No. 75/606,777 (now Registration No. 2,503,414), covering UNIFOCUS and Design, and Serial No. 75/606,778 (now Registration No. 2,503,415), covering UNIFOCUS;

(b) cover letter dated May 4, 2001 from Myers & Associates which accompanied those amendments;

(c) letter from Trademark Trial and Appeal Board, dated September 6 [2001], approving and entering the amendments; and

(d) letter from Trademark Trial and Appeal Board, dated June 3, 2002, indicating that the amendments were inadvertently not entered in the application files, and that amended registrations will be issued.

In its Notice of Reliance dated April 15, 2002, Applicant herein cited a number of third party registrations including Registrations Nos. 2,503,414 (UNIFOCUS and Design) and 2,503,415 (UNIFOCUS), and indicated that the each of these registrations cover computer software in Class 9. However, the applicant in these two cases had filed amendments deleting the Class 9 goods from its applications. The registrations were erroneously issued containing reference to the goods in Class 9.

INFORMATION BUILDERS INC.

By Alan H. Levine

Alan H. Levine
Howard F. Mandelbaum
Attorneys for Opposer
Levine & Mandelbaum
350 Fifth Avenue, Suite 7814
New York, New York 10118
(212) 239-4162

New York, New York
June 10, 2002

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING
DEPOSITED WITH THE UNITED STATES POSTAL SERVICE
AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO:
COMMISSIONER FOR TRADEMARKS, 2900 CRYSTAL DRIVE,
ARLINGTON, VA 22202-3513, ON THE DATE INDICATED
BELOW.

NAME Alan H. Levine

DATE June 10, 2002

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing NOTICE
OF RELIANCE UNDER RULE 2.122(j) has been sent this 10th day of
June, 2002, by first class mail, postage prepaid to:

Elizabeth S. McClure, Esq.
Bowie & Jensen, LLC
29 W. Susquehanna Avenue
Towson, Maryland 21204-5274

Grace M. Tufino
Grace M. Tufino



①
UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

MARCH 29, 1999

PTAS

LEVINE & MANDELBAUM
ALAN H. LEVINE
EMPIRE STATE BUILDING - SUITE 7814
350 FIFTH AVENUE
NEW YORK, NEW YORK 10118

[REDACTED]
100925276A

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 09/28/1998

REEL/FRAME: 1827/0468
NUMBER OF PAGES: 4

BRIEF: ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL

ASSIGNOR:
SMITH, BERNARD T.

DOC DATE: 08/31/1998
CITIZENSHIP: UNITED STATES
ENTITY: INDIVIDUAL

ASSIGNEE:
INFORMATION BUILDERS, INC.
2 PENN PLAZA
NEW YORK, NEW YORK 10001

CITIZENSHIP: NEW YORK
ENTITY: CORPORATION

APPLICATION NUMBER: 74360016
REGISTRATION NUMBER: 2223450

FILING DATE: 02/18/1993
ISSUE DATE: 02/16/1999

MARK: FOCUS FORECASTING
DRAWING TYPE: WORDS, LETTERS, OR NUMBERS IN TYPED FORM

1827/0468 PAGE 2

APPLICATION NUMBER: 74537859
REGISTRATION NUMBER: 2223457

FILING DATE: 06/15/1994
ISSUE DATE: 02/16/1999

MARK: FOCUS FORECASTING
DRAWING TYPE: WORDS, LETTERS, OR NUMBERS IN TYPED FORM

SHAREILL COLES, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS

11/21/98

Form PTO-1594
1-31-92

12-21-1998



100925276

U.S. Department of Commerce
Patent and Trademark Office

EET
Y

To the Honorable Commissioner of Patents and T.

word the attached original documents or copy thereof.

1. Name of conveying party(ies): Bernard T. Smith

- Individual(s) Association
- General Partnership Limited Partnership
- Corporation-State
- Other

Additional name(s) of conveying parties attached? yes no

3 Nature of Conveyance:

- Assignment Merger
- Security Agreement Change of Name
- Other

Execution Date: August 31, 1998

2. Name and address of receiving party(ies)

Name: Information Builders, Inc.
Internal Address:
Street Address: 2 Penn Plaza
City: New York State: NY ZIP: 10001

- Individual(s) citizenship -
- Association
- General Partnership
- Limited Partnership
- Corporation-State - New York
- Other

If assignee is not domiciled in the United States, a domestic representative designation is attached: Yes No
(Designation must be a separate document from Assignment)
Additional names & addresses attached? Yes No

4. Application number(s) or registration number(s):

A. Trademark Application No.(s): 74/360,016; 74/537,859

B. Trademark Registration No.(s)

Additional numbers attached? Yes No.

5. Name and address of party to whom correspondence concerning the document should be mailed:

Name: Alan H. Levine
Howard F. Mandelbaum
Levine & Mandelbaum

Internal Address: Suite 7814
Empire State Building

Street Address: 350 Fifth Avenue

City: New York State: NY ZIP: 10118

6. Total number of applications and registrations involved:[2]

7. Total Fee (37 C.F.R. 3.41).....\$65.00

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number: 06-0735

(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Alan H. Levine
Name of Person Signing

Alan H. Levine
Signature

12/14/98
Date

Total number of pages comprising cover sheet: [1]

OMB No. 0651-0011 (exp. 4/94)

Do not detach this portion

Mail documents to be recorded with required cover sheet information to :

Commissioner of Patents and Trademarks
Box Assignments
Washington D.C. 20231

Public burden reporting for this sample cover sheet is estimated to average about 30 minutes per document to be recorded, including time for reviewing the document and gathering the data needed and completing and reviewing the sample cover sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Office of Information Systems, PK2-1000C, Washington D.C. 20231, and to the Office of Management and Budget, Paperwork Reduction Project, (0651-0011), Washington D.C. 20503

LEVINE & MANDELBAUM

ATTORNEYS AT LAW
EMPIRE STATE BUILDING
SUITE 7814
350 FIFTH AVENUE
NEW YORK, N.Y. 10118

ALAN H. LEVINE
HOWARD F. MANDELBAUM

September 25, 1998

PATENTS AND TRADEMARKS
TELEPHONE: 212-239-4162
TELECOPIER: 212-620-4204

RECEIVED
1998 SEP 28 PM 12:22
FINANCE

Box Assignment
Commissioner of Patents and Trademarks
Washington, D.C. 20231

Re: Assignment of Trademark and Service Mark FOCUS FORECASTING

Sir:

Enclosed is an assignment of the following pending applications:

<u>Serial No.</u>	<u>Filing Date</u>
74/360,016	February 18, 1993
74/537,859	June 15, 1994

covering the service mark and trademark FOCUS FORECASTING, from the applicant, Bernard T. Smith, to Information Builders, Inc.

Please record the assignment so that these applications will stand in the name of Information Builders, Inc.

A check for \$65.00 to cover the recording fee is also enclosed. Please return the recorded assignment to the undersigned attorney.

65 E

Respectfully,

Alan H. Levine
Alan H. Levine

10/07/1998 TDM11 00000190 74360016

01 FC:481 40.00 OP
02 FC:482 25.00 OP

AHL/gmt
Enclosures

I DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS
FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO:
COMMISSIONER OF PATENTS AND TRADEMARKS, WASHINGTON,
D.C., 20231, ON THE DATE INDICATED BELOW.

Shae R. Tufino

DATE September 25, 1998

ASSIGNMENT OF TRADEMARK AND SERVICE MARK

BERNARD T. SMITH, a citizen of the United States, residing at 322 N. 11th Street, Flagler Beach, FL 32136, is the owner of the following Patent and Trademark Office Applications for Registration covering the service mark and trademark FOCUS FORECASTING.

<u>Serial No.</u>	<u>Filing Date</u>
74/360,016	February 18, 1993
74/537,859	June 15, 1994

INFORMATION BUILDERS, INC., a corporation of New York having a place of business at 2 Penn Plaza, New York, New York, 10001, is desirous of acquiring said service mark and trademark, and the applications for registration thereof.

For and in consideration of the sum of One (\$1.00) Dollar and other valuable consideration, the receipt of which is hereby acknowledged, BERNARD T. SMITH, by these presents does sell, assign, and transfer unto INFORMATION BUILDERS, INC. the entire right, title and interest in and to the service mark and trademark FOCUS FORECASTING, and the United States applications for registration thereof, together with that part of the good will of the business connected with the use of and symbolized by said marks.



Bernard T. Smith

STATE OF FLORIDA)

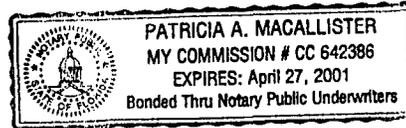
COUNTY OF *County of*)
Flagler

SS.:

Before me personally appeared said Bernard T. Smith and acknowledged the foregoing instrument to be his free act and deed this 31 day of *August*, 1998. *presented FLORIDA Drivers License # 5530-098-38-337-0*

Patricia A. MacAllister

Notary Public



UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

PWC

Mailed: June 3, 2002

Opposition No. 91-121,337
Opposition No. 91-121,338

INFORMATION BUILDERS,
INC.

v.

UNIFOCUS, INC.

Peter Cataldo, Interlocutory Attorney

On September 6, 2001, the Board issued an order (1) accepting applicant's amendments (filed May 4, 2001) to application Serial Nos. 75/606,777 and 75/606,778, at issue herein, to delete the goods identified under International Class 9; and (2) dismissing the above-referenced, consolidated oppositions as moot.¹ It has come to the Board's attention that, due to an inadvertence, the amendments were not entered into the application files.²

In view thereof, the application files for the involved applications are being forwarded to the appropriate branch of this Office for entry of the amendments and issuance of amended registration certificates.

¹ The instant oppositions were brought solely against the applications with regard to the goods identified in Class 9; the services recited in Class 35 were not subject thereto.

² The applications have subsequently matured to registration.

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Cataldo
2001

Mailed: September 6,

Opposition No. 91-121,337

Opposition No. 91-121,338

INFORMATION BUILDERS,
INC.

v.

UNIFOCUS, INC.

On May 4, 2001, applicant filed a proposed amendment to its application Serial Nos. 75/606,777 and 75/606,778, with an allegation of opposer's consent.

By the proposed amendment applicant seeks to change the identification of goods by deleting the goods in Class 9. The recitation of Class 35 services remains unchanged in both applications.

Inasmuch as the amendment is clearly limiting in nature as required by Trademark Rule 2.71(a), and because opposer has not objected thereto, it is approved and entered. See Trademark Rule 2.133(a).

Inasmuch as opposer, in the above-referenced consolidated opposition proceedings, opposes registration of the applications at issue therein only in Class 9, Opposition Nos. 121,337 and 121,338 are hereby dismissed as moot.

By the Trademark Trial

MYERS & ASSOCIATES
INTELLECTUAL PROPERTY LAW, P.C.

COPY

1827 Powers Ferry Road
Building 3 Suite 200
Atlanta, GA 30339

PATENTS, TRADEMARKS, COPYRIGHTS
AND RELATED MATTERS

TELEPHONE (770) 541-7444
FACSIMILE (770) 541-7448
EMAIL: MYERSIPLAW@AOL.COM

May 4, 2001

Box TTAB – NO FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Re: Opposition Nos.: 121,337 & 121,338
Information Builders, Inc. v. Unifocus, Inc.
Our Reference No.: 11743.1007378 & 011743.1007375

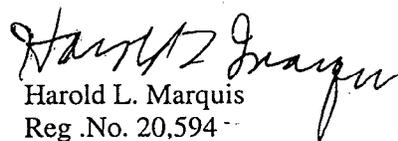
Dear Sir:

Enclosed are amendments to application serial numbers 75/606,777, UNIFOCUS and design, and 75/606,778, UNIFOCUS, amending the applications to delete the services under International Class 9. Both of the oppositions were based solely upon International Class 9.

It is respectfully requested that these applications be returned to the Examiner for the entering of these amendments. Counsel for the Opposer in both of these oppositions, Mr. Alan Levine, has stated that he will withdraw both oppositions once these amendments have been entered.

Enclosed please find the following documents for filing: (1) Amendment and Response to applications serial nos. 75/606,777, (2) Amendment and Response 75/606, 778 (3) and return post card.

Sincerely,


Harold L. Marquis
Reg .No. 20,594

HLM/lb
Enclosures

cc: Alan Levine
Levine & Mandelbaum
Empire State Building, Suite 7814
350 Fifth Avenue
New York, NY 10118

Trademark
Docket No.: 011743.107375

COPY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
UNIFOCUS, INC.)	Trademark Attorney: Gilbert, R.
)	
Serial No.: 75/606,778)	Law Office: 103
)	
Filed: December 10, 1998)	
)	
For: UNIFOCUS)	

RESPONSE AND AMENDMENT

Assistant Commissioner for Trademarks
Box NO FEE
2900 Crystal Drive
Arlington, Virginia 22202-3513

4 May 2001

Sir:

Opposition No. 121,338 is currently pending against the above trademark in respect to International Class 9. In a telephone conversation with Alan Levine, Counsel of the Opposer, Information Builders, Inc. on April 24, 2001, Mr. Levine agreed to withdraw the opposition of this application when amended to delete services described in International Class 9.

AMENDMENT

Please amend the above application to delete the services described under International Class 9.

RESPONSE

Once this amendment has been entered and the opposition withdrawn it is respectfully requested that the above mark be registered on the Principal Register.

Respectfully submitted,



Harold L. Marquis, Esq.
Reg. No. 20,594

Trademark
Docket No.: 011743.107375

COPY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
UNIFOCUS, INC.)	Trademark Attorney: Gilbert, R.
)	
Serial No.: 75/606,777)	Law Office: 103
)	
Filed: December 10, 1998)	
)	
For: UNIFOCUS and design)	

RESPONSE AND AMENDMENT

Assistant Commissioner for Trademarks
Box NO FEE
2900 Crystal Drive
Arlington, Virginia 22202-3513

4 May 2001

Sir:

Opposition No. 121,337 is currently pending against the above trademark in respect to International Class 9. In a telephone conversation with Alan Levine, Counsel of the Opposer, Information Builders, Inc. on April 24, 2001, Mr. Levine agreed to withdraw the opposition of this application when amended to delete services described in International Class 9.

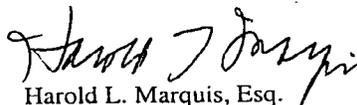
AMENDMENT

Please amend the above application to delete the services described under International Class 9.

RESPONSE

Once this amendment has been entered and the opposition withdrawn it is respectfully requested that the above mark be registered on the Principal Register.

Respectfully submitted,


Harold L. Marquis, Esq.
Reg. No. 20,594