

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

Intel Corporation

Opposer,

v.

Steven Emeny

Applicant

§
§
§
§
§
§
§
§
§
§
§
§

Opposition NO.: 123312

Applicant Serial No.
75/825,218

International Classes: 35, 38, and 42

Published: April 24,2001

Opposed Mark: IDEAS INSIDE

STEVE EMENY'S TRIAL BRIEF



03-27-2006

TABLE OF CONTENTS

<u>PAGE</u>	<u>PAGE NO.</u>
INTRODCUTION.....	4-6
DESCRIPTION OF THE RECORD.....	6
STATEMENT OF THE ISSUES.....	7
RECITATION OF THE FACTS.....	7-8
ARGUMENT.....	8-10
CONCLUSION.....	11-12

TABLE OF AUTHORITIES

CASES

TREATISES

J. Thomas McCarthy, 3 McCarthy on Trademarks and Unfair Competition
§ 19:14 (4th ed. 2004).....10

1. INTRODUCTION

The Applicant, Steve Emeny, filed the IDEAS INSIDE Application No. 75/825,218 on November 5, 1999. It is an Application that is distinctly different from that filed in Canada. The mark IDEAS INSIDE was conceived during the birth of the internet when companies such as America Online, Amazon, Napster, E-Trade and Dell were exploding onto the World Wide Web landscape preparing to pioneer the information age revolution. New ideas for business coupled with ever increasing computing power created an atmosphere where there was an insatiable appetite for new products and services. IDEAS INSIDE was positioning itself to be one of those pioneering companies. There was a need to find new ideas, new products and services that catered to this new business marketplace and www.ideasinside.com was going to satisfy that need.

The Applicant, Steve Emeny, is an entrepreneur and this fresh and exciting online landscape inspired him to conceive of and develop business models that would thrive on the World Wide Web. The Applicant went forth and applied for original and unique legal Trademarks that would be specifically related to the developing internet world and represent his businesses in the internet age. Three of those unique trademarks went on to be registered in the Canadian Intellectual Property Office.

In 2001, Intel Corporation Opposed the IDEAS INSIDE mark. The Intel Corporation put forth the notion that somehow the IDEAS INSIDE mark which was specifically designed for the information age was confusing and would dilute the mark INTEL INSIDE which had been representing microprocessors since the early 1990's.

The Applicant, Steve Emeny, reviewed the Opposition from a common sense perspective and could see no confusion between the two marks that would prevent the granting of the mark IDEAS INSIDE.

However there was a huge distinction between the Applicant and INTEL CORPORATION. The Applicant is a small business with limited resources that relies on it's ideas and innovation to prosper. Conversely the INTEL CORPORATION is the world's largest microprocessor company. A company worth billions of dollars and virtually limitless resources.

Rather than abandon the IDEAS INSIDE Trademark, which in the belief of the Applicant is an extremely valuable mark, the Applicant decided to stick up for the belief that when in the right a smaller business entity should not be intimidated and forced to submit due to the fact that it does not have the resources for a full out legal battle with the INTEL CORPORATION.

With that in mind common sense logic dictated that the matter would have to be settled before the courts. Intel's Opposition forced, except for maintenance of the domain names, the Applicant's original businesses to be put on hold until the outcome of this Opposition. The case is based on the trademark names, the wares listed and the channel of trade, nothing else. Therefore when asked by Intel for business plan information regarding IDEAS INSIDE the Applicant refused based on proprietary information considerations.

The evidence clearly establishes that; the Applicant, Steve Emeny, is an entrepreneur, the trademarks filed are all original and there is no evidence that an attempt was made to stockpile trademarks, the Applicant has three registered trademarks in Canada proving

that the intent to follow through on the business is bona fide. The Applicant, Steve Emeny, was forced to hold off on the launch of IDEAS INSIDE until the Opposition matter was settled by the court. It is also clear that there is a bona fide intent to use this mark as it's creation, development and submission for trademark would not have been undertaken unless there was a bona intent to use it.

The launch of IDEAS INSIDE was delayed due to the INTEL CORPORATIONS Opposition.

Furthermore, evidence unavailable prior to January 2006 proves that Intel no longer uses the trademark names listed in the original Opposition. Intel has embraced a totally new Brand Architecture that in essence reinvents the company and voids use of those trademarks listed in the Opposition.

Given that the Applicant is a bona fide entrepreneur with three Canadian registered trademarks and many exciting and unique ideas waiting to come to market, coupled with the belief that IDEAS INSIDE is not confusing with the Intel mark INTEL INSIDE and that Intel no longer uses those trademarks listed in the opposition, the Board should refuse Intel's Opposition and rule in favour of the Applicant's IDEAS INSIDE mark.

II. DESCRIPTION OF THE RECORD

- 1) DEF'S RESPONSE TO PL'S MOT FOR SUMMARY JUDGMENT; REQUEST FOR SUMMARY JUDGMENT AGAINST PL
- 2) D'S OPPOSITION/RESPONSE TO MOTION

III. STATEMENT OF THE ISSUES

The issue before the Board is whether the Applicant set out to deceive the marketplace by conjuring up a Trademark that would harm another businesses Trademark. In addition the Board must determine whether the Applicant has a Bona Fide Intent to use the mark IDEAS INSIDE.

IV. RECITATION OF FACTS

A. Steve Emeny

Steve Emeny is an Entrepreneur who is very excited about the opportunities that the internet provides. He has conceived and developed several businesses and is looking forward to their launch once the INTEL OPPOSITION is settled.

Steve Emeny worked at American Express for 18 years in telecommunications. He has completed a 6 month multimedia development/web page design course. In addition he has completed a Small Business Management course and needs two more credits to complete a marketing certificate from the University of Toronto. Coupled with his work experience and educational background he possesses a keen entrepreneurial spirit and insight to developing trends in the marketplace.

B. Intel Corporation

Intel Corporation founded in 1968 is the world's largest microprocessor manufacturer. It embarked on an INTEL INSIDE campaign in 1991 to inform the world that it was a microprocessor manufacturing company. The mark INTEL INSIDE was in the marketplace long before the birth of the internet. As a result of the internet the INTEL

Corporation has had to evolve and makeover the company to meet new marketplace demands such as business growth. As a result of the INTEL makeover the company that launched the Opposition has been totally revamped and now embraces a new BRAND ARCHITECTURE to identify the new company. It no longer uses the INTEL INSIDE mark on it's microprocessors.

Also, in the INTEL CORPORATIONS TRIAL BRIEF- Page 5, par. 1, INTEL states that the Applicant has filed twenty Canadian ITU Applications and that none have matured to registration. This is false. The Applicant has three registered trademarks in Canada. This information was made known to Intel 02/28/2005 in

DEF'S RESPONSE TO PL'S MOT FOR SUMMARY JUDGMENT; REQUEST FOR SUMMARY JUDGMENT AGAINST PL, pg 4 par 1.

INTEL's misuse of the facts a second time illustrates a lack of good faith in these proceedings.

V. ARGUMENT

The Applicant, Steve Emeny, conceived, developed and filed an application for the mark IDEAS INSIDE. All the trademarks registered by the Applicant are unique and cater to the internet economy. Review of Applicant's trademarks clearly makes evident that his concepts are original and are not in any way, shape or form influenced by other businesses. When the Applicant's information is taken into account it is clear that creativity exists, motivation exists and, knowledge of business practices exist. These building blocks when looked at together show a business person who is intent on building a business.

Upon commencement of the opposition by Intel the Applicant believed wholeheartedly

that it was obvious that there was no confusion and that there was no dilution of the INTEL mark INTEL INSIDE. For this reason the Applicant did not vigorously pursue any cross examination of the Opposer.

B. Applicant Maintains a Bona Fide Intent to use the Mark IDEAS INSIDE

I. The Applicant conceived of the mark during a time when the business community was exploding with activity and new businesses were racing to get funding to launch a new concept on the internet. Anything was possible during that time and people were very protective of their business plans for they could have the next big success on the World Wide Web. Hence, it was in this environment that the original mark IDEAS INSIDE was conceived, developed and an application filed for its use. The Applicant was intent on preparing the launch of the IDEAS INSIDE business when it was Opposed by the Intel Corporation.

The Opposer states in its TRIAL BRIEF, pg. 10, par 1, that the ‘Applicant applied for the mark for a wide variety of services simply in order to preclude others from registering and rightfully using the mark.’”

In response the Applicant questions the term ‘others’ in this statement. Such a statement presupposes that there is another party and or parties that would be interested in using the mark IDEAS INSIDE. To date there has been no indication of other interest in the mark IDEAS INSIDE. Furthermore to suggest that the sole motivation for the Applicant is to register a unique and original trademark, a trademark that only means something to the Applicant, for the sole purpose of preventing someone else from using it is at best misguided. More specifically to suggest that the Applicant willfully set out to

conceive of a mark and register that mark prior to the INTEL CORPORATION solely for the purpose of preventing Intel from using that mark has no rational basis. Additionally, as evidenced by its Opposition Intel is not interested in using the mark IDEAS INSIDE nor for that matter is any other entity.

Lastly, in an effort to shine light on this argument, if a mark X (IDEAS INSIDE) is filed and it has no connection to mark Y (INTEL INSIDE) should Mark Y (INTEL INSIDE) be allowed to influence the decision of whether or not mark X (IDEAS INSIDE) has a Bona Fide intent to use mark X (IDEAS INSIDE)? The answer is no.

II. In the Opposer's TRIAL BRIEF on pg. 11, par. 3, the Opposer refers to the Senate Judiciary Committee Report on S. 1883, S. Rep. No. 100-515, pp. 23-24 (Sept. 15, 1998) as examples of circumstances that may cast doubt on the bona fide nature of the intent or disprove it entirely.

The circumstances include amongst others, where applicant has filed:

1) numerous intent-to-use applications for a variety of desirable marks to be used on a single product. In response to this circumstance it is clear that the marks filed for, by the Applicant, have no objective basis for being identified as desirable.

2) An excessive number of intent to use applications to register marks which ultimately were not actually used. In response to this circumstance the Applicant has registered three trademarks in Canada which prove use of a mark. Secondly, other trademark applications were put on hold pending the settlement of the Intel Opposition.

VI. CONCLUSION

When the Applicant conceived of and filed the original trademark IDEAS INSIDE it was during a very special time in the history of the World Wide Web. The internet was exploding with new businesses. Entrepreneurs were scrambling to get financing to launch new businesses and technology was becoming faster and faster thus creating the infrastructure for the growth of the World Wide Web.

The mark IDEAS INSIDE succinctly represented what the Applicant believes the internet is all about, a new world, new products and ideas. There is and always will be a thirst for ideas. If you believe that ideas are the petroleum of the 21st century then the value of IDEAS INSIDE is evident. A simple exact location where ideas can be found in various forms such as books and music, exchanged in the form of chat rooms and blogs and developed in the form of new friends and alliances.

The Opposition by Intel has forced the postponement of the launch of IDEAS INSIDE. Considering the size of Intel and their resources it does not make sense to launch IDEAS INSIDE and become vulnerable to law suits. Common sense dictates that this is a matter best left for the courts to decide. Once the Opposition is settled it will be clear as to how to proceed.

The term IDEAS INSIDE is unique and original as are all the trademarks filed by the Applicant. IDEAS INSIDE, it is believed, has no connection and does not infringe or dilute Intel's mark INTEL INSIDE.

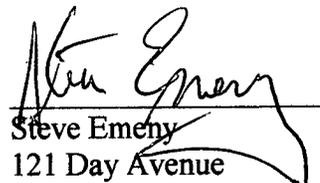
The Applicant's trademarks as a whole are evidence of an entrepreneur who is in tune with the new internet age. The fact that the Applicant has three registered trademarks in Canada is proof that there is a bona fide intent to see businesses through to fruition. The

actions of the Applicant; conceiving of an original mark, filing the original mark and pursuing it to fruition whether it is to registration or to the outcome of an Opposition proceeding indicate a commitment to the cause or a bona fide intent to pursue the mark. The filing of IDEAS INSIDE will have no impact on the Intel Corporation. There will be no confusion and/or dilution. As there is no direct impact on the mark INTEL INSIDE , INTEL has no right to question the intent of the Applicant. Intel is in the process of reinventing itself and no longer uses the INTEL INSIDE marks listed in the Opposition.

It is for the reasons listed above that the Applicant requests that the Board find in favor of the Applicant and allow the Applicant to pursue the dream of launching the successful business of IDEAS INSIDE.

Respectfully submitted,

Date: 03/20/06



Steve Emery
121 Day Avenue
Toronto, Ontario
M6E 3W1
(416) 651-7346

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing 'STEVE EMENY'S TRIAL BRIEF' was served on, BOBBY A. GHAJAR, HOWREY LLP, 2941 Fairview Park Drive Suites 200 and 300, Falls Church, VA 22042 UNITED STATES, ipdocketing@howrey.com, yaghmain@howrey.com, ghajarb@howrey.com, by First Class Mail, postage prepaid, this 20th day of March, 2006.



Steve Emeny 