

TTAB
Exhibits

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of
Trademark Application on Serial No. 75/925,313
Filed: February 9, 2000
Published: November 7, 2000
Mark: NETRAQ



04-05-2002

U.S. Patent & TMO/TM Mail Rpt. Dt. #40

SUN MICROSYSTEMS, INC.

Opposer,

Opposition No. 123,455

v.

MCM INTEGRATED
TECHNOLOGIES LTD.,

Applicant.

APR 12 AM 10:17

Express Mail mailing label No.	EV076180735US
Date of Deposit	April 5, 2002
I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to: Assistant Commissioner for Trademark, 2900 Crystal Dr., Arlington, VA 22202-3513.	
Judith G. Fowler	
(Type or Print Name of Person signing the certificate)	
(Signature of Person Signing the Certificate)	

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

**DECLARATION OF JEDEDIAH WAKEFIELD IN SUPPORT OF
OPPOSER SUN MICROSYSTEMS, INC.'S
MOTION TO COMPEL APPLICANT'S PRODUCTION OF DOCUMENTS
AND RESPONSES TO INTERROGATORIES AND TO EXTEND
TESTIMONY PERIODS**

I, Jedediah Wakefield, declare as follows:

1. I am an attorney duly admitted to practice law in the State of California and before the United States District Courts for the Northern, Southern, Eastern and Central Districts of

California. I am an associate at the law firm of Fenwick & West LLP, counsel for Opposer Sun Microsystems, Inc. ("Sun" or "Opposer") in the above-captioned proceeding. I make this declaration of my own personal knowledge, and, if called as a witness, I could and would testify competently to the facts set forth herein.

2. On February 5, 2002, Opposer served interrogatories on Applicant. Attached hereto as Exhibit 1 is a true and correct copy of Opposer's First Set of Interrogatories.

3. On February 5, 2002, Opposer also served document requests on Applicant. Attached hereto as Exhibit 2 is a true and correct copy of Opposer's First Set of Requests for Production of Documents and Things.

4. On February 5, 2002, Opposer also served a Request for Admissions on Applicant. Attached hereto as Exhibit 3 is a true and correct copy of Opposer's First Set of Requests for Admissions.

5. Attached hereto as Exhibit 4 is a true and correct copy of the Affidavit In Response Interrogatories [sic] of the Applicant, MCM Integrated Technologies LTD, dated March 6, 2002.

6. Attached hereto as Exhibit 5 is a true and correct copy of the Affidavit In Response Production [sic] of Documents and Things of the Applicant, MCM Integrated Technologies LTD., dated March 6, 2002.

7. Attached hereto as Exhibit 6 is a true and correct copy of the Affidavit In Response Admissions [sic] of the Applicant, MCM Integrated Technologies LTD., dated March 6, 2002.

8. In Applicant's responses to Opposer's interrogatories and document requests attached as Exhibits 4 and 5, above, Applicant refuses to provide responses or to produce any documents in response to several document requests and interrogatories, and provides only partial responses to other requests. Applicant refuses to provide complete responses or flatly refuses to provide the requested information or documents in response to Opposer's interrogatory Nos. 8-13, 23 and 26, and document request Nos. 7, 13, 16, and 17. Applicant's responses

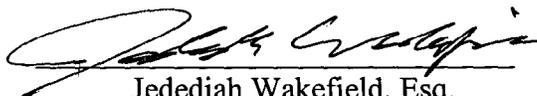
contain no objections that the requests are overbroad, unduly burdensome, call for irrelevant information, seek privileged materials, or are otherwise improper in any way. The only basis claimed by Applicant for its refusal to respond to Opposer's discovery requests is an apparent confidentiality concern, stemming from Applicant's claim that the parties' products are directly competitive.

9. After reviewing Applicant's discovery responses, I sent a letter to Applicant's counsel, Richard Nielsen, in the hope of resolving this discovery dispute. To address Applicant's confidentiality concerns, I proposed that the parties enter into the TTAB's standard protective order. Attached hereto as Exhibit 7 is a true and correct copy of a letter I sent to Richard C. Nielsen on April 1, 2002, and the accompanying proposed order.

10. On April 3 and April 4, 2002, I spoke with Mr. Nielsen via telephone in an attempt to resolve this discovery dispute. In a telephone conversation on April 4, 2002, Mr. Nielsen advised me that Applicant had refused to enter into the proposed Protective Order, and had refused to provide any further responses to interrogatories or documents. During our conversation, I stated that the discovery requests at issue were standard in such proceedings, and that they called for relevant and discoverable information and materials. At no time did Mr. Nielsen claim that Applicant believed any of the requests were overbroad, unduly burdensome, called for irrelevant or privileged information, or were otherwise improper in any way. When I advised Mr. Nielsen that the Board was likely to order Applicant to produce the requested documents and respond to the outstanding interrogatories if Opposer were forced to bring a motion to compel, Mr. Nielsen responded that Opposer would "have to jump through that hoop" to get the requested information and documents.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct, and that this declaration was executed in San Francisco, California on April 5, 2002.

Dated: April 5, 2002



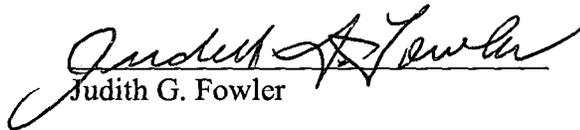
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Attorneys for Opposer
SUN MICROSYSTEMS, INC.

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Declaration of Jedediah Wakefield In Support of Opposer's Motion to Compel and to Extend Testimony Period was served this 5th of April, 2002, by first class mail, postage prepaid, upon:

Richard C. Nielsen, Barrister & Solicitor, Stewart, Aulinger & Company, 1200 -805 West Broadway, Vancouver, British Columbia, V5Z 1K1, Canada


Judith G. Fowler