

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



08-25-2003

U.S. Patent & TMO/TM Mail Rcpt Dt. #22

In the Matter of Application Serial No. 76/201,442  
Filed January 29, 2002  
Mark: THINK! COMPUTER PRODUCTS  
Published in the Official Gazette of March 26, 2002

THINK COMPUTER CORPORATION,  
Opposer,

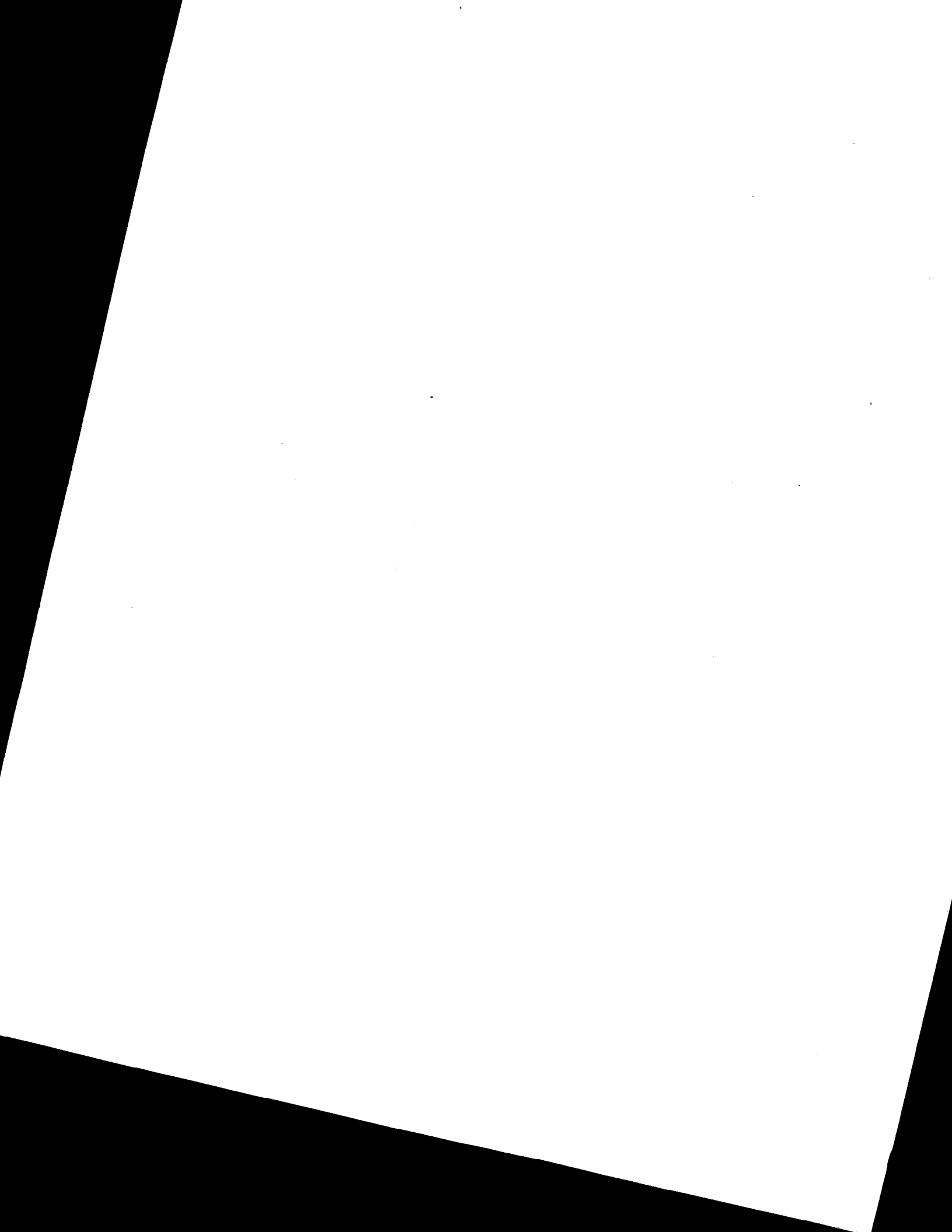
vs.

H. CO. COMPUTER PRODUCTS, INC.,  
Applicant.

Opposition No. 125,553

**APPLICANT'S NOTICE OF RELIANCE ON OPPOSER'S RESPONSES TO  
APPLICANT'S INTERROGATORIES**

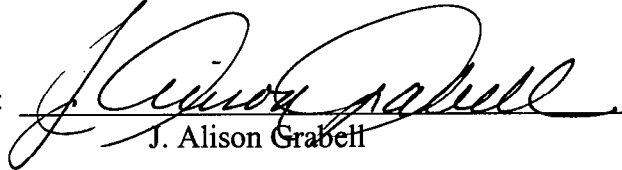
To Fredrikson & Byron, P.A., attorneys of record for Opposer Think Computer Corporation, please take notice that, pursuant to 37 CFR § 2.120(j)(3)(i) and TBMP § 710, Applicant relies on Opposer's responses to Applicant's First Set of Interrogatories numbered 3-8, 10, 13, and 26; Opposer's Supplemental Responses to Applicant's First Set of Interrogatories numbered 32; and Opposer's Responses to Applicant's Second Set of Interrogatories numbered 47 and 49; all attached hereto. The responses are relevant to Applicant's claims of priority and no likelihood of confusion.



2/15/2003 11:45 AM  
Dated: August 22, 2003

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By:

  
J. Alison Grabell

Attorneys for Applicant

H. CO. COMPUTER PRODUCTS, INC.

10940 Wilshire Boulevard  
18<sup>th</sup> Floor  
Los Angeles, California 90024  
Telephone: (310) 209-4400  
Facsimile: (310) 209-4450

07/15/2008 09:17:17 AM

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

Think Computer Corporation

Opposer,

Opposition No. 125,553

(Serial No. 76/201,442)

v.

Re Mark: THINK! COMPUTER PRODUCTS

H. Co. Computer Products, Inc.,

Applicant.

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**OPPOSER'S RESPONSES TO APPLICANT'S INTERROGATORIES**

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Opposer Think Computer Corporation ("Think") hereby responds to the interrogatories propounded by applicant H. Co. Computer Products, Inc. ("H. Co.").

**GENERAL OBJECTIONS**

Think interposes the following general objections to H. Co.'s interrogatories:

1. Think objects generally to all of H. Co.'s definitions and instructions to the extent that they purport to impose upon Think discovery obligations beyond those imposed by the Federal Rules of Civil Procedure, as applicable under 37 CFR § 2.210.

2. Think objects generally to all of H. Co.'s interrogatories to the extent that they seek information that is protected from disclosure by the attorney-client or attorney work product privileges.

3. Think objects generally to all of H. Co.'s interrogatories to the extent that they seek the disclosure of information that is not currently in Think's possession, custody, or control. Think reserves the right to rely upon and introduce at trial or in any pre-trial proceeding any information

obtained after the service of its responses to these interrogatories, subject to Think's obligations under Rule 26 of the Federal Rules of Civil Procedure to supplement these responses. Think has not yet completed its investigation or discovery in this case and reserves the right to rely upon and introduce at trial or in any pre-trial proceeding any information obtained after the service of its responses to these interrogatories, subject to Think's obligations under Rule 26 of the Federal Rules of Civil Procedure to supplement these responses.

4. Think objects generally to all of H. Co.'s requests to the extent that they seek the disclosure of information that is confidential or proprietary to Think. Think will disclose any such information subject to the entry of an appropriate protective order.

### **RESPONSES TO INTERROGATORIES**

#### **INTERROGATORY NO. 1:**

Identify the State in the United States in which Opposer is incorporated, state the date Opposer was incorporated, and list the State(s) in the United States in which Opposer is qualified or licensed to do business.

#### **RESPONSE TO INTERROGATORY NO. 1:**

Think responds as follows: Think was incorporated on April 29, 1998 in Ohio. Think is qualified or licensed to do business in Ohio.

#### **INTERROGATORY NO. 2:**

Identify all present and past officers and directors of Opposer since the date of incorporation requested in Interrogatory No. 1 and their terms of office; all managerial employees of Opposer involved in any way in the origin, selection, first and current use of Opposer's Mark, or in the subject matter of the present proceeding, and their length of employment; all parent, subsidiaries,

divisions, subdivisions, affiliates or other business units that use or will use Opposer's Mark; and any predecessor-in-interest from whom Opposer acquired rights in Opposer's Mark.

**RESPONSE TO INTERROGATORY NO. 2:**

Think interposes its General Objection Nos. 1 and 4. Without waiving those objections,

Think responds as follows:

Aaron Greenspan, President & CEO, Think Computer Corporation, 20560 Shelburne Road, Shaker Heights, Ohio 44122; April 29, 1998 – present; serves at the pleasure of the Board of Directors;

Neil Greenspan, Vice-President, Think Computer Corporation, 20560 Shelburne Road, Shaker Heights, Ohio 44122; April 29, 1998 – present; serves at the pleasure of the Board of Directors;

With respect to managerial employees:

Timothy Suen, Director of Research & Development, Think Computer Corporation, 20560 Shelburne Road, Shaker Heights, Ohio 44122; June 25, 2001 – present;

With respect to parent, subsidiaries, divisions, subdivisions, affiliates or other business units:

None;

With respect to predecessor-in-interest:

Aaron Greenspan DBA TroubleShooting, Think! Technologies, Think! International, Think Computer Company, Sole Proprietor, 20560 Shelburne Road, Shaker Heights, Ohio 44122.

*Think Comp.*

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**INTERROGATORY NO. 3:**

State the date of first use of Opposer's Mark by Opposer on or in connection with any good or service and identify the good or service on or in connection with which Opposer's Mark was used on that date.

**RESPONSE TO INTERROGATORY NO. 3:**

Think imposes its General Objections Nos. 1, 2, 3, and 4. Think specifically objects that the question calls for a legal conclusion. Without waiving these objections, Think states as follows: Think claims rights in Opposer's Mark from at least as early as November 17, 1996 in connection with computer repair services and rights in THINK-derivative marks from at least as early as February 10, 1995 in connection with computer software.

**INTERROGATORY NO. 4:**

State the date of first use of Opposer's Mark in interstate commerce by Opposer on or in connection with any good or service and identify the good or service on or in connection with which Opposer's Mark was used on that date.

**RESPONSE TO INTERROGATORY NO. 4:**

Think imposes its General Objections Nos. 1, 2, 3, and 4. Think specifically objects that the question calls for a legal conclusion. Without waiving these objections, Think states as follows: Think claims rights in Opposer's Mark from at least as early as November 17, 1996 in connection with computer repair services and rights in THINK-derivative marks from at least as early as February 10, 1995 in connection with computer software.

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**INTERROGATORY NO. 5:**

Identify and describe in detail each good sold and/or distributed or service rendered by Opposer, or which Opposer intends to sell and/or distribute or render, in connection with Opposer's Mark.

**RESPONSE TO INTERROGATORY NO. 5:**

Think interposes its General Objection No. 1, 3, and 4. Think further objects specifically to the Interrogatory on the grounds that it is overly broad, unduly burdensome and oppressive.

Without waiving those objections, Think responds as follows: personal computer systems; personal computer peripherals, namely, computers, computer hard disks, computer video cards, computer fax/modems, computer motherboards, computer disk drives, computer cables, computer disk drive controllers, computer monitors, computer cases, computer keyboards, computer mice, computer speakers; networking products, namely, network interface cards, combined fax/modem and network interface adapters, network interface adapters, network communications hubs, network communications routers, computer printer adapters for use in network printing, network cables, computer printer adapters for shared network usage; file servers dedicated to perform a single function and dedicated computer hardware and operating software instructional and user manuals sold therewith; network data servers, components and integrated operating system software, replacement parts for network data servers and components and integrated software for use with network data servers for storage applications, e-mail management, data storage management, data recovery, data backup, data replication and data availability, racks and cabinets for the accommodation of network data servers and components, power supplies, surge protectors; network attached storage devices comprising hard drives, disk drives, accompanying computers used to manage storage devices for storing, archiving and backup of data, computer storage enclosures and



components therefore, namely, chassis, disk drives, removable carriers for said disk drives, cables, terminators, controller, adapters, interface circuit boards, and interface software to monitor and control a chassis and the disk drives located therein; on-site service in which personnel perform installation, training, maintenance and other services on computer hardware, cabling, communications infrastructure, custom database development services; desktop publishing services; graphic design services; computer networking services; on-site computer training services; web site design services; web site hosting services; computer software, namely relational database systems, content management systems.

**INTERROGATORY NO. 6:**

For each good or service for which identification is requested in Interrogatory No. 5, state the date when Opposer commenced selling and/or distributing such good or rendering such service and describe all documents which evidence such date.

**RESPONSE TO INTERROGATORY NO. 6:**

Think interposes its General Objection Nos. 1, 2, 3, and 4. Think specifically objects on the grounds that the question calls for a legal conclusion. Think further objects specifically to the Interrogatory on the grounds that it is overly broad, unduly burdensome and oppressive. Without waiving these objections, Think responds as follows:

personal computer systems: at least as early as July 9, 1998, Dell reseller program facsimile;  
personal computer peripherals: at least as early as November 29, 1999, PC Connection affiliate program e-mail;  
networking products: at least as early as December 21, 1999, 3Com netWorking Partners program e-mail;

computer repair services: at least as early as June 26, 1995, Think Computer Corporation database;

custom database development services: at least as early as February 10, 1995, Think! School database;

desktop publishing services: at least as early as January 20, 1998, Think Computer Corporation web site 2.0;

graphic design services: at least as early as September 10, 1997, Think Computer Corporation database;

computer networking services: at least as early as January 20, 1998, Think Computer Corporation web site 2.0;

computer training services: at least as early as January 20, 1998, Think Computer Corporation web site 2.0;

web site design services: at least as early as September 7, 1997, Think Computer Corporation web site 1.0;

web site hosting services: at least as early as July 15, 2000, Think Computer Corporation database;

computer software: at least as early as July 16, 2002, Think Computer Corporation press release;

**INTERROGATORY NO. 7:**

Identify each and every channel of trade through which Opposer's goods or services for which identification is requested in Interrogatory No. 5 have been offered and describe all documents which evidence each such channel of trade.

**RESPONSE TO INTERROGATORY NO. 7:**

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Think interposes its General Objection Nos. 1, 3, and 4. Think further objects specifically to the Interrogatory on the grounds that it is overly broad, unduly burdensome and oppressive.

Without waiving these objections, Think responds as follows: Think has offered its products and services since its inception through word-of-mouth advertising, its web site as evidenced by the Think Computer Corporation database describing such on-site visits and records of activity on Opposer's web site, other web sites on the internet such as SurfingPrizes.com, and the periodical Harvard International Review.

**INTERROGATORY NO. 8:**

Identify all media publications in which Opposer has advertised and/or promoted the goods or services for which identification is requested in Interrogatory No. 5.

**RESPONSE TO INTERROGATORY NO. 8:**

Think interposes its General Objection Nos. 1 and 3. Without waiving those objections, Think responds as follows: Bridges.com CX: article describing independent computer consulting as a career opportunity as modeled by Think; Cleveland Jewish News: 2001; The Sun Press: 1997, 1998, two articles describing goods and services of Think; The Shaker Heights High School Oval: 1998; Cleveland Live!: 1998; The Plain Dealer: 1998, 2001, four articles describing goods and services of Think; Microsoft.com "/smallbiz": 1999; Inc. Magazine On-Line: 1999, article describing goods and services of Think and prominent display of Think name on message board; WhizTeens.com: 1999; The Christian Science Monitor: 1999; Shaker Magazine: 1999; XStartup.com: 1999, The Augusta Chronicle: 1999; Crain's Cleveland Business: 2000, 2001, two articles describing goods and services of Think; FamilyPC Magazine: 2000; InsideBusiness Magazine: 2000; Kohkoku (Japan): 2000; BusinessWeek: 2000, two articles describing goods and services of Think; LocalBusiness.com: 2000; The Counselor: 2000; Y&E Magazine: 2001;

Office.com: 2001; The Wall Street Journal: 2002; ComputerScene: 2001; The Jamaica Observer (Jamaica): 2001, 2002, two articles describing services of Think Computer Foundation; Harvard International Review: 2002, three inside-front-cover advertisements over five issues; The Wall Street Journal StartUp Journal: 2001; The Harvard Independent: 2002; The Boston Globe: 2003, the web sites located at the URLs <http://www.bright.net/~smsnet1/about/think.html> [off-line], <http://jgo.local.net/think> [off-line], <http://www.thinkcomputer.com>, <http://www.thinkcomputer.net>, <http://www.thinkservices.com>, <http://www.thinkaccessories.com>.

**INTERROGATORY NO. 9:**

State in dollars the amounts expended by Opposer on the advertisement and promotion of all goods and services under Opposer's Mark in each year since the first use of that Mark.

**RESPONSE TO INTERROGATORY NO. 9:**

Think interposes its General Objection Nos. 1, 3, and 4. Think is willing to provide this information upon entry of an appropriate protective order.

**INTERROGATORY NO. 10:**

Individually for each of Opposer's goods or services for which identification is requested in Interrogatory No. 5, explain in detail the classes of customers to whom Opposer Markets its services or goods.

**RESPONSE TO INTERROGATORY NO. 10:**

Think interposes its General Objection Nos. 1 and 4. Without waiving those objections, Think responds as follows:

personal computer systems: individuals, small businesses, medium-sized businesses, large businesses, educational institutions;

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personal computer peripherals: individuals, small businesses, medium-sized businesses, large businesses, educational institutions;

networking products: individuals, small businesses, medium-sized businesses, large businesses, educational institutions;

computer repair services: individuals, small businesses, medium-sized businesses, large businesses, educational institutions;

custom database development services: small businesses, medium-sized businesses, large businesses, educational institutions;

desktop publishing services: individuals, small businesses, medium-sized businesses, large businesses, educational institutions;

graphic design services: individuals, small businesses, medium-sized businesses, large businesses, educational institutions;

computer networking services: individuals, small businesses, medium-sized businesses, large businesses, educational institutions;

computer training services: individuals, small businesses, medium-sized businesses, large businesses, educational institutions;

web site design services: small businesses, medium-sized businesses, large businesses, educational institutions;

web site hosting services: individuals, small businesses, medium-sized businesses, large businesses, educational institutions;

computer software: individuals, small businesses, medium-sized businesses, large businesses, educational institutions, government institutions;

**INTERROGATORY NO. 11:**

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Describe in detail the nature of the goods that Opposer offers or markets or intends to offer of market to each class of Opposer's customers for whom identification is requested in Interrogatory No. 10.

**RESPONSE TO INTERROGATORY NO. 11:**

Think interposes its General Objection Nos. 1, 3, and 4. Without waiving those objections, Think responds as follows: *See* Response to Interrogatory Nos. 5, 10.

**INTERROGATORY NO. 12:**

State in dollars the gross revenues received for the sale of all goods and services under Opposer's Mark in each year since the first use of Opposer's Mark.

**RESPONSE TO INTERROGATORY NO. 12:**

Think interposes its General Objection Nos. 1, 3, and 4. Think is willing to provide information responsive to this interrogatory upon entry of an appropriate protective order.

**INTERROGATORY NO. 13:**

Describe in detail the process by which Opposer selected, created or adopted Opposer's Mark.

**RESPONSE TO INTERROGATORY NO. 13:**

Think interposes its General Objection Nos. 1, 2, 3, and 4. Without waiving those objections, Think responds as follows: Aaron Greenspan decided to use the term THINK and designed the graphical elements of the Think logo in magic marker at least as early as February 1995. He developed Opposer's Mark shortly thereafter following discussions with friends and family in approximately 1996. The Think logo and name were combined digitally to form Opposer's Mark.

**INTERROGATORY NO. 14:**

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State the name and business address of each person who was involved in any way in the development, selection or adoption of Opposer's Mark.

**RESPONSE TO INTERROGATORY NO. 14:**

Think interposes its General Objection Nos. 1 and 4. Without waiving those objections, Think responds as follows:

Aaron Greenspan, 20560 Shelburne Road, Shaker Heights, OH 44122;

Leila Keene, 1840 North Clark Street, Chicago, IL 60614;

Philip Wallach, 23538 Duffield Road, Shaker Heights, OH 44122.

**INTERROGATORY NO. 15:**

State the names and business addresses of each person with the most knowledge of the adoption and selection of Opposer's Mark.

**RESPONSE TO INTERROGATORY NO. 15:**

Think interposes its General Objection Nos. 1, 3, and 4. Think further objects specifically to this Interrogatory on the grounds that it is vague, ambiguous and unintelligible as to the meaning of the term "most knowledge." Think assumes that the term "most knowledge" was intended to refer to the persons at Think who have the most knowledge of the actual, prospective, or possible purchasers of the products and/or services sold under Opposer's Marks and will respond based on the foregoing assumption. Without waiving those objections, Think responds as follows:

Aaron Greenspan, President & CEO, 20560 Shelburne Road, Shaker Heights, OH 44122.

**INTERROGATORY NO. 16:**

State the names, titles and business addresses of each person with the most knowledge of the use of Opposer's Mark.

**RESPONSE TO INTERROGATORY NO. 16:**

Think interposes its General Objection Nos. 1 and 4. Without waiving those objections, Think responds as follows: *See* Response to Interrogatory No. 15.

**INTERROGATORY NO. 17:**

State the names and business addresses of each person with the most knowledge of the enforcement and defense of Opposer's Mark against infringement, unfair competition, dilution, or other improper use.

**RESPONSE TO INTERROGATORY NO. 17:**

Think interposes its General Objection Nos. 1 and 4. Without waiving those objections, Think responds as follows: *See* Response to Interrogatory Nos. 15 and 16.

**INTERROGATORY NO. 18:**

Identify all marks considered by Opposer prior to the selection, adoption and use of Opposer's Mark.

**RESPONSE TO INTERROGATORY NO. 18:**

Think interposes its General Objection Nos. 1, 2, 3, and 4. Think specifically objects to this interrogatory as irrelevant.

**INTERROGATORY NO. 19:**

—State the name and business address of each individual who was involved in any way in Opposer's decision to file Opposer's Application.

**RESPONSE TO INTERROGATORY NO. 19:**

Think interposes its General Objection Nos. 1, 2, 3, and 4. Without waiving those objects, Think responds as follows:

Aaron Greenspan, 20560 Shelburne Road, Shaker Heights, Ohio 44122;

Neil Greenspan, 20560 Shelburne Road, Shaker Heights, Ohio 44122.



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**INTERROGATORY NO. 20:**

State whether prior to filing Opposer's Application, Opposer conducted, or had conducted on its behalf, any trademark search or other investigation of the availability of Opposer's Mark for Opposer's use and/or registration.

**RESPONSE TO INTERROGATORY NO. 20:**

Think interposes its General Objection Nos. 1, 2, 3, and 4. Think specifically objects to this interrogatory as irrelevant and on the basis of the attorney-client and attorney work product privileges.

**INTERROGATORY NO. 21:**

If Opposer's response to Interrogatory No. 21 [sic] is anything other than an unqualified "no", state the name and business address of each person who was involved in any way in such search or investigation.

**RESPONSE TO INTERROGATORY NO. 21:**

Think interposes its General Objection Nos. 1, 2, 3, and 4. Think further objects specifically to the Interrogatory on the grounds that it is confusing and self-referential. Think assumes that "Interrogatory No. 21" is intended to refer to Interrogatory No. 20, and will respond on the foregoing assumptions. Without waiving those objections, Think responds as follows:

Aaron Greenspan, 20560 Shelburne Road, Shaker Heights, Ohio 44122.

Carl Gillombardo, Esq., McIntyre, Kahn, Kruse, & Gillombardo, 1301 E. Ninth Street, Suite 1200, Cleveland, OH 44114

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**INTERROGATORY NO. 22:**

If Opposer's response to Interrogatory No. 21 [sic] is anything other than an unqualified "no", identify any and all trademark searches or other investigation of the availability of Opposer's Mark for Opposer's use and/or registration.

**RESPONSE TO INTERROGATORY NO. 22:**

Think interposes its General Objection Nos. 1, 2, 3, and 4. Think further objects specifically to the Interrogatory on the grounds that it is confusing. Think assumes that "Interrogatory No. 21" is intended to refer to Interrogatory No. 20. Think specifically objects on the basis of attorney client privilege and attorney work product privilege.

**INTERROGATORY NO. 23:**

State the name and address of each person with whom Opposer has ever communicated orally or in writing regarding alleged improper use of Opposer's Mark.

**RESPONSE TO INTERROGATORY NO. 23:**

Think interposes its General Objection Nos. 1, 2, 3, and 4. Think specifically objects on the basis that the interrogatory is irrelevant. Think further objects specifically to this Interrogatory on the grounds that it is overly broad, unduly burdensome and oppressive. Without waiving those objections, Think responds as follows:

Bob Buskirk, [enigma5@thinkcomputers.org](mailto:enigma5@thinkcomputers.org)

**INTERROGATORY NO. 24:**

State whether any of Opposer's officers, directors, employees, or representatives knew of, had seen anywhere in the United States, in any retail or wholesale business establishment or store or media, on the Internet, or were otherwise aware of, Applicant's Marks when Opposer selected Opposer's Mark.

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**RESPONSE TO INTERROGATORY NO. 24:**

Think interposes its General Objection No. 1, 2, 3, and 4. Without waiving these objections, Think responds as follows: no.

**INTERROGATORY NO. 25:**

If Opposer's response to Interrogatory No. 25 [sic] is any thing other than an unqualified "no", state how and when each such person knew of, saw or otherwise became aware of, Applicant's Marks.

**RESPONSE TO INTERROGATORY NO. 25:**

Think interposes its General Objection Nos. 1 and 4. Think further objects specifically to this Interrogatory on the grounds that it is confusing and self-referential. Think assumes that "Interrogatory No. 25" is intended to refer to Interrogatory No. 24, and will respond on the foregoing assumptions. Without waiving those objections, Think responds as follows: *See* Response to Interrogatory No. 24.

**INTERROGATORY NO. 26:**

For all versions of Opposer's web site, state the dates on which each version was first accessible through the World Wide Web.

**RESPONSE TO INTERROGATORY NO. 26:**

Think interposes its General Objection Nos. 1, 3, and 4. Without waiving those objections, Think responds as follows:

Version 0.5	Approximately February 1, 1997
Version 1.0	Approximately August 31, 1997
Version 2.0	Approximately January 18, 1998
Version 3.0	Approximately October 17, 1998

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Version 4.0	Approximately May 8, 2001
Version 5.0	Approximately June 28, 2001
Version 6.0	February 23, 2002
Version 7.0	September 12, 2002

**INTERROGATORY NO. 27:**

State all facts on which Opposer bases its contention, as set forth in Paragraph 6 of its Notice of Opposition that “By reason of such advertising, promotion and widespread use, the public has come to recognize Opposer’s mark as signifying Opposer’s goods and Opposer.”

**RESPONSE TO INTERROGATORY NO. 27:**

Think interposes its General Objection Nos. 1, 3 and 4. Without waiving those objections, Think responds as follows: Think has received oral and written communications on multiple occasions indicating that the public has come to recognize Opposer’s mark as signifying Opposer’s goods and Opposer. Moreover, Think has been the subject to widespread media attention. *See also* response to Interrogatory No. 8.

**INTERROGATORY NO. 28:**

State all facts on which Opposer bases its contention, as set forth in Paragraph 7 of its Notice of Opposition that “Opposer’s mark is a strong mark and should be accorded the broad protection given to strong marks.”

**RESPONSE TO INTERROGATORY NO. 28:**

Think interposes its General Objection Nos. 1, 2, 3 and 4. Without waiving those objections, Think responds as follows: Opposer’s mark has appeared consistently and repeatedly in the press and in advertisements. Popular internet search engines routinely find Opposer’s mark. Certain publications have attempted to replicate Opposer’s mark for graphic elements in their articles.

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**INTERROGATORY NO. 29:**

State all facts on which Opposer bases its contention, as set forth in Paragraph 7 of its Notice of Opposition that “opposer’s [sic] mark is inherently distinctive, and one that the consuming public associates with Opposer.”

**RESPONSE TO INTERROGATORY NO. 29:**

Think interposes its General Objection Nos. 1, 2,3, and 4. Without waiving those objections, Think responds as follows: *See* Response to Interrogatory No. 28.

**INTERROGATORY NO. 30:**

State whether Opposer is aware of any instance in which any person has manifested the belief, in words, by conduct, or otherwise, that: (i) Opposer’s Mark is similar to one or more of Applicant’s Marks; or (ii) any of Opposer’s goods or services for which identification is requested in Interrogatory No. 5 are associated with or sponsored by Applicant.

**RESPONSE TO INTERROGATORY NO. 30:**

Think interposes its General Objection Nos. 1 and 4. Without waiving those objections, Think responds as follows:

- (i) yes;
- (ii) yes.

**INTERROGATORY NO. 31:**

If Opposer’s response to Interrogatory No. 31 is anything other than an unqualified “no,” state the name and address of each such person, when each such instance occurred, and how each such belief was manifested in words, by conduct, or otherwise.

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**RESPONSE TO INTERROGATORY NO. 31:**

Think interposes its General Objection Nos. 1, 3 and 4. Think also objects on the basis that the interrogatory is overly broad and unduly burdensome. Without waiving these objections, Think responds that at least the following instances have occurred:

Ruth Herren, 1907 96<sup>th</sup> Place SE, Everett, WA 98208, May 26, 1999 and 1999, Letter;

Person Unknown, Address Unknown, Approximately 2001, Telephone Call;

Richard Handley, Cygnus Publishing Co., 445 Broad Hollow Road, Melville, NY 11747, October 2001, Telephone Call;

Cygnus Publishing Co., 445 Broad Hollow Road, Melville, NY 11747, October 20, 2001, November 5, 2001, December 5, 2001, February 5, 2002, Advertising Report.

**INTERROGATORY NO. 32:**

For each interrogatory response, identify, with specific reference to interrogatory number, all documents used to support Opposer's response to each of the foregoing interrogatories.

**RESPONSE TO INTERROGATORY NO. 32:**

Think interposes its General Objection Nos. 1, 2, 3 and 4. Think further objects specifically to this Interrogatory on the grounds that it is overly broad and unduly burdensome. Without waiving those objections, Think responds as follows: Think will produce concurrently herewith documents responsive to this Interrogatory, to the extent that they are non-privileged and are not subject to the entry of an appropriate protective order.

**INTERROGATORY NO. 33:**

For each interrogatory response, state the name and business address of each person who prepared, assisted in the preparation of, or provided information for the response to said interrogatory.

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**RESPONSE TO INTERROGATORY NO. 33:**

Think interposes its General Objection Nos. 1 and 4. Think further objects specifically to this Interrogatory on the grounds that it is vague and ambiguous as to the meaning of the word "person." Think assumes that the word "person" is meant to refer to persons associated with Think. Without waiving those objections, Think responds as follows:

Aaron Greenspan, 20560 Shelburne Road, Shaker Heights, OH 44122 supplied information within his personal knowledge regarding all interrogatories, with the assistance of counsel.

Dated: ~~January~~ <sup>Feb</sup> 24, 2003

As to the Responses:



\_\_\_\_\_  
Aaron Greenspan, President and CEO  
Think Computer Corporation

As to the objections:

By: 

\_\_\_\_\_  
Robin Preble  
Scott Sullivan  
Fredrikson & Byron, P.A.  
4000 Pillsbury Center  
200 South Sixth Street  
Minneapolis, MN 55402  
Attorneys for Opposer

00715/2002TTAG

Opposition No. 125,553

Serial No. 76/201,442

CERTIFICATE OF SERVICE

I hereby certify that on January \_\_\_\_, 2003, a true copy of the foregoing **OPPOSER'S FIRST SET OF INTERROGATORIES** was served on Opposer by depositing same with the United States Postal Service, first class postage prepaid, and addressed to Opposer's counsel as follows:

J. Alison Grabell, Esq.  
BIRCH, STEWARD, KOLASCH & BIRCH, LLP  
10940 Wilshire Boulevard, 18<sup>th</sup> Floor  
Los Angeles, CA 90024-3945

Dated: ~~January~~ <sup>Feb</sup> 24, 2003

By:   
Name: SCOTT SULLIVAN

#2755119\1



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

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Think Computer Corporation

Opposer,

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**OPPOSER'S SUPPLEMENTAL RESPONSES TO APPLICANT'S INTERROGATORIES**

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Opposer Think Computer Corporation ("Think") hereby responds to the interrogatories propounded by applicant H. Co. Computer Products, Inc. ("H. Co.").

**GENERAL OBJECTIONS**

Think interposes the following general objections to H. Co.'s interrogatories:

1. Think objects generally to all of H. Co.'s definitions and instructions to the extent that they purport to impose upon Think discovery obligations beyond those imposed by the Federal Rules of Civil Procedure, as applicable under 37 CFR § 2.210.
2. Think objects generally to all of H. Co.'s interrogatories to the extent that they seek information that is protected from disclosure by the attorney-client or attorney work product privileges.
3. Think objects generally to all of H. Co.'s interrogatories to the extent that they seek the disclosure of information that is not currently in Think's possession, custody, or control. Think reserves the right to rely upon and introduce at trial or in any pre-trial proceeding any information

obtained after the service of its responses to these interrogatories, subject to Think's obligations under Rule 26 of the Federal Rules of Civil Procedure to supplement these responses. Think has not yet completed its investigation or discovery in this case and reserves the right to rely upon and introduce at trial or in any pre-trial proceeding any information obtained after the service of its responses to these interrogatories, subject to Think's obligations under Rule 26 of the Federal Rules of Civil Procedure to supplement these responses.

4. Think objects generally to all of H. Co.'s requests to the extent that they seek the disclosure of information that is confidential or proprietary to Think. Think will disclose any such information subject to the entry of an appropriate protective order.

### **RESPONSES TO INTERROGATORIES**

#### **INTERROGATORY NO. 9:**

State in dollars the amounts expended by Opposer on the advertisement and promotion of all goods and services under Opposer's Mark in each year since the first use of that Mark.

#### **RESPONSE TO INTERROGATORY NO. 9:**

Think estimates that the value of its own time spent creating its advertising web site is hundreds of thousands of dollars. Think has received free advertising from the Harvard International Review and from the owners of several web sites, including Surfingprizes.com, Junior Council on World Affairs (jcwa.org), Shaker Bands (shakerbands.org), Harvard University Prosopagnosia Research Center (faceblind.org), and Insane Innovations (atrios.com/tylerspcs/). Think estimates the value of the free advertising it has received to be about \$10,000. Think has promoted itself at the following websites: <http://www.hotscripts.com/Detailed/16841.html>; [http://www.sphinxmontreal.com/computer/repair\\_technicians/ohio/computer\\_repair\\_ohio.html](http://www.sphinxmontreal.com/computer/repair_technicians/ohio/computer_repair_ohio.html); <http://www.ideacafe.com/BB2/eCommerce/837.html>;

<http://www.webhostingtalk.com/showthread.php?threadid=104716;>

<http://www.webhostingtalk.com/showthread.php?threadid=106925;>

<http://www.onlyscripts.com/index.php;>

<http://forums.devshed.com/showthread.php?threadid=8769;>

<http://www.inc.com/apps/discussions/index.jsp?page=13@172.UwUBau1Zi9Y^1@.ee7f3da>, and

many others. Due to the success of the free advertising and publicity provided to Think, including word-of-mouth advertising, Think has spent \$168.48 on third party advertising. The foregoing answer to this interrogatory is confidential and subject to the entry of the protective order between the parties.

**INTERROGATORY NO. 32:**

For each interrogatory response, identify, with specific reference to interrogatory number, all documents used to support Opposer's response to each of the foregoing interrogatories.

**RESPONSE TO INTERROGATORY NO. 32:**

Think interposes its General Objection Nos. 1, 2, 3 and 4. Think further objects specifically to this Interrogatory on the grounds that it is overly broad and unduly burdensome. Without waiving those objections, Think responds as follows: Think has now produced all documents relevant to this interrogatory.

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Dated: March 28, 2003

As to the Responses:



Aaron Greenspan, President and CEO  
Think Computer Corporation

As to the objections:

By: Scott Sullivan

Robin Preble  
Scott Sullivan  
Fredrikson & Byron, P.A.  
4000 Pillsbury Center  
200 South Sixth Street  
Minneapolis, MN 55402  
Attorneys for Opposer

0011500577700

Opposition No. 125,553

Serial No. 76/201,442

CERTIFICATE OF SERVICE

I hereby certify that on March 28, 2003, a true copy of the foregoing

**SUPPLEMENTAL RESPONSES TO APPLICANT'S FIRST SET OF INTERROGATORIES**

was served on Opposer by depositing same with the United States Postal Service, first class postage prepaid, and addressed to Opposer's counsel as follows:

J. Alison Grabell, Esq.  
BIRCH, STEWARD, KOLASCH & BIRCH, LLP  
10940 Wilshire Boulevard, 18<sup>th</sup> Floor  
Los Angeles, CA 90024-3945

Dated: March 28, 2003

By: Karen A. Phillips  
Name: KAREN A. Phillips

#2768148\1

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

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Think Computer Corporation

Opposer,

Opposition No. 125,553

(Serial No. 76/201,442)

v.

Re Mark: THINK! COMPUTER PRODUCTS

H. Co. Computer Products, Inc.,

Applicant.

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**OPPOSER'S RESPONSES TO APPLICANT'S SECOND SET OF INTERROGATORIES**

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Opposer Think Computer Corporation ("Think") hereby responds to the interrogatories propounded by applicant H. Co. Computer Products, Inc. ("H. Co.").

**GENERAL OBJECTIONS**

Think interposes the following general objections to H. Co.'s interrogatories:

1. Think objects generally to all of H. Co.'s definitions and instructions to the extent that they purport to impose upon Think discovery obligations beyond those imposed by the Federal Rules of Civil Procedure, as applicable under 37 CFR § 2.210.
2. Think objects generally to all of H. Co.'s interrogatories to the extent that they seek information that is protected from disclosure by the attorney-client or attorney work product privileges.
3. Think objects generally to all of H. Co.'s interrogatories to the extent that they seek the disclosure of information that is not currently in Think's possession, custody, or control. Think reserves the right to rely upon and introduce at trial or in any pre-trial proceeding any information

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obtained after the service of its responses to these interrogatories, subject to Think's obligations under Rule 26 of the Federal Rules of Civil Procedure to supplement these responses. Think has not yet completed its investigation or discovery in this case and reserves the right to rely upon and introduce at trial or in any pre-trial proceeding any information obtained after the service of its responses to these interrogatories, subject to Think's obligations under Rule 26 of the Federal Rules of Civil Procedure to supplement these responses.

4. Think objects generally to all of H. Co.'s requests to the extent that they seek the disclosure of information that is confidential or proprietary to Think. Think will disclose any such information subject to the entry of an appropriate protective order.

**RESPONSES TO INTERROGATORIES**

**INTERROGATORY NO. 47:**

For each Request for Admission served concurrently herewith, if the response is anything other than an unqualified admission, state in detail the reasons for such denial or objection.

**RESPONSE TO INTERROGATORY NO. 47:**

Think responds as follows:

Request for Admission No. 1: See response to Request for Admission No. 1.

Request for Admission No. 2: See response to Request for Admission No. 2.

Request for Admission No. 3: See response to Request for Admission No. 3.

Request for Admission No. 4: The designation Think! Technologies was used at least as early as February, 1995.

Request for Admission No. 5: Aaron Greenspan used a THINK-derivative mark or THINK-derivative designation on or in connection with the sale of computer-related goods.

Request for Admission No. 6: See response to Request for Admission No. 3.

CONFIDENTIAL

Request for Admission No. 8: Aaron Greenspan used a THINK-derivative mark or THINK-derivative designation on or in connection with the sale of computer-related goods.

**INTERROGATORY NO. 48:**

For each Request for Admission served concurrently herewith, if the response is anything other than an unqualified admission, state the name, address and title of the persons with the most knowledge of such denial or objection.

**RESPONSE TO INTERROGATORY NO. 48:**

Think responds as follows:

Requests for Admission Nos. 3, 4, 5, 6, 8:

Aaron Greenspan, President & CEO, Think Computer Corporation, 20560 Shelburne Road, Shaker Heights, Ohio 44122.

**INTERROGATORY NO. 49:**

For each Request for Admission served concurrently herewith, if the response is anything other than an unqualified admission, identify, with specific reference to each Request for Admission, all documents and things used to support such denial or objection.

**RESPONSE TO INTERROGATORY NO. 49:**

Think responds as follows:

Request for Admission No. 1:

See response to Request for Admission No. 1.

Request for Admission No. 2:

See response to Request for Admission No.2.

Request for Admission No. 3:

The Think! School disk, screenshots from the Think! School software;



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Request for Admission No. 4:

Screenshots from the Think! School database software;

Request for Admission No. 5:

The Think! School disk, screenshots from the Think! School software;

Request for Admission No. 6:

The Think! School disk, screenshots from the Think! School software, Think!

International source code;

Request for Admission No. 8:

The Think! School disk, screenshots from the Think! School software, Think!

International source code;

**INTERROGATORY NO. 50:**

If the response to Request for Admission No. 1 is anything other than an unqualified admission, state in detail the basis of any trademark claim to the mark THINK or any THINK-derivative mark or trade name arising from the Think! School disk.

**RESPONSE TO INTERROGATORY NO. 50:**

See response to Request for Admission No. 1.

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Dated: March 28, 2003

As to the Responses:



Aaron Greenspan, President and CEO  
Think Computer Corporation

As to the objections:

By: 

Robin Prøble  
Scott Sullivan  
Fredrikson & Byron, P.A.  
4000 Pillsbury Center  
200 South Sixth Street  
Minneapolis, MN 55402  
Attorneys for Opposer

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Opposition No. 125,553  
Serial No. 76/201,442

CERTIFICATE OF SERVICE

I hereby certify that on March 28, 2003, a true copy of the foregoing **OPPOSER'S RESPONSES TO APPLICANT'S SECOND SET OF INTERROGATORIES** was served on Opposer by depositing same with the United States Postal Service, first class postage prepaid, and addressed to Opposer's counsel as follows:

J. Alison Grabell, Esq.  
BIRCH, STEWARD, KOLASCH & BIRCH, LLP  
10940 Wilshire Boulevard, 18<sup>th</sup> Floor  
Los Angeles, CA 90024-3945

Dated: March 28, 2003

By: Karen A. Phillips  
Name: KAREN A. Phillips

#2755119\1

09/15/2003TAP

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **APPLICANT'S NOTICE OF RELIANCE ON OPPOSER'S RESPONSES TO APPLICANT'S INTERROGATORIES** has been served on Opposer on the date indicated below by depositing same with the United States Postal Service, first class postage prepaid, and addressed to its attorney Molly O'Brien Loussaert, Esq., Fredrikson & Byron, P.A., 4000 Pillsbury Center, 200 South Sixth Street, Minneapolis, MN 55402-1425.

Dated: August 22, 2003

  
Veronica Kiley