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

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



10-27-2003

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


THINK COMPUTER CORPORATION,  
  
Opposer,  
  
v.  
  
H. CO. COMPUTER PRODUCTS, INC.,  
  
Applicant.

Opposition No. 125,553

**OPPOSER'S NOTICE OF FILING OF CERTIFIED TRANSCRIPT**

TO: J. Allison Grabell, attorney of record for Applicant H. Co. Computer Products, Inc., please take notice that, pursuant to 37 CFR § 2.125(c), on October 29, 2003, Opposer filed with the Trademark Trial and Appeal Board the certified transcript, with exhibits, of the testimony of Aaron Greenspan, on behalf of Opposer, taken on June 25, 2003. Attached hereto is the certificate of mailing evidencing the same

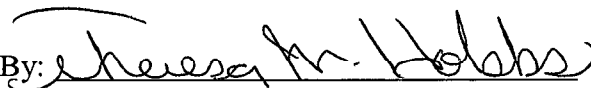
Dated: October 29, 2003

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CERTIFICATION UNDER 37 CFR 1.8

I hereby certify that **OPPOSER'S NOTICE OF FILING OF CERTIFIED TRANSCRIPT** is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to Mail Stop TTAB-No-Fee, Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3514, on October 29, 2003.

By:   
Theresa M. Hobbs

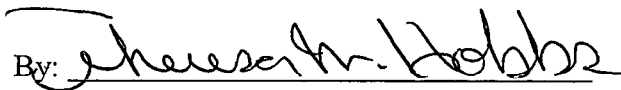
Opposition No. 125,553

Serial No. 76/201,442

**CERTIFICATE OF SERVICE**

I hereby certify that on October 29, 2003, a true copy of the **OPPOSER'S NOTICE OF FILING OF CERTIFIED TRANSCRIPT AND ACCOMPANYING EXHIBITS** was served on Applicant by depositing same with the United States Postal Service, first class postage prepaid, and addressed to Applicant's counsel as follows:

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EXHIBITS

Proceeding/Serial No: 125,553

Filed: 10/27/03

Title: Pl's Deposition  
of Aaron S. Grossman

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10-27-2003

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

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THINK COMPUTER CORPORATION, )  
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Opposer, )  
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vs. )  
 )  
H. CO. COMPUTER PRODUCTS, INC., )  
 )  
Applicant. )

DEPOSITION OF AARON J. GREENSPAN,  
a witness called on behalf of the Plaintiff  
before Dawn Mack-Boaden, Court Reporter and  
Notary Public in and for the Commonwealth of  
Massachusetts, held at Harvard Business School,  
Soldiers Field, Boston, Massachusetts, on  
Wednesday, June 25, 2003, commencing at 1:10 p.m.

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I N D E X

Witness                      Direct Cross Redirect    Recross

**AARON J. GREENSPAN**

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## 1 P R O C E E D I N G S

2  
3 AARON GREENSPAN, a witness  
4 first having been duly sworn, testified as  
5 follows:  
6

## 7 D I R E C T E X A M I N A T I O N

8  
9 BY MS. LOUSSAERT:

10 Q. Could you please state your name for  
11 the record.

12 A. Aaron Jacob Greenspan.

13 Q. And where are you from?

14 A. I am from Shaker Heights, Ohio.

15 Q. And where were you born?

16 A. I was born in St. Louis, Missouri.

17 Q. Okay. And what do you do for a living?

18 A. I am a student full-time, and I also  
19 run Think Computer Corporation as its president  
20 and CEO.

21 Q. And how did the idea for Think  
22 Corporation come about?

23 A. My mother works at home; I've been  
24 exposed, as a result, to business for a good part

1 of my life. I've always enjoyed working with  
2 electronics and especially with things with  
3 buttons.

4 And so about in fifth grade after I  
5 started fixing computers on a sporadic basis for  
6 friends and family, I went to my uncle's company  
7 in Boston during the summer vacation in 1994. I  
8 fixed a relatively complex computer problem for  
9 him; and after my mother told me that I should  
10 start charging, I got the idea in my head that  
11 maybe I could run my own company, sort of like  
12 she had her own company.

13 Q. And what sort of services had you  
14 provided for your uncle in 1994?

15 A. For my uncle, I set up a Gateway 2000  
16 Pentium machine running Microsoft Windows 3.11 on  
17 an SCO XENIX Network. So, generally, it was  
18 computer setup and networking consulting.

19 Q. Okay. And after that trip where you  
20 performed those services in 1994, what happened  
21 next in the evolution of your idea to start a  
22 company?

23 A. In fifth grade I began using a name,  
24 which I hadn't done before.

1                   Before, I had just gone under my  
2 personal name, Aaron Greenspan. But I decided  
3 that I wanted to start calling myself  
4 Troubleshooting.

5           Q.       And you said this was in fifth grade?

6           A.       Yes.

7           Q.       Do you know what year, approximately,  
8 that was -- or month and year; do you know?

9           A.       This would have been probably in late  
10 1994.

11          Q.       Okay.

12          A.       I believe I entered, yeah, I think  
13 that's about right.

14          Q.       And how long did you operate as  
15 Troubleshooting?

16          A.       I actually don't remember exactly how  
17 long.

18          Q.       Okay. Do you know -- did you operate  
19 under any other names after Troubleshooting?

20          A.       After Troubleshooting, I decided that I  
21 did not like that name anymore because it had the  
22 world trouble in it, which is not a good word to  
23 get out to consumers. So I decided to start  
24 using Think Technologies.

1 Q. Think Technologies?

2 A. Correct.

3 Q. And do you know about when you used  
4 that name: Think Technologies?

5 A. I used Think Technologies for the first  
6 time, as far as I can remember, in October of  
7 1995, which was shortly after I had a  
8 conversation with my friends in seventh grade  
9 where they suggested that I use the word Think,  
10 but in Latin, for my company name.

11 And given that my client base was  
12 mostly English speaking, I decided to use Think  
13 instead.

14 Q. Okay. And what sort of services did  
15 you provide with the name Think Technologies?

16 A. The services that Think Technologies  
17 provided included computer consulting,  
18 networking, database development, and a little  
19 bit of web site design.

20 My service offerings gradually  
21 increased over time; so they were not static for  
22 the entire time that I used my name. I don't  
23 precisely recall when I began offering different  
24 services, but those are a few of the ones that I

1 did offer.

2 Q. Okay. And what sort of -- did you  
3 create any products for your consumers?

4 A. Yes; one of the products that I created  
5 was a database that I called Think School, which  
6 was designed for the Hebrew school that I went to  
7 at the time. It kept track of their students,  
8 their teachers, mailing labels, general office,  
9 day-to-day events.

10 Q. And when did you begin working on the  
11 Think School product?

12 A. I believe I began working on it in  
13 February of 1995.

14 Q. Okay. And when did you deliver the  
15 product to your school?

16 A. I never delivered a single copy of the  
17 product, per se, because it was constantly in  
18 development. So I would work on it for maybe a  
19 month, give them a copy, work on it for another  
20 month, give them another copy; and, gradually,  
21 over time, it got updated enough to the point  
22 where it could do everything that they really  
23 wanted it to.

24 Q. When did you start to give them copies?

1 A. I'm sorry, did you say when?

2 Q. When did -- if you recall, when they  
3 might have -- when you delivered some of the  
4 copies of the work in progress?

5 A. I actually don't remember when. But I  
6 can tell you that it would have been in the range  
7 of February 1995 'til probably mid 1996; maybe  
8 even later. They would have received several  
9 copies during that time frame.

10 Q. Okay. And what did the label read on  
11 the copies of the product that you gave to them?

12 A. The floppy disk itself read Think  
13 School. And there was a splash screen that  
14 appeared when you started the program, as well as  
15 an about box that would appear when you clicked  
16 on about in the program, which stated that it was  
17 written by Think Technologies.

18 Q. Okay. And would the flash screen also  
19 contain the name of the product itself?

20 A. It also stated that it was called Think  
21 School, yes.

22 Q. Okay. So moving -- we're talking about  
23 the time frame around 1995 and your product Think  
24 School and your use of the name Think

1 Technologies.

2           What happened next in the evolution of  
3 your business Think?

4           A.     I was still not completely satisfied  
5 with the name Think Technologies. I wanted to  
6 convey the impression that I was professional,  
7 which is something that's exceptionally hard to  
8 do when you are in grade school and dealing with  
9 adults on a regular basis.

10           So I chose the name Think International  
11 instead and began using that probably, I would  
12 say, in April of 1996. I offered the same  
13 services that I did under Think Technologies;  
14 but, again, they were constantly expanding.

15           So, over time, I learned new things  
16 from my work and I integrated them into the  
17 services that I offered to my customers.

18           Q.     Okay. And when you were operating as  
19 Think International, did you market yourself as  
20 Think International?

21           A.     Yes.

22           Q.     How did you market yourself?

23           A.     I marketed myself by distributing  
24 fliers. I would go door do door and drop them in



1 people's mailboxes.

2 I would also market myself by word of  
3 mouth. My customers would find out about my  
4 services and they would tell their friends. I  
5 would get them as customers, in turn.

6 I also made up business cards for  
7 myself and for some of my friends who were,  
8 though not legally working for me at the time,  
9 they were in association with me under the name  
10 Think International; and so we all had business  
11 cards.

12 I can't remember any other ways that I  
13 marketed at that time, but those are a couple of  
14 them.

15 Q. Okay. About this time in 1996, we're  
16 talking, when you were operating under the name  
17 Think International -- hello?

18 A. Hi.

19 Q. Okay. About this time in 1996 when  
20 your company was named Think International, were  
21 you using the internet at that time at all?

22 A. I was. I also, I guess you could say,  
23 was marketing myself through e-mails where I  
24 would sign my e-mails Aaron Greenspan, Think

1 International, and I would also write Think  
2 International and then the address and phone  
3 number where I could be reached.

4 Q. Okay. Did you register the name Think  
5 International with any internet services?

6 A. No.

7 Q. Okay. What -- tell me a little bit  
8 more about what happened next after the use of  
9 Think International.

10 A. Well, actually, I mean -- well, let me  
11 answer your previous question.

12 I did not register it with any internet  
13 services, but I did use it with internet  
14 services. So there were some services, such as a  
15 network for web site developers and advertisers,  
16 where I used Think International. But I did not  
17 register the domain name.

18 Q. Right. Okay. But you would -- but you  
19 used Think International as a label for yourself  
20 to receive communications from different services  
21 and --

22 A. Right; if I got things in the mail, I  
23 would receive them, Aaron Greenspan, Think  
24 International, based on the information that I

1 provided to third parties.

2 Q. Okay.

3 A. After I used Think International, I  
4 decided to use Think Computer; and I made this  
5 change because of a conversation that I actually  
6 had with my aunt who came down from Illinois to  
7 visit us and have her laptop fixed.

8 She commented that since I was not yet  
9 international and she didn't like the exclamation  
10 point after Think, that I should just change it  
11 to something simpler and more to the point.

12 So I chose Think Computer and continued  
13 offering, again, the same services that I had  
14 been before but under the different name.

15 Q. And when, approximately, was this  
16 conversation of changing the name?

17 A. I believe it was, if not on, during the  
18 weekend of November 17th, 1996.

19 Q. Okay. And when you say that you  
20 started using the name, how did you do that?  
21 What sorts of things changed?

22 A. All of the documents that I had  
23 prepared -- that any business or office would use  
24 -- all those that said Think International

1 previously began to read Think Computer.

2 I also used a software program that I'd  
3 received as a gift to design myself a logo that I  
4 actually used a little bit with Think  
5 International, but that logo then also read Think  
6 Computer.

7 So Think Computer had business cards;  
8 it had letterhead; it had a web site, thanks to  
9 my friend Joshua Go, who let me set up a web site  
10 at `jdo.local.net/think`.

11 Q. And when did you set up that web site?

12 A. I don't recall the exact date; but it  
13 was some time in 1997, I believe.

14 Q. Okay. And tell me a little bit more  
15 about what was on that web site?

16 A. It was basically an on-line brochure.  
17 I believe the first iteration of the web site had  
18 a price list comparing our rates to Comp. USA's  
19 rates. It had information about our various  
20 employees: Myself, Tim, and Joshua.

21 It also had a list of our services. It  
22 had contact information for us, and it had a  
23 general overview of the company's history.

24 The second site, I believe, was divided

1 in to several sections entitled: Who we are,  
2 what we do, our products; things of that nature.

3 Q. The second site?

4 A. There were multiple versions of our web  
5 site, and there continue to be. The site has  
6 actually gone through eight iterations, and I  
7 believe the first two were introduced while  
8 Joshua was helping me host that site.

9 Q. Okay. And have you always had a web  
10 site since it was created in 1997?

11 A. Yes.

12 Q. And when I say -- has Think Computer  
13 always had a web site?

14 A. Yes; the web site was never under my  
15 name, Aaron Greenspan. It has always been  
16 associated with Think Computer and Aaron  
17 Greenspan as an employee of that computer  
18 company.

19 Since 1997, the only time that our web  
20 site has been down has been because of some  
21 technical problem with an internet service  
22 provider, but it has never been down for more  
23 than a day or two, at most.

24 Q. Okay. And what sorts of marketing

1 activities does Think Computer have?

2 A. Think Computer -- well, if you include  
3 up to the present day, Think Computer has been  
4 marketed by word of mouth; and that's actually  
5 one of the most effective marketing tools we've  
6 found.

7 We've been marketed by the press with  
8 numerous articles written in national and  
9 sometimes international publications talking  
10 about the company.

11 We've been marketed by the hundreds and  
12 hundreds of e-mails that I send on a regular  
13 basis, which always include my signature, Aaron  
14 Greenspan, President and CEO, Think Computer  
15 Corporation, followed by the company's web site,  
16 [www.thinkcomputer.com](http://www.thinkcomputer.com).

17 We've been marketed by print  
18 advertisements in the inside front cover. A  
19 double page spread of the company's marketing  
20 materials appeared in the Harvard International  
21 Review a number of times -- I think now five.

22 We've been marketed by radio broadcasts  
23 which covered the company.

24 Q. Where were these radio broadcasts

1 aired?

2 A. They aired, actually, over the internet  
3 so that anybody in the country, or even the  
4 world, had access to it.

5 It was an interview with a radio  
6 broadcaster who was simultaneously interviewing  
7 the president of Junior Achievement. So we've  
8 been marketed also by awards. Junior Achievement  
9 sponsored an award that Think Computer won in  
10 1999. I was flown to Atlanta to receive it.

11 And, since then, we've also received  
12 another award from the Global Student  
13 Entrepreneurship Awards, I believe, and we won an  
14 honorable mention in that for the New England  
15 region. There was also an award from the  
16 Collegiate Entrepreneurs Organization.

17 So the company's received publicity  
18 through those.

19 Q. When did Think Computer receive the  
20 Junior Achievement award?

21 A. That was in late September of 1999.

22 Q. And when did you receive the second  
23 award?

24 A. The Global Student Entrepreneurship

1 Awards I received in May, I believe, of 2003.

2 The CEO award --

3

4 MS. GRABELL: How is this relevant  
5 to this answer -- question and answer.

6

7 BY MS. LOUSSAERT:

8 Q. Okay. Aaron, you can go ahead and  
9 answer.

10 A. The third award I believe I received in  
11 the early spring of 2003.

12 Q. Okay. And then, I'm sorry, was that  
13 the Cleveland Award?

14 A. No; that was the Collegiate  
15 Entrepreneurs Organization.

16 Q. Okay. We're talking about the  
17 marketing of Think Computer.

18 What sorts of activities did you  
19 provide -- or what sorts of services did you  
20 provide to your consumers?

21 A. We provided computer repair; training  
22 on software and hardware if somebody didn't know  
23 how to use it already. We offered networking,  
24 web site design, desk top publishing, database



1 development, custom software development, and  
2 we've also created several products which would  
3 not fall under the services category.

4 Q. What sorts of products?

5 A. One product is called White Board. It  
6 is a web-based content management system.

7 And another product is called  
8 Secondbase, and it is a relational database  
9 system that works over the worldwide web.

10 Q. And when did you start writing those  
11 products?

12 A. We started writing Secondbase during  
13 the summer of 2001.

14 Q. Prior to that time, what sorts of  
15 products would you provide to your consumers?

16 A. Secondbase started off as the custom  
17 software development that we would do for  
18 customers and Microsoft access.

19 So if a customer called us and needed a  
20 software program developed specifically for their  
21 business, we would do that for them and brand it  
22 under the name Think Computer, Secondbase.

23 Q. Okay. Since Think Technologies to  
24 Think International and then Think Computer

1 Corporation began operation, has there been any  
2 lapses in business activity?

3 A. No; we've operated continuously since I  
4 began using the Think name. And we operated even  
5 before that, as I mentioned, under the  
6 Troubleshooting name all the way back to 1995.

7 There has never been a single time when  
8 we've said that we're going out of business.  
9 There was a transition from services to software,  
10 which was actually covered very widely by the  
11 press; but at no time did we stop using the name.

12 Q. Okay. Where were some of your  
13 customers located -- or are they located?

14 A. We have customers throughout the United  
15 States and Canada. We have several customers in  
16 Ohio, being a Cleveland based company. We have  
17 customers in Texas, Virginia, California,  
18 Maryland, Massachusetts, Quebec.

19 I can't remember off the top of my head  
20 everywhere we have customers, but it's definitely  
21 a national phenomena.

22 Q. How long have you had customers outside  
23 of Ohio?

24 A. I don't honestly remember. But given

1 that my first customer was my uncle, and Keene  
2 Advertising, Incorporated is based in Boston, I  
3 would say since we began.

4 Q. Okay. I want to talk a little bit  
5 about your decision to incorporate Think  
6 Computer. When did you decide to do that?

7 A. I had a meeting with several of my  
8 friends in Cleveland in February of 1998 because  
9 I wanted to start working for companies but I was  
10 afraid of the liability issue.

11 And so after we decided to collectively  
12 look for insurance companies and ways to get  
13 around having to form a legal entity, we decided  
14 that there really wasn't any way to do it without  
15 incorporating. I had a meeting with a lawyer, I  
16 believe also in February of 1998, and he guided  
17 us through the process of what it would take to  
18 incorporate.

19 And shortly after that, I decided,  
20 along with my parents, that I would go ahead and  
21 incorporate Think Computer as the Think Computer  
22 Corporation. The paperwork was processed by the  
23 state of Ohio, and we received the noticed that  
24 the company had been incorporated on April 30th,

1 1998.

2 Q. Okay. I want to talk a little bit  
3 about after 1998 after you incorporated.

4 When, if at any time, were you aware  
5 that there might be another use of the word Think  
6 Computer?

7 A. Is that the entire question?

8 Q. Yeah; when were you aware that there  
9 might be another use of the word Think Computer  
10 -- the term Think Computer?

11 A. During the process of my lawyer, at the  
12 time, looking for what it would take to  
13 incorporate, he suggested that we conduct a  
14 trademark search; and I told him to go ahead with  
15 it.

16 The trademark search did not find any  
17 other companies called Think Computer in Ohio;  
18 but it did find a registered trademark for Think  
19 Computer Evolution for a company in Colorado  
20 Springs, Colorado called Think Computer  
21 Evolution, Incorporated.

22 That was the only instance of Think  
23 Computer I was aware of when I incorporated the  
24 company. Before I incorporated the company, I'd

1 never heard of another company called Think  
2 Computer.

3 And after I found out about Think  
4 Computer Evolution, the only other instance of  
5 Think that I saw in a company's name was when I  
6 received a defective memory module from a woman  
7 in Washington State named Ruth Herring who  
8 believed that I had manufactured the memory model  
9 when, in fact, I hadn't.

10 Q. Okay. Let's talk a little bit about  
11 Think Computer Evolution.

12 What, if anything, did you do after you  
13 learned that there was another company called  
14 Think Computer Evolution or another mark  
15 registered?

16 A. I don't remember the exact date; but at  
17 some point in April, I called Think Computer  
18 Evolution's president, Gil Winter, and asked him  
19 if it would be all right for me to go ahead and  
20 use the name Think Computer even though he had  
21 had it before me.

22 His response was that he didn't really  
23 care as long as I did not register it with any  
24 state, federal, or local government agency, which

1 I agreed not to do.

2 He also said that he would send me a  
3 statement through his law firm repeating what he  
4 had said on the phone, but in writing; and I did  
5 receive that statement.

6 Q. Did you do anything with that  
7 statement?

8 A. No; I never signed the statement.  
9 There wasn't even a place on it for me to sign.  
10 I never talked with him about it again; but I did  
11 file it in my cabinet so that I knew it was  
12 there. The statement never came up between Gil  
13 Winter and my company ever again.

14 Q. So you had no other communications with  
15 Mr. Winter or any other representative at Think  
16 Computer Evolution?

17 A. Not regarding that statement.

18 Q. Okay. Regarding anything else?

19 A. Yes. Later when I was looking on the  
20 US. Patent and Trademark Office web site to see  
21 who had the name Think Computer, which is  
22 something I do on a regular basis, I noticed that  
23 his registration for Think Computer Evolution was  
24 no longer listed as alive. The status had

1 changed to dead. And it turns out that his  
2 trademark expired because of a mishap. I believe  
3 they forgot to file Section 8.

4 So I called him and I asked him if his  
5 license was still valid since his trademark had  
6 expired. He did not know because he did not know  
7 that his trademark had expired. That was the  
8 only other time I've ever talked to him.

9 Q. Okay. And you've never received any  
10 correspondence from Think Computer other than the  
11 one letter?

12 A. Do you mean Think Computer Evolution?

13 Q. Yes; you've never received any other  
14 correspondence from Think Computer Evolution  
15 aside from the letter -- the one letter?

16 A. Not any written correspondence, no.

17 Q. Okay. Did Think Computer make you  
18 aware in any other way of their use of the mark?

19 A. I'm not sure I understand your  
20 question.

21 Q. Let me ask it a different way. Did  
22 Think Computer Evolution make you aware at any  
23 time, other than the letter you received, that  
24 they were aware of your use of the word -- of the

1 term Think Computer?

2 A. No; they never told me anything about  
3 how I should use the mark. They never told me  
4 that I should abide by some clause in their  
5 license. They never really followed up with it  
6 again.

7 Q. Let's move on to when you were talking  
8 to me about the piece of computer equipment that  
9 you had received in error.

10 When, approximately, did you receive  
11 this piece of computer equipment?

12 A. I don't remember; but it was probably  
13 in 1998 or 1999.

14 Q. Okay.

15 A. If I saw a sheet of paper -- because  
16 she wrote a letter at some point -- I could  
17 probably remember that date.

18 Q. Okay. Just a minute. I want to draw  
19 your attention to the set of documents that you  
20 have before you and opposing counsel also has;  
21 beginning with the bates label range  
22 approximately -- I'm still looking for it. I  
23 apologize for the delay. Do you recall if it was  
24 in 1998?



1           A.       It was 1999.

2           Q.       It was 1999.  And what did you do after  
3 you received the letter?

4           A.       I wrote a letter back to her and I  
5 explained that I had not, in fact, manufactured  
6 the memory and that a company called H. Co.  
7 Computer Products, Incorporated had and that she  
8 should probably return it to them and see what  
9 they might do for her.

10          Q.       Was this the first time you became  
11 aware of H. Co.?

12          A.       Yes; I had never heard of them before.

13          Q.       And what did you do after you became  
14 aware of H. Co.?

15          A.       I didn't do anything.  The thought  
16 crossed my mind that they were calling their  
17 memory Think Memory and that it was similar to my  
18 name, but it didn't bother me enough to actually  
19 take any action on it.

20          Q.       You never took any action -- you never  
21 took any action against H. Co.?

22          A.       Well, to clarify, at the time,  
23 receiving one memory module labeled Think Memory  
24 from a company I had never heard of did not make

1 me feel like my company's name and integrity was  
2 being threatened.

3 That changed later, however, when I  
4 received several phone calls explaining that they  
5 had bought faulty products from this company and  
6 that they kept thinking that it was mine. At  
7 that point, I thought that maybe something needed  
8 to be done. When I began receiving --

9 Q. When did you change your mind; when was  
10 this?

11 A. I changed my mind when I began  
12 receiving H. Co.'s mail, which I believe was in  
13 2001.

14 They had an article in Advanced Imaging  
15 Magazine extolling the virtues of their fire and  
16 ice hard drive, and I began receiving their  
17 reading response cards, even though I clearly was  
18 not H. Co.

19 Q. And what did you do after you began  
20 receiving their cards?

21 A. I called Advanced Imaging -- whichever  
22 publishing company makes the magazine -- and I  
23 asked them if they could please stop sending me  
24 H. Co.'s mail. I also asked them why they were

1 sending it to me, and they explained that they  
2 thought I was Think Computer Products, which is  
3 the business name or the d/b/a for H. Co.  
4 Computer Products.

5 Q. And what did you do after you had  
6 contacted the publisher?

7 A. I eventually went and registered a  
8 trademark for Think Computer. And once that  
9 happened, I began the opposition process for H.  
10 Co.'s trademark for Think Computer Products since  
11 I did not want to be sued for trademark  
12 infringement in federal court.

13 Q. And when did you do that?

14 A. I believe I filed for the trademark  
15 with the USPTO in January of 2002, or at least I  
16 began the application process, which is quite  
17 slow. So that's when it all started.

18 And I honestly don't remember the date  
19 when the opposition began. It was, I think, some  
20 time in April of 2002.

21 Q. Before you had registered your -- or  
22 attempted to register this mark and before you  
23 received a notice of a decision or an action  
24 about that opposition, did you contact H. Co. in

1 any way?

2 A. Yes; I tried calling them several  
3 times. I wanted to speak directly to their  
4 president or CEO because I thought it was a  
5 matter that merited his attention.

6 I think the first time I was routed to  
7 Gary Richardson, I think his name is, who was the  
8 director of PR at H. Co. And I had a  
9 conversation with Mr. Richardson for about an  
10 hour and a half, during which the main thrust was  
11 that he was aware that I had the name first, now  
12 that I talked to him, but that they really  
13 weren't going to do anything about it and that I  
14 should just be content being friends with them  
15 and writing off the publicity that they got  
16 because he claimed that they would be getting  
17 lots of publicity for their upcoming products.

18 I didn't think that that was a very  
19 good solution because, having looked at their web  
20 site, I noticed that they did not really get much  
21 publicity. I had actually had more than they  
22 ever did through all the articles that were  
23 written about my company; and I was quite  
24 irritated that he had never researched the name

1 before, even though he made claims to the  
2 contrary.

3           Because while I was on the phone with  
4 him, he was trying to figure out who I was as I  
5 was talking to him. At one point, he did a  
6 search on Google, which is a search engine web  
7 site, for my telephone number and came up with a  
8 spreadsheet at Harvard because it was a Harvard  
9 telephone number, and was just trying desperately  
10 the whole time to figure out who I was.

11           They had clearly never bothered to do  
12 any research on any company or products or  
13 anything using the Think name because, had they  
14 done that, he would have known instantly who I  
15 was, being the director of marketing.

16           Q.     Okay. And after this phone  
17 conversation, did you do anything else?

18           A.     I believe there might have been another  
19 conversation that I had with one of the -- I'm  
20 not sure when that was. I probably should have  
21 written it down.

22           But it became clear that they were not  
23 willing to do anything. I finally got irritated  
24 enough that I wrote a letter to them asking them

1 to pay a reasonable royalty fee for the name,  
2 since they had used it without permission for  
3 several years, or to face the trademark  
4 opposition that I was, at that point, willing to  
5 lodge against them.

6 And I -- given that I'm sitting here  
7 now, I guess they elected for the latter.

8 Q. Did you receive any correspondence or  
9 were you -- did H. Co. contact you in any way  
10 after you wrote this letter?

11 A. I did receive an e-mail correspondence  
12 from a lawyer that I'm not sure if they appointed  
13 or what the relationship there was; but it did  
14 suggest that my letter was too harsh and that  
15 they thought it was ridiculous. And that was, I  
16 think, all I ever heard from them except for the  
17 telephone conversations.

18 Q. Okay. And what, if any, correspondence  
19 did you receive from the Patent and Trademark  
20 Office after you received the e-mail  
21 correspondence from H. Co. or from their legal  
22 counsel?

23 A. I can't recall off the top of my head  
24 every document I've ever received from the USPTO

1 because there are, obviously, several.

2 But I did receive the normal e-mails,  
3 letters, et. cetera, that go along with any  
4 normal trademark application.

5 Q. What were --

6 A. Confirmation. I'm sorry, go ahead.

7 Q. What were they informing you; what was  
8 the Patent and Trademark Office informing you of?

9 A. That's a very vague question. I'm not  
10 sure I understand.

11 They informed me that my application  
12 was proceeding; that I needed to supply a  
13 different specimen; that I had to issue a  
14 disclaimer for the word "computer".

15 At one point, because of the opposition  
16 process, they told me that they would suspend  
17 action on my trademark just as a standard  
18 procedural matter.

19 But aside from that, I don't believe  
20 there was anything out of the ordinary that I  
21 ever received from them.

22 Q. Okay. I want to talk a little bit more  
23 about consumers that had contacted you thinking  
24 that you were H. Co..

1           Besides the correspondence that you  
2 received from the consumer in Washington, did you  
3 receive the -- the magazines that you received  
4 that really were supposed to go to H. Co. Were  
5 you aware of any other consumers that were  
6 confused?

7           A.     I am aware of a couple. I took at  
8 least one phone call from a gentleman who had a  
9 defective hard drive and was not too pleased, and  
10 he thought I was H. Co. He called my phone  
11 number, (216) 932-8096. Aside from that, I don't  
12 recall fielding any other phone calls.

13           But my mother, who is home during the  
14 day, or at least was home during the day while I  
15 was in high school a lot more than I was, does  
16 recall taking several phone calls from a number  
17 of people who consistently thought that I was H.  
18 Co. operating under the name Think Computer  
19 Products.

20           Q.     And when -- when were these phone calls  
21 coming in?

22           A.     I don't remember. I think it was  
23 probably 2000, 20001, maybe a little earlier;  
24 around when I received the letter from Ruth



1 Herring.

2           Aside from that, there were always  
3 people visiting my web site who were very, very  
4 interested in hardware peripherals, which is not  
5 one of our main businesses. We do have links to  
6 other web sites which sell those peripherals.

7           But there were always people who would  
8 search Google for Think Computer Products and  
9 come up with our web site -- or some other search  
10 engine -- or they were H. Co.'s competitors that  
11 would try to find out information about them by  
12 going to our web site, which probably didn't help  
13 them very much.

14           And I was able to find that out by the  
15 log information that's stored any time anyone  
16 visits a web site.

17           Q.     Okay. I want to turn your attention to  
18 the documents that you have before you and  
19 opposing counsel also has; and there should be a  
20 set for the court reporter there with you, Aaron.

21           A.     Yes; that's correct.

22           Q.     And I want to turn all of our attention  
23 and yours, Aaron, to the document numbered TCC1  
24 through TCC9?

1 A. Okay.

2 Q. What are these documents?

3 A. I'm sorry, can you say that again.

4 Q. What are these documents?

5 A. These are documents pertaining to the  
6 story behind the formation of my company.

7 Q. How do you know what these documents  
8 are?

9 A. I wrote them all myself, and I recall  
10 submitting them to various places.

11 Q. Okay.

12

13 MS. LOUSSAERT: I offer these  
14 documents, 1 through 9, as Exhibit 1.

15

16 (Exhibit Number 1 was marked for  
17 identification.)

18

19 BY MS. LOUSSAERT:

20 Q. And then I want to call your attention  
21 to TCC10 through TCC52.

22 A. Okay.

23 Q. What are these documents?

24 A. These are documents pertaining to some

1 of the early software that Think Computer  
2 Corporation wrote dating back to about 1995  
3 through 1999 or 2000.

4 Q. These are documents that Think Computer  
5 Corporation wrote in 1995?

6 A. They pertain to software that began its  
7 formation in 1995 and continues through 2000.

8 Q. Okay. And how do you know what these  
9 documents are?

10 A. I participated in the creation of the  
11 software that the documents are about.

12 Q. Okay.

13

14 MS. LOUSSAERT: And I would offer  
15 these documents, Documents 10 through  
16 52, as Exhibit 2.

17

18 (Exhibit Number 2 was marked for  
19 identification.)

20

21 BY MS. LOUSSAERT:

22 Q. And, Aaron, I'd like to draw your  
23 attention to Documents TCC53 through TCC168.

24 A. Okay.

1 Q. What are these documents?

2 A. These documents are photocopies of  
3 articles that have appeared in various  
4 publications; articles about Think Computer  
5 Corporation and myself.

6 Q. And how do you know what these  
7 documents are?

8 A. I granted interviews to the reporters  
9 who wrote them, and I read them in the  
10 publications that they were printed in.

11 Q. Okay.

12

13 MS. LOUSSAERT: I want to offer  
14 these as Exhibit 3.

15

16 (Exhibit Number 3 was marked for  
17 identification.)

18

19 BY MS. LOUSSAERT:

20 Q. And, Aaron, I'd like to draw your  
21 attention to Documents TCC169 through TCC198.

22 A. Okay.

23 Q. What are these documents?

24 A. This document is a partial listing of

1 service jobs that Think Computer Corporation has  
2 performed.

3 Q. And how do you know what this document  
4 is?

5 A. The document was generated by a  
6 database program that I wrote myself.

7 Q. Okay.

8  
9 MS. LOUSSAERT: I want to offer  
10 these documents, TCC169 through TCC198,  
11 as Exhibit 4.

12  
13 (Exhibit Number 4 was marked for  
14 identification.)

15

16 BY MS. LOUSSAERT:

17 Q. Aaron, I'd like to draw your attention  
18 to documents TCC199 through TCC219.

19 A. Okay.

20 Q. What are these documents?

21 A. These are documents that pertain to the  
22 legal foundations for Think Computer Corporation.

23 Q. And how do you know what these  
24 documents are?

1           A.       I was present as many of them were  
2 being drafted. I wrote some of them. And I  
3 received some of them back in the mail.

4           Q.       Okay.

5

6                   MS. LOUSSAERT: I want to offer  
7 these documents, TCC199 through TCC219  
8 as Exhibit 5.

9

10                   (Exhibit Number 5 was marked for  
11 identification.)

12

13 BY MS. LOUSSAERT:

14           Q.       And now looking at documents TCC220  
15 through TCC225.

16           A.       Okay.

17           Q.       What are these documents?

18           A.       These are federal tax returns for  
19 fiscal years 1998 through 2001 for Think Computer  
20 Corporation.

21           Q.       And how do you know what these  
22 documents are?

23           A.       I instructed my accountant to prepare  
24 them.

1 Q. Did you sign them?

2 A. Yes.

3 Q. Okay.

4

5 MS. LOUSSAERT: I want to offer  
6 these documents, TCC220 through TCC225,  
7 as Exhibit 6.

8

9 (Exhibit Number 6 was marked for  
10 identification.)

11

12 BY MS. LOUSSAERT:

13 Q. And now looking at documents TCC226  
14 through TCC279; what are these documents?

15 A. These are various invoices and purchase  
16 orders, quotations, other pieces of office  
17 paperwork, that Think Computer Corporation  
18 generated. They're actually a sample. There are  
19 many, many more.

20 Q. Okay. And how do you know what these  
21 documents are?

22 A. I wrote some of them by hand and wrote  
23 the software that generated others and received  
24 others back in the mail.

1 Q. Okay.

2

3 MS. LOUSSAERT: I want to offer  
4 these as Exhibit 7: TCC226 through  
5 TCC279.

6

7 (Exhibit Number 7 was marked for  
8 identification.)

9

10 BY MS. LOUSSAERT:

11 Q. Okay. Now looking at documents TCC280  
12 through TCC372.

13 A. Okay.

14 Q. What are these documents?

15 A. These are documents that pertain to the  
16 ongoing trademark dispute between Think Computer  
17 Corporation and H. Co. Computer Products,  
18 Incorporated.

19 Q. And how do you know what these  
20 documents are?

21 A. I generated some of them. I wrote some  
22 of them. I got others in the mail. And I found  
23 others on the internet.

24 Q. Okay.



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MS. LOUSSAERT: I want to offer  
these documents, TCC280 through TCC372,  
as Exhibit 8.

(Exhibit Number 8 was marked for  
identification.)

BY MS. LOUSSAERT:

Q. And last, Aaron, please look at TCC373  
through TCC478.

A. Okay.

Q. What are these documents?

A. These are various documents that  
pertain to Think Computer; mostly marketing  
materials.

Q. And how do you know what these  
documents are?

A. I made many of them myself and I found  
others on the internet and I received others in  
the mail.

MS. LOUSSAERT: I want to offer  
these documents, TCC373 through TCC478,

1 as Exhibit 9.

2

3 (Exhibit Number 9 was marked for  
4 identification.)

5

6 BY MS. LOUSSAERT:

7 Q. Okay. Aaron, I want to talk a little  
8 bit about the business activity of Think Computer  
9 Corporation and its predecessors, Think  
10 International and Think Technologies.

11 A. Okay.

12 Q. Prior to 1998, did you file any federal  
13 tax returns for any of these entities?

14 A. I filed personal tax returns prior to  
15 1998.

16 Q. And what was your income attributed to  
17 during the years prior to 1998 on your tax  
18 returns?

19 A. As I was ten years old, it was, in  
20 large part, baby-sitting. There was some revenue  
21 that I brought in personally from fixing people's  
22 computers, but I was reluctant to charge people  
23 at first. There was revenue from working at  
24 summer camps, I believe.

1           And there are a number of trust funds  
2 and various stock market related accounts that I  
3 don't know much about that my family maintains;  
4 and so those would have been on the returns as  
5 well.

6           Q.       So some of the income prior to 1998 was  
7 attributable to your work helping individuals  
8 with their computers?

9           A.       Yes; there was definitely some money  
10 coming in from computer consulting.

11          Q.       And prior to 1998, you were providing  
12 services for free, on occasion?

13          A.       Actually, I provided services for free  
14 fairly often. So because I did not keep track  
15 in writing of the jobs that I performed all the  
16 time, at least not at first, there were often  
17 jobs that I performed, didn't get paid for, and  
18 never wrote down, but still would have been  
19 valued at very high amounts by today's standards.

20          Q.       Okay.

21

22                   MS. LOUSSAERT: I think I would  
23 rest at this time.

24                   And, Ms. Grabell, do you have any

1 questions for cross-examination?

2 MS. GRABELL: Thank you very much.

3

4 **CROSS-EXAMINATION**

5

6 BY MS. GRABELL:

7 Q. Good afternoon, Mr. Greenspan.

8 A. Good afternoon.

9 Q. You testified earlier that you created  
10 a disk or a program for your school; is that  
11 correct?

12 A. I created several programs. I did  
13 create one program, in particular, that I  
14 mentioned for Hebrew schools.

15 Q. And is that something that we're  
16 referring here today to as the Think School  
17 Program or Disk?

18 A. I have been referring to it as the  
19 Think School Program.

20 Q. Okay. We previously identified  
21 printouts from Exhibit 2; is that correct?

22 That's production numbers TCC00010  
23 through 00052.

24 A. No, that's not correct.

1 Q. Okay. In what way is that not correct?

2 A. Some of the documents in this exhibit  
3 are from that program.

4 None of the documents in this exhibit  
5 are from that disk.

6 One of the documents is that disk.

7 Q. Okay. If you would look at Exhibit 2,  
8 please, and turn to the page marked TCC00015.  
9 Just let me know when you have it.

10 A. I have it.

11 Q. Okay. Is it correct that this is a  
12 printout of the directory of what we're referring  
13 to?

14 A. No, it is not a directory; but it is a  
15 printout from the Think School Program.

16 Q. Does this page list the contents of the  
17 disk?

18 A. No. This describes the contents of the  
19 forms aspect of the Think School database. There  
20 is no connection between the database and the  
21 disk aside from that, at one point, the program  
22 was contained on that disk.

23 Q. If you look at that same page,  
24 TCC00015, and look at the printout on that page,

1 is it true that the first and earliest date to  
2 appear on that page, which is following the first  
3 entry entitled Staff, is February 10, 1995?

4 A. The earliest date on the page is  
5 February 10, 1995.

6 Q. And was that the creation date of the  
7 document or entry entitled Staff?

8 A. Apparently, it was created on that  
9 date, yes.

10 Q. And is it correct that when you  
11 testified earlier about this program, you were a  
12 student at the school to which the school disk  
13 refers?

14 A. I was a student at Cleveland Hebrew  
15 Schools while they were using my software, yes.

16 Q. And is it correct that that school is  
17 in Shaker Heights, Ohio?

18 A. No; that's not correct.

19 Q. Where is that school located?

20 A. Cleveland Hebrew Schools is located on  
21 Fairmount Boulevard in Beachwood, Ohio.

22 Q. Is Beachwood, Ohio a suburb of Shaker  
23 Heights?

24 A. Shaker Heights and Beachwood are both

1 suburbs of Cleveland and are in the greater  
2 Cleveland area.

3 Q. Okay. Thank you. And is it true that  
4 the school disk was created by you only for your  
5 school?

6 A. No, that's not true.

7 Q. Who else was it created for, if not  
8 only the school?

9 A. There's no way for me to know who it is  
10 created for. The database software was created  
11 for anybody who might have a use for it, which,  
12 by definition, would have included other schools.

13 Q. Do you have any knowledge or records of  
14 the schools ever having been -- disk -- ever  
15 having been provided to other schools?

16 A. I personally do not.

17 Q. Mr. Greenspan, is it correct that you  
18 testified earlier today that you met with an  
19 attorney by the name of Carl Gillombardo in about  
20 February 1998?

21 A. That's correct.

22 Q. And is it correct that that meeting  
23 concerned various aspects of your setting up  
24 Think Computer, Incorporated?

1           A.       The meeting concerned incorporating the  
2 business that I had been running since 1995.

3                    At that meeting, we discussed potential  
4 names to use, one of which was Think Computer,  
5 Incorporated; but that was not the name that we  
6 finally settled on. We finally settled on Think  
7 Computer Corporation.

8           Q.       Would you please refer to what has been  
9 identified as Exhibit 5 beginning with production  
10 number TCC00199, and let me know when you have  
11 it.

12          A.       I have it.

13          Q.       Okay. Is it correct that the pages  
14 numbered TCC00199 and TCC00200 are your meeting  
15 notes?

16          A.       No, that's not correct. They are notes  
17 that were taken at the meeting by my father; but  
18 they are not my notes, per se.

19          Q.       So it's correct, then, that the notes  
20 are in your father's handwriting?

21          A.       That is correct.

22          Q.       If you would look halfway down the  
23 first page of Exhibit 5, which is the page  
24 numbered TCC00199.



1 A. Okay.

2 Q. Okay. Do you see an entry or a note  
3 which reads: Trademark, service mark (for no  
4 product)?

5 A. I see that.

6 Q. Okay. And then just below that, are  
7 there notes which read: TM for product. SM for  
8 a service?

9 A. That's correct.

10 Q. Is it correct that at this meeting with  
11 Mr. Gillombardo you discussed a trademark or a  
12 service mark fee associated with the corporation  
13 that you were forming?

14 A. What we discussed was whether or not a  
15 trademark or a service mark would be appropriate  
16 for my business.

17 Q. Based on these notes and your presence  
18 at that meeting, is it correct that it was your  
19 understanding that a trademark was used on a  
20 product?

21 A. My understanding was that a company  
22 which made products would file for trademark  
23 protection if they so desired.

24 Q. Move to strike as nonresponsive. Let

1 me repeat the question.

2 Based on these notes which we just read  
3 into the record starting with trademark, service  
4 mark and the two lines thereafter, was it your  
5 understanding as you attended this meeting and  
6 were present at the meeting that a trademark is  
7 used to identify products?

8 A. I'm not really sure I understand your  
9 question.

10 I understood that trademarks offered  
11 legal protection to companies who had products  
12 that they wished to protect. That was my  
13 understanding at the time.

14 Q. Okay. And would that have been your  
15 understanding regarding service marks as not used  
16 for products?

17 A. Correct; at the time, I understood that  
18 service marks would be used for companies that  
19 wanted to protect services.

20 Q. Okay. I'm still looking at Exhibit  
21 Number 5, the page bearing production number --  
22 hold on one moment. I'm sorry. I'm no longer  
23 referring to Exhibit 5.

24 I would like you to turn to the page

1 marked production number 281, which would be part  
2 of exhibit --

3 A. It's all right. I don't have the  
4 exhibits labeled, but I do have page 281.

5 Q. Okay. Good. Looking at that page,  
6 there's a heading: Trademark/Service Mark. Do  
7 you see that?

8 A. I do see that.

9 Q. Okay. The third paragraph under that  
10 heading, would you take a look at that, please.

11 A. Yes.

12 Q. Is it correct that that paragraph  
13 refers to your request for a trademark search to  
14 be conducted in connection with a service mark?

15 A. To clarify what that sentence says, it  
16 refers to my request to Mr. Gillombardo that he  
17 check both for a service mark and trademark --  
18 existing one -- on Think Computer; that he look  
19 first for a service mark, since I would primarily  
20 be providing services related to computers to my  
21 customers.

22 Q. You testified earlier, Mr. Greenspan,  
23 that you had telephoned Carl Winter of Think  
24 Computer Evolution at some time after he had sent

1 you the letter regarding a potential license, to  
2 find out if the license was still valid; is that  
3 correct?

4 A. No, that's not correct. I telephoned  
5 Gil Winter of Think Computer Evolution; not Carl  
6 Winter.

7 Q. I'm sorry; I thought I said Gil. In  
8 any case, Mr. Winter of Think Computer Evolution.

9

10 MS. GRABELL: Could the reporter  
11 repeat the question, please.

12

13 (The question was read back  
14 as follows:

15 "You testified earlier,  
16 Mr. Greenspan, that you had  
17 telephoned Carl Winter of Think  
18 Computer Evolution at some time  
19 after he had sent you the letter  
20 regarding a potential license, to  
21 find out if the license was still  
22 valid; is that correct?")

23

24 BY MS. GRABELL:

1 Q. Would you answer that question, please,  
2 Mr. Greenspan?

3 A. Yes; I did testify earlier that I  
4 telephoned Mr. Winter to find out if his license  
5 was still valid.

6 Q. I am going to refer now to the document  
7 which is entitled: Opposer's Responses to  
8 Applicant's First Set of Request for Admission.

9

10 MS. GRABELL: Ms. Loussaert, have  
11 you provided that document to  
12 Mr. Greenspan?

13 MS. LOUSSAERT: I'm sorry, the  
14 document number again?

15 MS. GRABELL: It hasn't been  
16 numbered; but I referred to it in my  
17 correspondence to you as one of the  
18 things in the case that I would be  
19 referring to, and that's the Opposer's  
20 Responses to Applicant's First Set of  
21 Request for Admission.

22 MS. LOUSSAERT: Okay.

23 MS. GRABELL: Does Mr. Greenspan  
24 have that document in front of him

1                   today?

2                   MS. LOUSSAERT: No.

3                   MS. GRABELL: All right. Well --

4                   MS. LOUSSAERT: I apologize.

5

6 BY MS. GRABELL:

7           Q.       Mr. Greenspan, do you remember  
8 receiving a document entitled: Applicant --  
9 rather, I'm sorry -- Applicant's First Set of  
10 Request for Admissions?

11           A.       Yes; I remember receiving that  
12 document.

13           Q.       Okay. So let's see if, to the best of  
14 your ability, we can refresh your memory and let  
15 me ask you a few questions about that. I'm sorry  
16 that you don't have the document in front of you.

17                   If you recall, the Applicant, namely,  
18 H. Co., propounded certain questions to you  
19 asking that you admit or deny the statements in  
20 those questions. Do you recall that?

21           A.       I do recall that.

22           Q.       Okay. I'm going to refer now to your  
23 Response Number 1. Let me read the question to  
24 you.

1           The Request for Admission Number 1:  
2   Opposer, or Aaron Greenspan, did not use a Think  
3   derivative mark or trade name before February  
4   1995.

5           Your response to Request Number 1:  
6   Based on information available at this time,  
7   admit. Opposer continues to check its records.

8           Do you recall that that was your  
9   response?

10          A.    Yes, I recall that was my response.

11          Q.    Have you checked your records?

12          A.    I have.

13          Q.    Have you found any other documents that  
14   would change your response to this admission?

15          A.    No; my response remains the same, and I  
16   continue to check my records.

17  
18                  MS. GRABELL: I would ask counsel  
19   that if Mr. Greenspan finds any other  
20   records, that they be produced, please.

21                  MS. LOUSSAERT: Absolutely.

22                  MS. GRABELL: Thank you.

23

24   BY MS. GRABELL:

1           Q.       I'm now going to read to you Request  
2 for Admission Number 2:

3                    Opposer has no evidence of use by  
4 opposer or by Aaron Greenspan of a Think  
5 derivative mark, Think derivative designation, or  
6 trade name containing the word Think, prior to  
7 February 10, 1995.

8                    Response to Request Number 2:

9                    Based on information available at this  
10 time, admit. Opposer continues to check his  
11 records.

12                   Do you recall this question,  
13 Mr. Greenspan?

14           A.       Yes, I recall the question.

15           Q.       And do you recall that your response to  
16 the question was as read into the record?

17           A.       Yes, I do recall.

18           Q.       Are there any documents that would  
19 change your response to that admission?

20           A.       No, there are no documents that would  
21 change the response at this time; but I continue  
22 to check company's records.

23

24                    MS. GRABELL: I would ask counsel,



1           again, that if any documents are found,  
2           that they be produced.

3                       MS. LOUSSAERT: I will.

4  
5 BY MS. GRABELL:

6           Q.       Mr. Greenspan, I'm going to ask you to  
7 refer to Document TCC00348.

8                       That would be part of Exhibit 8, which  
9 has been previously identified.

10          A.       I have it.

11          Q.       You testified earlier, I believe, that  
12 this exhibit contains information relating to  
13 your trademark application filed at the US.  
14 Patent and Trademark Office; is that correct?

15          A.       That's correct.

16          Q.       Looking at the page marked TCC00348 and  
17 subsequent pages through TCC00355.

18          A.       Okay.

19          Q.       Okay. Is it your testimony today that  
20 the date of first use that you claim in your  
21 trademark application to register Think Computer  
22 was made back in 1997?

23          A.       The date in the trademark application  
24 is, in fact, May 2nd, 1997; though, subsequent

1 research has found that date to be incorrect.

2 Q. What is the correct date?

3 A. I do not know the correct date because  
4 I do not recall exactly when I began using the  
5 name Think Computer or even Think; though, I do  
6 know that it was in October, or even late  
7 September, of 1995.

8 Q. Now, looking at a document that we  
9 provided to counsel, and that counsel should have  
10 provided to you, labeled T -- just merely T0682.

11 Do you have that document? It's also  
12 marked confidential.

13 A. One second. Let me look.

14 Q. It's entitled Think Computer Earnings.

15 A. Right. The documents here aren't in  
16 order; so I'm just looking through.

17 Q. Whenever you find it, just let me know.

18 A. 0682?

19 Q. 0682.

20 A. Here we go. I found it.

21

22 MS. GRABELL: Now, this document is  
23 marked confidential. Do we need to make  
24 some provision for a confidential

1 transcript? Ms. Loussaert, how would  
2 you like to handle this?

3 MS. LOUSSAERT: I would confer with  
4 the client for a moment.

5 MS. GRABELL: Sure.

6 MS. LOUSSAERT: Aaron, what she's  
7 asking is if you want to make this a  
8 confidential document. Do you want to  
9 keep this information confidential?

10 MS. GRABELL: This will be the only  
11 confidential document that I'll refer to  
12 today.

13 THE WITNESS: Confidential from  
14 whom?

15 MS. LOUSSAERT: From anyone other  
16 than us.

17 THE WITNESS: Us being everybody  
18 present in this conversation?

19 MS. LOUSSAERT: Yes.

20 THE WITNESS: No, I don't think  
21 it's worth the bother.

22 MS. LOUSSAERT: Okay.

23

24 BY MS. GRABELL:

1 Q. Thank you. So looking at T0682,  
2 entitled Think Computer Earnings, would you look  
3 at the first entry on the left-hand side of that  
4 page.

5 A. Where it says total?

6 Q. No; where it says 1994 to 1996, then a  
7 space, and then the word amount.

8 A. Right.

9 Q. Okay. And it says total. And what is  
10 the total amount listed on this page?

11 A. \$240 for 1994 through 1996.

12 Q. Is it correct that the earnings between  
13 1994 and 1996 in the amount of \$240 can not be  
14 attributed to use of the Think mark?

15 A. No, that's not correct.

16 Q. Wasn't it your testimony earlier that  
17 much of your income prior to 1998 derived from  
18 baby-sitting and stuff like that?

19 A. That's correct; however, you're  
20 misinterpreting the document.

21 The document, T0682, states all of the  
22 earnings that came from computer consulting prior  
23 to incorporation of the company.

24 There are other earnings -- from

1 baby-sitting, et. cetera -- not reflected by this  
2 document that do not appear anywhere on the page  
3 that would have been included in my personal tax  
4 return for the years in question.

5

6 MS. GRABELL: I'd like to identify  
7 T0682 as Exhibit 10.

8

9 (Exhibit Number 10 was marked for  
10 identification.)

11

12 BY MS. GRABELL:

13 Q. Mr. Greenspan, I'm now looking at the  
14 documents marked T0034 through T0035.

15 A. Let me see if I can find it.

16 Q. Got it?

17 A. Yes.

18 Q. Okay. What is this document?

19 A. This is an invoice that was sent to  
20 Keene Advertising, Incorporated in Boston.

21 Q. And what is the invoice date?

22 A. The invoice date is Thursday, September  
23 17th, 1998.

24 Q. Looking just below that heading where

1 it says Project Details, is it correct that the  
2 first date shown in the first column on the left  
3 is 7/14/98?

4 A. I'm sorry, did you say is it the  
5 earliest date shown?

6 Q. Is it the first date shown?

7 A. The first date shown --

8 Q. July 14th, 1998.

9 A. Yes, that is correct.

10 Q. And is it correct that that was the  
11 first date on which you provided services to  
12 Keene Advertising?

13 A. No, that is incorrect.

14 Q. What is the first date in which you  
15 provided services to Keene Advertising?

16 A. I don't remember.

17 Q. Do you have a project invoice for those  
18 services -- for providing those services?

19 A. Most likely, no.

20 Q. And you did testify earlier that  
21 Mr. Keene is your uncle; is that correct?

22 A. That is correct.

23 Q. And is it correct that among the  
24 services you provided to Keene Advertising as

1 Inc.?

2 A. It is correct that the document is on  
3 WorldView Technologies Group letterhead.

4 Q. And this appears to be a letter dated  
5 May 4th, 1999 addressed to Mr. Aaron Greenspan of  
6 Think Computer; is that correct?

7 A. That is correct.

8 Q. And this is a letter from Joe Costello  
9 President and CEO of WorldView Technologies  
10 Group, Inc.; is that correct?

11 A. That is also correct.

12 Q. If you look, please, at Paragraph 2 of  
13 that letter, could you read the first sentence,  
14 please.

15 A. As you know already, I have mentioned  
16 your name to many of my own clients and I will  
17 continue to brag about your services when the  
18 opportunities arise.

19 Q. So is it correct, based on this letter,  
20 that you provided services to WorldView  
21 Technologies Group, Inc.?

22 A. Yes; according to this letter, I  
23 provided services to WorldView Technologies  
24 Group, Incorporated.

1 shown on this project invoice, you did not  
2 provide any goods, namely, computer hardware,  
3 bearing a Think mark?

4 A. I did not provide any computer hardware  
5 to Keene Advertising bearing a Think mark;  
6 though, I did provide a significant amount of  
7 computer hardware.

8 Q. And is it correct that the computer  
9 hardware you provided to Keene Advertising bore  
10 the mark, for example, Dell?

11 A. Some of the computer hardware that I  
12 provided to Keene Advertising was manufactured by  
13 Dell Computer.

14 Q. And is it correct that some of the  
15 other hardware you provided bore the mark  
16 Gateway, for example?

17 A. That is correct. I should also add  
18 that the invoices for those computers bore the  
19 mark Think.

20 Q. I'm now looking at the document  
21 numbered T0255.

22 A. Okay.

23 Q. Is it correct that this is a document  
24 on the letterhead WorldView Technologies Group,



1 Q. And is it then correct that the  
2 services you provided were in the nature of  
3 computer consulting services; the kind of  
4 services you testified to earlier today?

5 A. That is correct.

6 Q. I'd like to now look at the document  
7 numbered T0298.

8 A. Okay.

9

10 MS. GRABELL: Actually, before we  
11 get to that document, I'd like to  
12 identify as Exhibit 12 the document  
13 bearing production number T0255.

14

15 (Exhibit Number 12 was marked for  
16 identification.)

17

18 COURT REPORTER: We have not marked  
19 Exhibit Number 11 yet.

20

21 MS. GRABELL: I'm sorry. Okay.

22 Thank you.

23

24

Let's mark as Exhibit 11 the  
document bearing production numbers

1 T0034 and T0035.

2

3 (Exhibit Number 11 was marked for  
4 identification.)

5

6 MS. GRABELL: Now we're looking at  
7 T0298. And why don't we go ahead and  
8 mark that as Exhibit 13, please.

9

10 (Exhibit Number 13 was marked for  
11 identification.)

12

13 BY MS. GRABELL:

14 Q. Mr. Greenspan, do you have this  
15 document in front of you?

16 A. I do.

17 Q. Thank you. Is this document dated May  
18 1st, 2002?

19 A. Yes, it is.

20 Q. And at the top of this document, is  
21 there a heading which reads: Joshua Go, 834  
22 Miller Avenue, Cupertino, California 95014?

23 A. That does appear to be the header.

24 Q. And is this letter addressed: To whom

1 it may concern?

2 A. Yes, it is.

3 Q. Would you please read the first  
4 sentence of the first paragraph of that letter.

5 A. I would just like to verify that Think  
6 Computer offered consulting services in Shaker  
7 Heights back in May of 1997.

8 Do you want the entire paragraph or  
9 just the first sentence?

10 Q. No; that's fine. Thank you. I'm just  
11 gathering my thoughts.

12 Is it correct that this is a letter  
13 written in the form of a letter of reference?

14 A. If you would define a letter of  
15 reference format for me, I might be able to  
16 answer that question.

17 Q. Okay. If you were looking at this  
18 letter, which you are right now, would you  
19 consider it a letter of reference about Think  
20 Computer?

21 A. I suppose I would. I still am not sure  
22 what a, quote, letter of reference is.

23 Q. Is Joshua Go a friend of yours?

24 A. Yes.

1 Q. I'm sorry, I didn't get that answer.

2 A. Yes.

3 Q. Did you ask him to write this letter?

4 A. I did for the record.

5 Q. I'm sorry, you're fading out.

6 A. Yes, I did ask him.

7 Q. And based on the date of May 1st, 2002,  
8 is it correct that this letter was written after  
9 the filing date of the opposition that we are  
10 here to testify on today?

11 A. Yes, it was written after that date. I  
12 asked him to write it in case there was any doubt  
13 in anybody's mind about whether or not he hosted  
14 the site.

15 Q. About whether or not --

16 A. Whether or not he hosted the web site  
17 for Think Computer.

18 Q. Mr. Greenspan, would you now look at  
19 document T0289.

20 A. Okay.

21 Q. Actually, I'd like to have you look at  
22 288 and 289. They appear to be part of the same  
23 document. Do you have both of those pages?

24 A. I do.

1  
2  
3  
4  
5  
6  
7  
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12  
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23  
24

MS. GRABELL: And I'd like to identify that as Exhibit Number 14, please.

(Exhibit Number 14 was marked for identification.)

BY MS. GRABELL:

Q. If you would look at page T0289 in the left-hand column, the second entry which reads ThinkSpace, do you see that entry?

A. Yes.

Q. Is this, page 289, a listing of semifinalists in an award program?

A. It is a listing of entries in the MIT 50K competition.

Q. Were they -- to your knowledge, were the entries on this page semifinalists in that award program?

A. I don't know.

Q. I see the entry Think Computer followed by the name Aaron Greenspan and an e-mail address. Do you see that?

1           A.     Yes, I see that.

2           Q.     Do you recall if the listing of Think  
3     Computer on this page indicated that Think  
4     Computer was a semifinalist in the MIT award  
5     program?

6           A.     Think Computer was not a semifinalist.

7           Q.     Looking at the next entry, which is  
8     ThinkSpace.

9           A.     Yes.

10          Q.     With the name Kurt Keville followed by  
11     kkeville@mit.edu. Do you see that?

12          A.     Yes.

13          Q.     Have you ever contacted or corresponded  
14     with Mr. Keville about the use of the name  
15     ThinkSpace?

16          A.     No, I have not. I should also add that  
17     ThinkSpace is not an incorporated entity, to my  
18     knowledge.

19          Q.     I'm now looking, Mr. Greenspan, at the  
20     document beginning with T0637 through T0665  
21     entitled, Think Computer Jobs (by State).

22          A.     Okay.

23

24                   MS. GRABELL: I'd like to mark this

1 as Exhibit 15, please.

2

3 (Exhibit Number 15 was marked for  
4 identification.)

5

6 BY MS. GRABELL:

7 Q. Mr. Greenspan, is it correct that you  
8 testified earlier that Think Computer has  
9 customers in various states of the United States?

10 A. Yes, I did say that.

11 Q. And looking at the document beginning  
12 T0637, do you see the date in the lower left-hand  
13 corner?

14 A. Are you referring to Saturday, December  
15 7th, 2002?

16 Q. Yes. What does that date represent?

17 A. That is the date that this document was  
18 printed.

19 Q. Who printed this document?

20 A. It was printed by myself.

21 Q. And is it correct that this document  
22 lists dates in which Think Computer had provided  
23 -- states to which Think Computer had provided  
24 services to various customers in those states?

1           A.       The document lists every recorded job  
2 done by Think Computer Corporation in various  
3 states and provinces of the United States and  
4 Canada, respectively.

5           Q.       Thank you. Mr. Greenspan, is it  
6 correct that you testified earlier today that you  
7 used the designation Think Technologies for the  
8 first time in October 1995?

9           A.       Yes, that is what I said.

10          Q.       Is it also correct that you testified  
11 that you used the designation Think International  
12 in or around April of 1996?

13          A.       To the best of my knowledge, that is  
14 correct.

15          Q.       And is it also correct that you  
16 testified as to the types of marketing efforts  
17 you made to promote Think International at that  
18 time?

19          A.       I tried to state, to the best of my  
20 knowledge, again, what I could recall doing at  
21 that time to market Think International.

22          Q.       And do you recall testifying earlier  
23 today that one of the modes of marketing Think  
24 International was the distribution of fliers door



1 to door?

2 A. Yes, I do recall saying that.

3 Q. Is it correct that those fliers were  
4 distributed door to door in and around Shaker  
5 Heights, Ohio?

6 A. Yes, that is correct.

7 Q. And is it correct that those fliers  
8 were distributed door to door only in or around  
9 Shaker Heights, Ohio?

10 A. To the best of my knowledge, that is  
11 also correct.

12 Q. I'm going to ask you to refer to  
13 Exhibit 9, which has been previously marked  
14 today. That's the document beginning TCC00373.

15 A. Okay.

16 Q. Can you tell me what document TCC00373  
17 is, please?

18 A. Document TCC00373 is a printout from  
19 the VeriSign Who Is Database for the domain name  
20 thinkcomputer.com, which is owned by Think  
21 Computer Corporation.

22 Q. If you look down on that document  
23 record, do you see a line: Record created?

24 A. Yes.

1 Q. And what is the date shown on the line  
2 Record Created?

3 A. The 14th of May 1998.

4 Q. Would it be correct that that was the  
5 date that you registered the domain name  
6 thinkcomputer.com?

7 A. Not necessarily.

8 Q. You testified previously today that you  
9 did register the domain name; is that correct?

10 A. That is correct.

11 Q. What is your recollection of the date  
12 that you registered that domain name?

13 A. I don't remember the precise date. The  
14 record created time stamp indicates when VeriSign  
15 processed my registration. So it is entirely  
16 feasible that it was actually entered earlier.

17 Q. And by earlier, would it be correct to  
18 say that we're talking about several days or  
19 weeks prior to May 14th, 1998?

20 A. I really don't have any knowledge of  
21 how VeriSign's database works.

22 Q. Would it be correct to say that you  
23 submitted your registration to VeriSign for the  
24 domain name thinkcomputer.com in or about early

1 1998, let's say around, perhaps, April?

2 A. That's quite possible.

3 Q. Would it be correct to say that you did  
4 not submit your registration to VeriSign for the  
5 domain name thinkcomputer.com before April of  
6 1998?

7 A. I do not believe it was before April;  
8 but, again, I am not sure what the exact date is.

9 Q. Mr. Greenspan, is it correct that you  
10 testified earlier that you provided products to  
11 your customers including a product bearing the  
12 name White Board?

13 A. That is correct.

14 Q. Is it your understanding that the term  
15 white board is a generic term?

16 A. I do not understand it to be a generic  
17 term any differently than any term is a generic  
18 term. Again, I need a definition of what you're  
19 calling a generic term to really answer that  
20 question.

21 Q. Bear with me while I look for another  
22 document.

23 Mr. Greenspan, is it correct that you  
24 testified earlier today that you received phone

1 calls and correspondence tending to lead you to  
2 believe that people were confusing your company  
3 with H. Co.'s Think Computer Company?

4 A. I testified earlier that I received  
5 phone calls and correspondence which strongly  
6 indicated to the point of fact that people were  
7 confusing the Think Computer Corporation with  
8 Think Computer Products.

9 Q. And it's correct, isn't it, that you  
10 did receive at least one piece of correspondence  
11 from a woman by the name of Ruth Harris; is that  
12 correct?

13 A. That is correct.

14 Q. Is it also correct that you testified  
15 earlier that you received a phone call from a  
16 third party indicating some confusion?

17 A. I'm sorry, can you repeat that  
18 question? The phone cut out.

19 Q. Certainly. I'm asking is it also  
20 correct that you received at least one phone call  
21 from a person who was confusing your company and  
22 H. Co.'s Think Computer?

23 A. That is correct.

24 Q. Is it also correct that you do not have

1 any notes of any phone conversations with any  
2 third parties calling you in the guise of being  
3 confused?

4 A. I have no notes from anybody calling me  
5 in the guise of being confused. I have no notes  
6 of anybody who actually was confused.

7 Q. And is it also correct that you  
8 testified earlier that your mother may have taken  
9 calls from third parties calling to complain or  
10 evidencing some confusion between your company  
11 and H. Co.'s Think Computer?

12 A. Yes, that's correct.

13 Q. And would it also be correct that your  
14 mother did not have any notes or records  
15 referring to these phone calls?

16 A. I do not know.

17 Q. You referred earlier in testimony to a  
18 telephone conversation with Gary Richardson at H.  
19 Co.; is that correct?

20 A. That is correct.

21 Q. Is it also correct that you do not have  
22 any notes from this telephone conversation?

23 A. I believe that is correct.

24 Q. If you would just give me a moment to

1 review my notes.

2

3 MS. GRABELL: Ms. Loussaert, I  
4 believe I've concluded my cross  
5 examination.

6 MS. LOUSSAERT: I have just a few  
7 questions for redirect.

8 MS. GRABELL: Certainly.

9

10 **REDIRECT EXAMINATION**

11

12 BY MS. LOUSSAERT:

13 Q. Aaron, I want to talk a little bit  
14 about the products and services that Think  
15 Computer and its predecessors provided to its  
16 customers?

17 A. Okay.

18 Q. What products did Think Computer and  
19 its predecessors provide to its consumers?

20 A. What products or what products and  
21 services?

22 Q. What products.

23 A. Think Computer Corporation has been an  
24 authorized reseller of Gateway and Dell Computer

1 Systems and associated accessories that Gateway  
2 and Dell also offer, as well as accessories that  
3 Gateway's distributor PC wholesale offers, since  
4 1998.

5 In addition, it has offered, as I  
6 mentioned earlier, computer consulting services,  
7 database development, desk top publishing,  
8 graphic design, web site design, web site  
9 hosting, networking, and training to its  
10 customers.

11 Q. Had Think Computer's predecessors  
12 provided similar services?

13 A. Yes; the various predecessors to Think  
14 Computer Corporation also provided many of those  
15 services.

16 Q. Did they provide -- did the  
17 predecessors provide similar products?

18 A. The predecessors were not authorized to  
19 sell those products directly; but on an extremely  
20 frequent basis, Think Technologies and Think  
21 International would refer customers to Gateway  
22 and Dell to buy their computer systems and  
23 actually guide them through the process of  
24 purchasing computer systems; so that Think

1 International and Think Technologies came to be  
2 associated with purchasing new computers.

3 And that was actually the reason why  
4 Think Computer became interested in becoming a  
5 reseller of Gateway and Dell Systems: To make  
6 that process a little bit easier.

7 Q. Okay.

8  
9 MS. LOUSSAERT: I have nothing  
10 further. Is there any additional  
11 cross-examination?

12 MS. GRABELL: No, I have no further  
13 cross examination. Thank you,  
14 Mr. Greenspan.

15  
16 (Whereupon, the deposition was concluded at  
17 2:50 p.m.)

18  
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## C E R T I F I C A T E

Commonwealth of Massachusetts  
Norfolk, ss.

I, Dawn Mack-Boaden, a notary public in  
and for the Commonwealth of Massachusetts, do  
hereby certify that:

AARON J. GREENSPAN, the witness whose  
testimony is hereinbefore set forth, was duly  
sworn by me, and that such testimony is a true  
and correct transcription of my stenographic  
notes taken in the forgoing matter, to the best  
of my knowledge, skill and ability.

I FURTHER CERTIFY that I am neither a  
relative nor employee of nor counsel for any of  
the parties, nor am I financially interested  
either directly or indirectly in the outcome of  
this action.

IN WITNESS WHEREOF, I have hereunto set  
my hand and Notarial Seal this 14th day of July,  
2003.



\_\_\_\_\_  
Dawn Mack-Boaden  
Notary Public

My Notary Commission expires: September 15,  
2006.

THE FORGOING CERTIFICATION OF THIS TRANSCRIPTION  
DOES NOT APPLY TO ANY REPRODUCTION AND/OR  
DISTRIBUTION OF THE SAME BY THE MEANS UNLESS  
UNDER THE DIRECT CONTROL AND/OR SUPERVISION OF  
THE CERTIFYING COURT REPORTER.





ERRATA / SIGNATURE PAGE

I, the undersigned, Aaron Jacob Greenspan do hereby certify, under the pains and penalties of perjury, that I have read the foregoing deposition and that, to the best of my knowledge, said deposition is true and accurate with the exception of the following corrections listed below:

PAGE	LINE	CORRECTIONS
<u>15</u>	<u>10</u>	CHANGE: "jdo" should read "jgo" REASON: Incorrect URL
<u>17</u>	<u>18</u>	CHANGE: Insert "s of magazines" before the period REASON: That is how I remember saying it.
<u>20</u>	<u>5</u>	CHANGE: "White Board" should read "whiteboard" REASON: Marketing term is spelled differently
<u>20</u>	<u>18</u>	CHANGE: "and" should read "in" REASON: That is how I remember saying it.
<u>21</u>	<u>21</u>	CHANGE: "phenomena" should read "phenomenon" REASON: That is how I remember saying it.
<u>24</u>	<u>7</u>	CHANGE: "Herring" should read "Herren" REASON: Name is spelled differently
<u>24</u>	<u>8</u>	CHANGE: "model" should read "module" REASON: That is how I remember saying it.
<u>29</u>	<u>17</u>	CHANGE: "reading" should read "reader" REASON: That is how I remember saying it.
<u>35</u>	<u>23</u>	CHANGE: "20001" should read "2001" REASON: Typographical error
<u>36</u>	<u>1</u>	CHANGE: "Herring" should read "Herren" REASON: Name is spelled differently
<u>59</u>	<u>22</u>	CHANGE: Insert "the" before "company's" REASON: That is how I remember saying it.
<u>76</u>	<u>19</u>	CHANGE: "who is" should read "WHO IS" REASON: Technical term is spelled differently
<u>78</u>	<u>12</u>	CHANGE: "White Board" should read "whiteboard" REASON: Marketing term is spelled differently
_____	_____	CHANGE: _____ REASON: _____
_____	_____	CHANGE: _____ REASON: _____
_____	_____	CHANGE: _____ REASON: _____
_____	_____	CHANGE: _____ REASON: _____
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_____	_____	CHANGE: _____ REASON: _____
_____	_____	CHANGE: _____ REASON: _____
_____	_____	CHANGE: _____ REASON: _____
_____	_____	CHANGE: _____ REASON: _____

DEPONENT'S SIGNATURE Aaron Jacob Greenspan

Subscribed and sworn before me this 1<sup>st</sup> day of August 2003

NOTARY PUBLIC Salvatore M. Sufano  
12/23/05

SIGNATURE PAGE

