

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

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In the matter of application **Serial No. 75/813,380** published in the *Official Gazette* at **TM449**  
on **June 19, 2001** for the mark **LABCAST**.

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INNOVATIVE PROGRAMMING ASSOCIATES, INC. :

Opposer, :

vs. :

VARIAN, Inc., formerly known as, :  
VANKEL TECHNOLOGY GROUP, :

Applicant. :  
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Opposition No. 91150161



12-26-2001

U.S. Patent & TMOtc/TM Mail Rcpt Dt. #75

**ANSWER TO APPLICANT'S COUNTERCLAIM**

**INNOVATIVE PROGRAMMING ASSOCIATES, INC.**, a New Jersey corporation having its principal place of business at 303 Wall Street, Princeton, New Jersey 08540-1515, hereby answers the counterclaims set forth in Applicants Answer to Notice of Opposition and Counterclaim to Restrict Opposer's Registration as follows:

1. Denied. After reasonable investigation answering defendant lacks sufficient knowledge or information to form a belief as to the truth of the matter asserted.
2. Admitted.
3. Denied as to all allegations.

4. Denied. After reasonable investigation answering defendant lacks sufficient knowledge or information to form a belief as to the truth of the matter asserted.
5. Denied.
6. Denied. In paragraph 6, Applicant is simply listing a legal standard and giving Applicant's opinion as to how that standard can be satisfied. Applicant is stating a legal conclusion to which no response is required. By way of further response, after reasonable investigation, insofar as there may be a counterclaim in paragraph 6 Opposer denies any and all claims.
7. Denied. In Paragraph 7, Applicant is raising a hypothetical question to which no response is required. Opposer's registration has not been modified by the restriction proposed by Applicant. By way of further response, after reasonable investigation, insofar as there may be a counterclaim in paragraph 6 Opposer denies any and all claims.
8. Denied. Paragraph 8 of Applicants Answer to Notice of Opposition and Counterclaim to Restrict Opposer's Registration, is a request by Applicant that the Board modify Opposers identification of goods and as such does not require a response. By way of further response, after reasonable investigation, insofar as there may be a counterclaim in paragraph 8 Opposer denies any and all claims.

**AFFIRMATIVE DEFENSES**

1. The contents of paragraphs 1-8 are incorporated as if fully set out herein. Opposer is entitled to the full ownership rights in this mark granted under the Lanham Act (15 U.S.C 1051 et seq.) as legitimate owner of the Trademark U. S. Registration No. 1,284,179 for LABCAT.

2. The contents of paragraphs 1-8 are incorporated as if fully set out herein. Applicant's Answer to Notice of Opposition and Counterclaim to Restrict Opposer's Registration fails to state a claim upon which relief can be granted.
  
3. The contents of paragraphs 1-8 are incorporated as if fully set out herein. Opposer believes that Applicant's course of action and the action undertaken by them in this matter are such violations of the Lanham Act (15 U.S. C. 1051 et seq.) and of Opposer's rights of the registrant of a mark under Section 35 of the Lanham Act as to warrant a finding of reasonable costs for Opposer and such costs are respectfully requested.

Respectfully submitted,  
INNOVATIVE PROGRAMMING ASSOCIATES, INC.

By: Charles Manero  
Charles F. Manero, Esq.  
Attorney for Opposer  
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Dated: 12/21/01

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as FIRST CLASS Mail in an envelope addressed to: Commissioner for Trademarks, ATTN:TTAB - FEE, 2900 Crystal Drive, Arlington, VA 22202-3513.

Date of Deposit : 12/21/01

Name : Charles F. Manero, Esq.

Signature

Charles F. Manero

Date of Signature : 12/21/01

**CERTIFICATION OF SERVICE**

I certify that a true and correct copy of the Answer to Opposer's Counterclaim was served on the Applicant's attorney by mailing it with the United States Postal Service, First Class postage pre-paid, addressed as follows:

Roy S. Gordet Esq  
Attorney for Applicant  
530 Bush Street, Suite 601  
San Francisco, CA 94108

Dated: December 21, 2001

By: Charles Manero  
Charles Manero, Esq.  
Attorney for Opposer,  
Innovative Programming Associates, Inc.

*THAB*

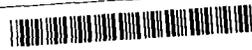
**WOODBIDGE**  
**& ASSOCIATES, P. C.**

*Domestic and International  
Patents, Trademarks and Copyrights*

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December 21, 2001

**VIA FIRST CLASS MAIL**

Attn: Commissioner of Trademarks  
Trademark Trial and Appeal Board  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

Ref. No. 2509-105 OPP.

Re: Innovative Programming Associates, Inc. v. Varian, Inc.  
Opposition No. 91150161

Dear Madam/Sir:

Enclosed for filing is our Answer to Applicant's Counterclaim regarding the above-referenced matter. Also, enclosed is an Acknowledgement Postcard. Upon receipt of our Answer, please forward back to us the Acknowledgement Postcard.

Thank you for your courtesy in this matter.

Respectfully Submitted,

*Charles Manero*

Charles Manero, Esq.

CM:bs  
Enclosures