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



03-14-2003

U.S. Patent & TMO/TM Mail Rpt Dt. #70

In the matter of Application  
Serial No. 76/156,933

Published in the Official Gazette  
on September 17, 2002

MICROSOFT CORPORATION, )  
 )  
 Opposer, )  
 )  
 v. )  
 )  
 VALVERDE INVESTMENTS, INC., )  
 )  
 Applicant. )  
 \_\_\_\_\_ )

Opposition No. 91154797

03 MAR 26 AM 9:30  
TRADEMARK TRIAL AND  
APPEAL BOARD

**APPLICANT'S ANSWER TO NOTICE OF OPPOSITION**

Applicant, Valverde Investments, Inc., for its answer to the Notice of Opposition filed by Microsoft Corporation against application for registration of Valverde Investments, Inc.'s trademark BACKPAGE, Serial No. 76,156,933, filed on October 31, 2000 and published in the Official Gazette on September 17, 2002, pleads and avers as follows:

1. Answering paragraph 1 of the Notice of Opposition, Applicant admits the allegations thereof.

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2. Answering paragraph 2 of the Notice of Opposition, Applicant has no knowledge or information sufficient to form a belief as to the allegations contained therein and accordingly denies the allegations.

3. Answering paragraph 3 of the Notice of Opposition, Applicant does not have sufficient knowledge or information to form a belief as to the allegations contained therein and accordingly denies the allegations. Applicant does note that Exhibit 2 does appear to be copies of the Opposer's U.S. federal trademark registration of FRONTPAGE.

4. Answering paragraph 4 of the Notice of Opposition, Applicant does not have sufficient knowledge or information sufficient to form a belief as to the allegations contained therein and accordingly denies the allegations.

5. Answering paragraph 5 of the Notice of Opposition, Applicant does not have sufficient knowledge or information sufficient to form a belief as to the allegations contained therein and accordingly denies the allegations.

6. Answering paragraph 6 of the Notice of Opposition, Applicant denies each and every allegation contained therein.

7. Answering paragraph 7 of the Notice of Opposition, Applicant admits the goods listed are those goods listed in the

Applicant's application. Applicant denies each and every allegation contained therein.

8. Answering paragraph 8 of the Notice of Opposition, Applicant denies each and every allegation contained therein.

9. Answering paragraph 9 of the Notice of Opposition, Applicant denies each and every allegation contained therein.

10. Answering paragraph 10 of the Notice of Opposition, Applicant admits that the Applicant had knowledge of the Opposer's mark at the time the Applicant selected BACKPAGE. Applicant further firmly alleges that the Applicant did not believe that there would be any likelihood of confusion between the Applicant's mark and the Opposer's mark.

11. Answering paragraph 11 of the Notice of Opposition, Applicant admits that the Applicant filed the present application with knowledge of the Opposer's FRONTPAGE mark. Applicant further firmly alleges that the Applicant did not believe that there would be any likelihood of confusion between the Applicant's mark and the Opposer's mark.

12. Answering paragraph 12 of the Notice of Opposition, Applicant admits the allegations therein.

13. Answering paragraph 13 of the Notice of Opposition, Applicant denies each and every allegation contained therein.

14. Answering paragraph 14 of the Notice of Opposition, Applicant denies each and every allegation contained therein.

15. Answering paragraph 15 of the Notice of Opposition, Applicant denies each and every allegation contained therein.

16. Applicant further affirmatively alleges that there is no likelihood of confusion, mistake or deception because, *inter alia*, Applicant's mark and the pleaded mark of Opposer are not confusingly similar in sight, sound, meaning or connotation.

17. Applicant further firmly alleges that Applicant's goods are unique and unlike any other goods, this is evidenced by the patent that the United States Patent Office has allowed, U.S. Patent Application No. 09/620,429, but has not yet issued to the Applicant for the goods used in association with the Applicant's trademark. The goods of the Applicant are clearly unique and are not similar to the Opposer's goods in either structure, function or purpose.

18. Applicant further firmly alleges that Applicant's goods are marketed and sold in different channels of trade to different consumers than the Opposer's goods. Applicant's goods are marketed and sold to companies and Internet Service Providers, whereas the Opposer's goods are sold to individual computer users for personal use.

19. Applicant further firmly alleges that Applicant's goods are sold to sophisticated and knowledgeable consumers who make careful, thoughtful purchases and therefore would be less likely to be confused by the Opposer's mark and the Applicant's mark.

20. Applicant further firmly alleges that the common element "PAGE" of these two trademarks is a weak element, extensively used by third parties in association with related goods and services.

21. Applicant further firmly alleges that given that this shared element of the marks is weak, more weight will be accorded on the first elements of the Opposer's mark and the Applicant's mark which have significantly different meanings and connotations when used in conjunction with the goods listed in the Opposer's Registration and the Applicant's application. As such any trademark rights that Opposer may have are narrowly circumscribed to the goods indication of U.S. Federal Trademark Registration No. 2,046,526 and any other use would not lead to a likelihood of confusion.

In view of the foregoing, Applicant contends that this Opposition is groundless and baseless in fact; that Opposer has not shown wherein it will be, or is likely to be, damaged by the registration of Applicant's trademark; that Applicant's

trademark is manifestly distinct from any alleged mark of the Opposer or any designation of the Opposer.

WHEREFORE, Applicant prays that the Notice of Opposition be dismissed in its entirety, and that a registration issue to Applicant for its mark. The Applicant also prays that the Applicant be awarded all other relief deemed just by the Trademark Trial and Appeal Board.

Respectfully submitted,

Date: 3/10/03



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**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that this correspondence is being deposited with the United States Postal Service with sufficient postage as first-class mail in an envelope addressed to: Assistant Commissioner for Trademarks, Attn: Box TTAB, 2900 Crystal Drive, Arlington, Virginia 22202, this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Lynn Tkacz, Paralegal

I:\10195\LIT\PLD\3917.002 Answer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing **APPLICANT'S ANSWER TO NOTICE OF OPPOSITION** in Opposition No. 91154797 is being deposited as First Class mail with the United States Postal Service in a postage-paid envelope addressed to: Assistant Commissioner for Trademarks, Attn: Box TTAB, 2900 Crystal Drive, Arlington, Virginia 22202; and a true and correct copy of same deposited with the United States Postal Service in a postage-paid envelope addressed to attorneys for Opposer:

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this 10<sup>TH</sup> day of March, 2003.

  
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