

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

SAP AMERICA, INC. AND SAP AG,

Opposers,

v.

R SQUARED ACADEMY, LTD.,

Applicant.

07-17-2003

U.S. Patent & TMO/TM Mail Rcpt Dt. #58

Opposition No. 91156450

Serial No. 76/345,698

Filed: December 6, 2001

MOTION TO FILE LATE ANSWER

United States Department of Commerce
Patent and Trademark Office
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, VA 22202-3514

R Squared Academy, Ltd., a Texas limited partnership ("**Applicant**"), with its principle place of business at 6851 N.E. Loop 820, Suite 247, Fort Worth, Texas 76180, hereby requests that this Motion to File Late Answer be approved pursuant to TBMP §509. Further, it is hereby requested that Applicant's Answer to the Notice of Opposition, which is being filed simultaneously herewith, be entered on the record for the above-identified opposition proceeding.

Applicant's failure to file its Answer to the Notice of Opposition within the time period set forth in the Notice of Opposition was the result of excusable neglect. Although the date on which the answer was to be filed was properly calendared on Applicant's counsel's computer system, there was no reminder date set. Accordingly, the date for the answer to be filed (July 8, 2003) came without anyone in the firm realizing that the deadline had arrived. It was not until late in the day Friday, July 11, 2003, during a routine review of pending files, that counsel for Applicant discovered that an answer had not been filed. This motion and the accompanying Answer were then promptly prepared and are being filed on the next business day after the discovery was made.

06/17/2003

Applicant's position in this dispute has substantial merit, and the opposition to the application is without merit. As set forth in the proposed Answer being submitted herewith, there is no likelihood of confusion between Applicant's mark and those of SAP America, Inc. and SAP AG ("**Opposers**") for a number of reasons.

First and foremost, the words used in Applicant's proposed mark, **R² ACADEMY NAM ET IPSA SCIENCIA POTESTAS EST**, are not sufficiently similar so as to create confusion with Opposers' two marks, **R/2** and **R/3**. In addition, Applicant's mark also contains a design element, which is the dominant element of the mark. Applicant's design consists of two concentric circles with the words "R² ACADEMY" printed in a rounded pattern above the top portion of the inner circle and below the outer circle, at the upper portion of the outer circle. At the center of the inner circle is a distinctive design. The words "Nam Et Ipsa Scientia Potestas Est" are printed as a banner in a wavy horizontal line below the inner circle, intersecting the outer circle at two points. There is no design element to either of Opposers' marks. The design element of Applicant's mark therefore completely differentiates it from those of Opposers. Moreover, under the DuPont factors, there will be no likelihood of confusion between Applicant's mark and either of Opposers' marks because, *inter alia*, Opposers' and Applicant's goods are dissimilar in that they will be used for entirely different purposes and will be marketed through different channels to highly sophisticated consumers. In addition, Opposers' marks are not famous, and the extent of potential confusion is *de minimis*.

For these reasons, Applicant requests that the motion for permission to file a late answer be granted, and that accompanying Applicant's Answer to Notice of Opposition be accepted for filing.

Dated: New York, New York
July 14, 2003

Respectfully submitted,
MOSES & SINGER LLP

By: 
Eric P. Bergner, Esq.
1301 Avenue of the Americas
New York, NY 10019
(212) 534-7800
Attorneys for R Squared Academy, Ltd.

09/07/2000 TTAB
09/07/2000 TTAB

SO ORDERED:

Trademark Trial and Appeal Board

**CERTIFICATE OF MAILING FOR MOTION TO FILE
LATE ANSWER**

I hereby certify that this Motion to File Late Answer is being deposited with the United States Postal Service as first class mail with postage prepaid in an envelope addressed to: Commissioner for Trademarks, Trademark Trial and Appeal Board, 2900 Crystal Drive, Arlington, Virginia 22202-3514 on the date shown below:

Signature: _____

Name: _____

Date: _____

Andrea LaGrone

Andrea LaGrone

July 14, 2003

**CERTIFICATE OF SERVICE FOR MOTION TO FILE LATE
ANSWER**

I hereby certify that a copy of the foregoing Motion to File Late Answer was mailed by first class mail, postage prepaid, to Laura Genovese Miller and Brian J. Urban, Cozen O'Connor, P.C., 1900 Market Street, Philadelphia, PA 19103, counsel for Opposers, this 14th day of July, 2003.

Signature: _____

Name: _____

Date: _____

Andrea LaGrone

Andrea LaGrone

July 14, 2003

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

SAP AMERICA, INC. AND SAP AG,

Opposers,

v.

R SQUARED ACADEMY, LTD.,

Applicant.



07-17-2003

U.S. Patent & TMO/TM Mail Rpt Dt. #58

Opposition No. 91156450
Serial No. 76/345698
Filing Date: December 6, 2001
Publication Date: February 18, 2003

APPLICANT'S ANSWER TO NOTICE OF OPPOSITION

United States Department of Commerce
Patent and Trademark Office
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, VA 22202-3514

R Squared Academy, Ltd., a Texas limited partnership ("**Applicant**"), with its principle place of business at 6851 N.E. Loop 820, Suite 247, Fort Worth, Texas 76180, by its attorneys, Moses & Singer LLP, answering the Notice of Opposition, dated May 19, 2003, alleges as follows:

1. Applicant admits the allegations of paragraph 1.
2. Applicant admits the allegations of paragraph 2.
3. Applicant lacks knowledge or information sufficient to form a belief as to the allegations of paragraph 3, and therefore denies same.
4. Applicant lacks knowledge or information sufficient to form a belief as to the allegations of paragraph 4, and therefore denies same.
5. Applicant denies the allegations of paragraph 5.
6. Applicant lacks knowledge or information sufficient to form a belief as to the allegations of paragraph 6, and therefore denies same.

7. Applicant lacks knowledge or information sufficient to form a belief as to the allegations of paragraph 7, and therefore denies same.
8. Applicant denies the allegations of paragraph 8.
9. Applicant denies the allegations of paragraph 9.
10. Applicant lacks knowledge or information sufficient to form a belief as to the allegations of paragraph 10, and therefore denies same.
11. Applicant denies the allegations of paragraph 11.
12. Applicant denies the allegations of paragraph 12.
13. Applicant denies the allegations of paragraph 13.

AFFIRMATIVE DEFENSES

14. Applicant's mark and the pleaded marks of SAP America, Inc. and SAP AG ("**Opposers**") are not confusingly similar.
15. There is no likelihood of confusion, mistake or deception between Applicant's mark and Opposers' marks because, *inter alia*, the words used in Applicant's proposed mark, **R² ACADEMY NAM ET IPSA SCIENCIA POTESTAS EST**, are not sufficiently similar to cause confusion with Opposers' two marks, **R/2** and **R/3**.
16. There is no likelihood of confusion, mistake or deception between Applicant's mark and Opposers' marks because, *inter alia*, Opposers' marks are word marks, whereas Applicant's mark is a composite mark, containing a design element as the dominant element of the mark. Applicant's design consists of two concentric circles with the words "R² ACADEMY" printed in a rounded pattern above the top portion of the inner circle and below the outer circle, at the upper portion of the outer circle. At the center of the inner circle is a distinctive design. The words "Nam Et Ipsa Scientia Potestas Est" are printed as a banner in a wavy horizontal line below the inner circle, intersecting the outer circle at two points. There is no design element to either of Opposers marks. The design element of Applicant's mark therefore completely differentiates it from those of Opposers.
17. There is no likelihood of confusion, mistake or deception between Applicant's mark and Opposers' marks because, *inter alia*, Opposers' and

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Applicant's goods are dissimilar in that they will be used for entirely different purposes and will be marketed through different channels to highly sophisticated consumers. In addition, Opposers' marks are not famous, and the extent of potential confusion is *de minimis*.

WHEREFORE, it is respectfully requested that judgment be entered for Applicant, that Opposition No. 91156450 be dismissed with prejudice, and that Applicant's U.S. Trademark Application Serial No. 76/345698 be permitted to proceed to allowance.

Dated: New York, New York
July 14, 2003

Respectfully submitted,

MOSES & SINGER LLP



By _____
Eric P. Berghner, Esq.
1301 Avenue of the Americas
New York, NY 10019
(212) 554-7800
Attorneys for R Squared Academy, Ltd.

COZEN O'CONNOR, P.C.
1900 Market Street
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<p><u>CERTIFICATE OF MAILING FOR APPLICANT'S ANSWER TO NOTICE OF OPPOSITION</u></p> <p>I hereby certify that this Applicant's Answer to Notice of Opposition is being deposited with the United States Postal Service as first class mail with postage prepaid in an envelope addressed to: Commissioner for Trademarks, Trademark Trial and Appeal Board, 2900 Crystal Drive, Arlington, Virginia 22202-3514 on the date shown below:</p> <p>Signature: <u></u></p> <p>Name: <u>Andrea LaGrone</u></p> <p>Date: <u>July 14, 2003</u></p>	<p><u>CERTIFICATE OF SERVICE FOR APPLICANT'S ANSWER TO NOTICE OF OPPOSITION</u></p> <p>I hereby certify that a copy of the foregoing Answer to Notice of Opposition was mailed by first class mail, postage prepaid, to Laura Genovese Miller and Brian J. Urban, Cozen O'Connor, P.C., 1900 Market Street, Philadelphia, PA 19103, counsel for Opposers, this 14th day of July, 2003.</p> <p>Signature: <u></u></p> <p>Name: <u>Andrea LaGrone</u></p> <p>Date: <u>July 14, 2003</u></p>
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July 14, 2003

Commissioner for Trademarks
U.S. Patent and Trademark Office
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, VA 22202-3514

Re: **OPPOSITION NO. 91156450**

Dear Sir or Madam:

On behalf of R Squared Academy, Ltd., Applicant, enclosed are the following items regarding the above opposition proceeding:

1. Motion to File Late Answer (in duplicate);
2. Applicant's Answer to Notice of Opposition (in duplicate);
3. transmittal letter; and,
4. postcard, please file-stamp and return.

Please direct all inquiries regarding this matter to me at the address and phone number above.

Sincerely,

MOSES & SINGER LLP



Andrea K. LaGrone
Paralegal

AKL:akl

Enclosures

cc: Eric P. Bergner, Esq. (w/o enclosures)
R Squared Academy, Ltd. (w/enclosures)



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