

ESTTA Tracking number: **ESTTA6182**

Filing date: **03/02/2004**

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

Proceeding	91156666
Party	Defendant Wicom GmbH Wicom GmbH Liebigstrasse 16 DEX D-64646 Heppenheim,
Correspondence Address	STANLEY C. MACEL, III CONNOLLY BOVE LODGE & HUTZ LLP 7 NORTH ORANGE STREET WILMINGTON, DE 19899
Submission	Consented to Motion to Amend Answer to Notice of Opposition with attachments. If a fee is required for this filing, I authorize the USPTO to debit account number 03-2775 of Connolly Bove Lodge & Hutz LLP.
Filer's Name	Stanley C. Macel, III, Esquire
Filer's e-mail	scm@cblhlaw.com
Signature	/scm/
Date	03/02/2004
Attachments	ConsentedMotion1.tif (1 page) ConsentedMotion2.tif (1 page) ConsentedMotion3.tif (1 page) Answer1.tif (1 page) Answer2.tif (1 page) Answer3.tif (1 page) AmendedAnswer1.tif (1 page) AmendedAnswer2.tif (1 page) AmendedAnswer3.tif (1 page)

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

Optimize Technologies, Inc.	:	
	:	Opposition No. 91156666
Opposer,	:	
	:	Application Serial No. 78/095,516
v.	:	
	:	Opposed Mark: OPTIFLOW
Wicom GmbH	:	
	:	Attorney Docket No. 9698*5
Applicant.	:	

**CONSENTED TO MOTION TO AMEND ANSWER
TO NOTICE OF OPPOSITION**

Applicant, Wicom GmbH, with the consent of Opposer, Optimize Technologies, Inc. hereby moves the Board for an order allowing it to amend its Answer to Notice of Opposition. The only change in the Amended Answer to Notice of Opposition is that the response to paragraph 6 of the Notice of Opposition is denied in the Amended Answer. In the original Answer, the allegations of paragraph 6 were erroneously “admitted”.

The reason for the change is that Applicant misunderstood the allegations of paragraph 6 and mistakenly admitted them when it should have denied them.

The amendment is not interposed for delay but is required to serve the ends of justice. Everett Freuhling, one of the attorneys for Opposer, has consented to this motion and Opposer will not be prejudiced by it because Applicant has agreed to permit Opposer to have follow-up discovery on any issue raised by the change in the Amended Answer. No testimony has yet been taken in this proceeding and the testimony periods are still open. Applicant will agree to a continuance of the testimony period if necessary.

A copy of the original Answer and Amended Answer are attached for the Board's review with the only change being the response to paragraph 6.

Respectfully submitted,



Stanley C. Macel, III
Connolly Bove Lodge & Hutz LLP
1007 North Orange Street
P.O. Box 2207
Wilmington, DE 19899
(302) 658-9141
Attorneys for Applicant

Dated: March 2, 2004

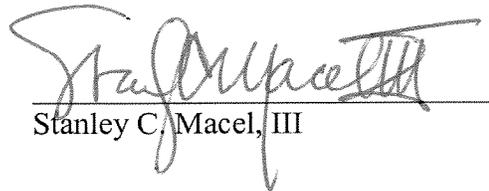
CB:/319027v1

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of March, 2004, I caused the original and one copy of the foregoing **CONSENTED TO MOTION TO AMEND ANSWER TO NOTICE OF OPPOSITION** to be served upon the following counsel in the manner indicated:

By U.S. First Class Mail and E-mail

Everett E. Fruehling, Esquire
Christensen O'Connor Johnson Kindness
1420 Fifth Avenue, Suite 2800
Seattle, WA 98101


Stanley C. Macel, III

Express Mail Mailing Label No. EU702905652 US

Date of Deposit September 17, 2003

I hereby certify that this paper or fee is being deposited
With the United States Postal Service Express Mail Post
Office to Addressee Service under 37 CFR 1.10 on the
date indicated above and addressed to the
Commissioner for Trademarks, 2900 Crystal Drive,
Arlington, VA 22202-3513

Named: _____
Signed: Asa

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

In the Matter of Application Serial No.78/095,516

Filed on November 28, 2001

For the Mark OPTIFLOW

Published in the Official Gazette (Trademarks) January 27, 2003

EU 702905652 US

OPTIMIZE TECHNOLOGIES, INC. :

Opposer, :

Opposition No. 91156666

v. :

WICOM GMBH, :

Applicant. :

ANSWER TO NOTICE OF OPPOSITION

BOX TTAB – NO FEE

Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Dear Madame:

Wicom GmbH, a German limited liability company, the Applicant in this Opposition proceeding responds to the Notice of Opposition as follows.

1. Admitted.
2. Admitted.
3. Applicant is without knowledge or information sufficient to form a belief as to the allegations of this paragraph.

4. Applicant is without knowledge or information sufficient to form a belief as to the allegations of this paragraph.

5. Applicant is without knowledge or information sufficient to form a belief as to the allegations of this paragraph.

6. Admitted.

7. Admitted.

8. Denied.

9. Denied.

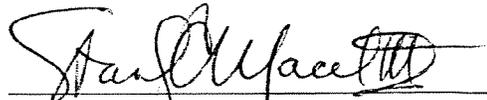
10. Denied.

11. Denied.

12. Denied.

WHEREFORE, Applicant prays that this Opposition proceeding be dismissed and that its OPTIFLOW application be allowed to proceed to registration.

Respectfully submitted,



Stanley C. Macel, III
Connolly Bove Lodge & Hutz LLP
7 North Orange Street
P.O. Box 2207
Wilmington, DE 19899
(302) 888-6260

Attorney for Respondent

Dated: September 17, 2003

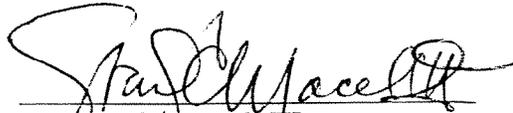
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CERTIFICATE OF SERVICE

I hereby certify that on September 17, 2003, I caused two copies of the ANSWER TO NOTICE OF OPPOSITION to be served upon the following counsel in the manner indicated:

By U.S. First Class Mail

Everett E. Fruehling, Esquire
Christensen O'Connor Johnson Kindness
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101


Stanley C. Macel, III

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

In the Matter of Application Serial No.78/095,516
Filed on November 28, 2001
For the Mark OPTIFLOW
Published in the Official Gazette (Trademarks) January 27, 2003

OPTIMIZE TECHNOLOGIES, INC.	:	
	:	
Opposer,	:	
	:	Opposition No. 91156666
v.	:	
	:	
WICOM GMBH,	:	
	:	
Applicant.	:	
	:	

AMENDED ANSWER TO NOTICE OF OPPOSITION

BOX TTAB – NO FEE

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6. Denied.

7. Admitted.

8. Denied.

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1007 North Orange Street
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(302) 888-6260

Attorney for Respondent

Dated: March 2, 2004

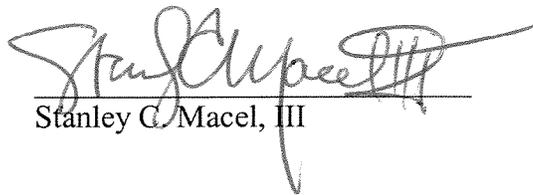
CB:/319040v1

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By U.S. First Class Mail and E-mail

Everett E. Fruehling, Esquire
Christensen O'Connor Johnson Kindness
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Seattle, Washington 98101



Stanley C Macel, III