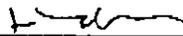


I hereby certify that this correspondence is being deposited with the United States Postal Service, with sufficient postage, as first class mail in an envelope addressed to: Box TTAB NO FEE, Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3514 on January 12, 2004

Date of Deposit

Howard S. Michael

Name of applicant, assignee or Registered Representative



Signature

January 12, 2004

Date of Signature

Our Ref. No. 9691/28

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

AUTODESK, INC,)	
)	
Opposer,)	
)	
vs.)	Opposition No. 158,625
)	
DASSAULT SYSTEMES S.A.,)	Serial No. 78/069,378
)	
Applicant.)	
)	

**APPLICANT'S MOTION FOR A MORE DEFINITE STATEMENT BY OPPOSER
UNDER RULE 12(E) OF THE FEDERAL RULES OF CIVIL PROCEDURE**

I. Introduction

Pursuant to Rule 12(e) of the Federal Rules of Civil Procedure and Section 505 of the Trademark Trial & Appeal Board Manual of Procedure, Applicant Dassault Systemes S.A. (hereinafter "Applicant"), by and through its undersigned attorneys, respectfully moves the Board to require Opposer Autodesk, Inc. ("Opposer") to provide a more definite statement regarding the basis for its opposition against Serial No. 78/069,378. Opposer's notice of

opposition is so vague and ambiguous that Opposer fails to clearly notify Applicant of the asserted grounds for the opposition. Applicant therefore cannot frame a responsive pleading.

On the one hand, Opposer alleges that “Opposer does not particularly object to the graphical representation of Applicant’s mark,” and “Opposer specifically objects to the characterization of the mark as ‘3DS’ and use by Applicant as such, *rather than to the visual mark itself.*” (Emphasis added). Yet, Opposer subsequently pleads that “Applicant’s mark so resembles Opposer’s previously used mark, as to be likely to cause confusion, or to cause mistake, or to deceive.” The inconsistency of Opposer’s position – that it takes no issue with the design covered by Serial No. 78/069,378, yet nevertheless alleges a likelihood of confusion, is so ambiguous that it prevents Applicant from providing a responsive pleading. As a result, Applicant respectfully moves the Board to force Opposer to file a more definite statement under Federal Rule of Civil Procedure 12(e) and T.B.M.P. Section 5.¹

II. Argument

Rule 12(e) of the Federal Rules of Civil Procedure provides that “[i]f a pleading to which a responsive pleading is permitted is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading, the party may move for a more definite statement before interposing a responsive pleading.” FED. R. CIV. P. 12(e); *see also* T.M.B.P. § 505. In this case, Opposer’s notice is so vague and ambiguous that Applicant cannot frame a responsive pleading.

¹ Filed currently herewith is Applicant’s Motion for an Extension of Time to Move, Answer or Otherwise Respond to Opposer’s Notice of Opposition until such time that the Board rules on Applicant’s current motion and/or the Opposer provides a more definite pleading.

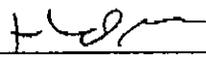
As grounds for its opposition, Opposer alleges that "Applicant's mark so resembles Opposer's previously used mark, as to be likely to cause confusion, or to cause mistake, or to deceive." Yet, in the same notice, Opposer concedes that "Opposer does not particularly object to the graphical representation of Applicant's mark," and "Opposer specifically objects to the characterization of the mark as '3DS' and use by Applicant as such, *rather than to the visual mark itself.*" (Emphasis added). Because these contradictory statements relate directly to the nature of Opposer's claims against Serial No. 78/069,378, it is impossible for Applicant to frame a responsive pleading. As a result, the Board should force Opposer to file a more definite notice before requiring Applicant to respond.

III. Conclusion

Applicant believes that Opposer's contradictory statements are highly prejudicial defects in Opposer's notice of opposition which leave Applicant to guess the nature of Opposer's specific claim. Because Opposer fails to clearly notify Applicant of the asserted grounds for opposition, Applicant respectfully move the Board to require Opposer to file a more definite statement in accordance with Rule 12(e) of the Federal Rules of Civil Procedure.

Respectfully submitted,

Dated: January 12, 2004


Howard S. Michael
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Chicago, Illinois 60610
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Facsimile: (312) 321-4299

Attorneys for Applicant
DASSAULT SYTEMES S.A.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Applicant's Motion For A More Definite Statement By Opposer Under Rule 12(E) Of The Federal Rules Of Civil Procedure was served on counsel for Opposer on this 12th day of January, 2004, by first class mail, postage prepaid, addressed as follows:

Michael J. Hughes
IPLO Intellectual Property Law Office
1901 South Bascom Avenue Suite 660
San Rafael, CA 95008-2209



Howard S. Michael
312-321-4244
hsmichael@brinkshofer.com

BRINKS
HOFER
GILSON
& LIONE

January 12, 2004

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A PROFESSIONAL CORPORATION
INTELLECTUAL PROPERTY ATTORNEYS

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Re: Autodesk, Inc. v. Dassault Systemes S.A.
Opposition No.: 158,625
Serial No.: 78/069,378
Our Reference No.: 9691/28

SAN JOSE, CA
INDIANAPOLIS, IN
ANN ARBOR, MI
ARLINGTON, VA

Dear Sir:

Enclosed for filing please find the following:

1. Applicant's Motion for a More Definite Statement by Opposer Under Rule 12(E) of the Federal Rules of Civil Procedure; and,
2. A return prepaid postcard.

The Commissioner is hereby authorized to charge payment of any additional filing fees or processing fees required under 37 CFR § 2.6 associated with this communication or credit any overpayment to Deposit Account No. 23-1925. A duplicate copy of this sheet is enclosed.

Very truly yours,



Howard S. Michael

HSM:rr
Enclosures

cc: Yasemin Meunier-Kunt (w/enclosure)
John T. Gabrielides, Esq. (w/enclosure)

Applicant: AUTODESK, INC. V. DASSAULT SYSTEMES S.A.
Serial No.: 78/069,378
Client/Matter: 9691/28
Items Mailed: Trans. Ltr. (dupl.); Applicant's Motion for a More
 Definite Statement by Opposer Under Rule 12(E) of the F.R.C.P.; and a
 prepaid return post card.
DUE DATE:

Date of Mailing: January 12, 2004

Serial No. 78/069,378
Applicant: AUTODESK, INC. V. DASSAULT SYSTEMES S.A.
Client/Matter No.: 9691/28

Commissioner for Trademarks
 2900 Crystal Drive
 Arlington, Virginia 22202-3514

Please acknowledge receipt of the below identified:

Items Mailed: Trans. Ltr. (dupl.); Applicant's Motion for a More Definite
 Statement by Opposer Under Rule 12(E) of the F.R.C.P.; and a prepaid return
 post card.

BRINKS HOFER GILSON & LIONE

By: HSM/tr

Date of Mailing: January 12, 2004