

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

In the matter of
Trademark Application Serial No. 76/497,523
Published: October 7, 2003
Mark: EFFECTA



04-05-2004

U.S. Patent & TMO/TM Mail Rcpt Dt. #22

Efeckta Technologies Corporation,

Opposer,

vs.

Arsin Corporation,

Applicant.

Opposition No. _____

Express Mail mailing label No. <u>EV345457916 US</u>
Date of Deposit <u>4/5/04</u>
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 is addressed to Commissioner for Trademarks, 2900 Crystal Dr., Arlington, VA 22202-3514.
<u>Phyllis O'Sullivan</u> (Type or Print Name of Person Mailing Paper or Fee)
<u>Phyllis O'Sullivan</u> (Signature of Person Mailing Paper or Fee)

BOX TTAB FEE
COMMISSIONER FOR TRADEMARKS
2900 CRYSTAL DRIVE
ARLINGTON, VIRGINIA 22202-3514

NOTICE OF OPPOSITION

Opposer, Efeckta Technologies Corporation, a Delaware corporation
having its principal place of business at 1370 Bob Adams Drive, P.O. Box 776310,
Steamboat Springs, CO 80477, believes it will be damaged by registration of the mark

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shown in Application Serial Number 76/497,523, and hereby opposes that application, alleging as grounds for its opposition that:

1. As is evidenced by the publication of the EFFECTA trademark application in the Official Gazette on page TM 190 of the October 7, 2003 issue, Applicant Arsin Corporation seeks to register the mark EFFECTA as a trademark in International Class 9 for "computer software for data management, storage, testing, transfer and verification over a corporate intranet and global computer network and user manuals packages [sic] as a unit therewith." Applicant's application for the mark EFFECTA was filed on March 10, 2003, claiming first use dates of October 30, 2002.

2. Opposer Efeckta Technologies Corporation is the owner of the following U.S. Trademark application:

<u>Mark</u>	<u>Serial No.</u>	<u>App. Date</u>	<u>Class: Goods/Services</u>
EFECKTA	76/111,119	August 14, 2000	Class 9: Computer hardware, computer software and firmware for use in the field of transmission of data, information and multimedia content via local and global computer networks, and manuals sold as a unit therewith. Class 42: Computer consultation, namely, consulting in the field of computer systems and the electronic transmission of data, documents and multimedia content between computer terminals via local and global computer networks.

This application for the EFECKTA mark was filed based on Opposer's intent to use the mark in commerce, and was filed prior to both the date of filing of Applicant's application for the EFFECTA mark, and the October 30, 2002 date of first use and first use in commerce claimed by Applicant in the EFFECTA application. Opposer's application for the EFECKTA mark is valid and subsisting and is evidence of Opposer's intent to use said mark in commerce on or in connection with the goods and services specified in said application.

3. In view of the similarity of the respective marks and the related nature of the goods and services of the respective parties, it is alleged that Applicant's mark so resembles Opposer's EFECKTA trademark and service mark as to be likely to cause confusion or to cause mistake or to deceive, thereby causing loss, damage and injury to Opposer and the purchasing public.

3. Prior to both the date of filing of Applicant's application for the EFFECTA mark, and the October 30, 2002 date of first use and first use in commerce claimed by Applicant in the EFFECTA application, Opposer, Efeckta Technologies Corporation adopted and began using, has been using, and is now using the EFECKTA trade name and trademark in commerce on or in connection with the type of products and services described in Opposer's EFECKTA application. Said trade name and trademark use has been valid and continuous since the date of first use and has not been abandoned. The EFECKTA trade name and trademark is symbolic of extensive goodwill and consumer recognition built up by Opposer through substantial amounts of time and effort in advertising and promotion.

4. In view of the similarity of the respective marks and the related nature of the goods and services of the respective parties, it is alleged that Applicant's mark so resembles Opposer's EFECKTA trade name and trademark previously used in the United States, and not abandoned, as to be likely to cause confusion or to cause mistake or to deceive, thereby causing loss, damage and injury to Opposer and the purchasing public.

WHEREFORE, Opposer prays that this Notice of Opposition be sustained, that Applicant's Trademark Application Serial No. 76/497,523 be rejected, and that Applicant be denied registration of EFFECTA as a trademark for the goods specified in that application.

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This Notice of Opposition is being submitted along with the requisite \$300.00 fee. Please charge any additional fees required to our Deposit Account No. 50-0261.

Respectfully submitted,

Date: April 5, 2004

By: Connie Ellerbach

Connie L. Ellerbach, Esq.
Attorney for Opposer
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04-05-2004

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #22

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April 5, 2004

VIA EXPRESS MAIL: EV345457916US

BOX TTAB FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3514

Re: EFFECTA
Notice of Opposition, Serial No. 76/497,523
on Behalf of Efectka Technologies Corporation
Applicant: Arsin Corporation
Our Reference: 21936-00070

Dear Madam:

Enclosed for filing is a Notice of Opposition.

A check in the amount of \$300.00 to cover the filing fee is enclosed.
If any additional fees are required, please charge to our Deposit
Account No. 50-0261.

Please complete the filing, addressing any correspondence or notifications
to me at our Mountain View office.

Very truly yours,

Connie L. Ellerbach
CLE/peo
Enclosures
21936/00070/DOCS/1425994.1

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