

Case: ONELL-012M  
Trademark Application

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

**IN RE SERIAL NO. 78/033,719**

O'NEIL SOFTWARE, INC.	)	Opposition No.:
	)	
Opposer,	)	
	)	
vs.	)	
	)	
READ & SEAL, LLC	)	
	)	
Applicant.	)	
	)	

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**NOTICE OF OPPOSITION**

Box TTAB - Fee  
Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

Dear Sir or Madam:

In the matter of the application of Read & Seal, LLC of Irvine, California (hereinafter "Applicant") for registration of the trademark RSWEB, Applicant Application Serial No. 78/033,719, published in the Official Gazette of November 30, 2004, at TM 160, O'Neil Software, Inc., a California corporation, with offices at 11 Cushing, Irvine, California 92618 (hereinafter "Opposer"), believes that it will be

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damaged by registration of the mark shown in Serial No. 78/033,719, and hereby opposes the same.

The grounds for opposition are as follows:

1. Opposer is and has been for many years engaged in the extensive design, development, advertising, marketing and commercialization of a variety of products, including software record management, namely, interfacing record management software to the World Wide Web. In connection therewith, Applicant has not yet disclosed or indicted the dates of first use for the mark at issue. Opposer has used in interstate commerce, the mark RS WEB (hereinafter referred to as the RS WEB Trademark) for the aforementioned goods for many years.

2. Since at least as early as April 2000, Opposer has made use of its RS WEB Trademark throughout the United States in interstate commerce. Opposer has registered RS WEB trademark on October 7, 2003, Registration No. 2,772,104 for software record management, namely, interfacing record management software to the World Wide Web. (copy attached as **Exhibit 1**)

3. Opposer has expended considerable sums in exerting every effort to maintain the highest standard of quality for its products, and has created valuable goodwill among the purchasing public under its RS WEB Trademark.

4. As a result of the continuous and extensive use of the RS WEB Trademark by Opposer, that mark has become and continues to function as a valuable business and marketing asset of Opposer, and serves to indicate to the trade and consuming public the products originating from Opposer and its authorized representatives.

5. Notwithstanding Opposer's rights in and to said RS WEB Trademark, Applicant, on information and belief, filed an application for registration of RSWEB, in International Class 009 on November 3, 2000 for computer software for web site development that enables the user to automatically retrieve web content from a predetermined set of urls (source content) and to automatically incorporate that source content into a new web site (target content) which is automated through the use of a predetermined set of rules to define the modification from source content to the target content for use in electronic commerce that may be downloaded from a global computer network. Said application was published for opposition in the Official Gazette of November 30, 2004 at TM 160.

6. Pursuant to Trademark Rules of Practice 2.102, Opposer filed a Request to Extend Time for Filing this Notice of Opposition to January 29, 2005. A copy of said Request to Extend Time is attached hereto as **Exhibit 2**.

7. Applicant's RSWEB, mark is confusingly similar to Opposer's RS WEB Trademark and its registration and use by Applicant on the goods claimed in the subject application is likely to cause confusion, deception and mistake.

8. Applicant's use of the mark RSWEB, interferes with Opposer's use of its RS WEB Trademark and use of, or registration of, the mark RSWEB, by Applicant will seriously damage Opposer.

WHEREFORE, Opposer believes that it will be damaged by said registration and prays that registration of the mark RSWEB, to Applicant be denied.

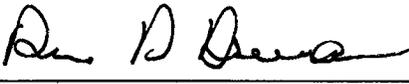
The filing fee for this Opposition in the amount of \$300 (one international class) is enclosed and this Opposition is enclosed herewith in triplicate.

Opposer's representative authorizes the charging of any additional fees to its Deposit Account No. 19-4330.

Respectfully submitted,

STETINA BRUNDA GARRED & BRUCKER

Dated: January 3, 2005

By: 

Bruce B. Brunda, Reg. No. 28,497  
75 Enterprise, Suite 250  
Aliso Viejo, CA 92656  
(949) 855-1246  
Counsel for Opposer

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# The United States of America



## CERTIFICATE OF REGISTRATION PRINCIPAL REGISTER

*The Mark shown in this certificate has been registered in the United States Patent and Trademark Office to the named registrant.*

*The records of the United States Patent and Trademark Office show that an application for registration of the Mark shown in this Certificate was filed in the Office; that the application was examined and determined to be in compliance with the requirements of the law and with the regulations prescribed by the Director of the United States Patent and Trademark Office; and that the Applicant is entitled to registration of the Mark under the Trademark Act of 1946, as Amended.*

*A copy of the Mark and pertinent data from the application are part of this certificate.*

*This registration shall remain in force for TEN (10) years, unless terminated earlier as provided by law, and subject to compliance with the provisions of Section 8 of the Trademark Act of 1946, as Amended.*



A handwritten signature in cursive script, reading "James P. Rogee".

Director of the United States Patent and Trademark Office

**Int. Cl.: 9**

**Prior U.S. Cls.: 21, 23, 26, 36, and 38**

**United States Patent and Trademark Office**

**Reg. No. 2,772,104**

**Registered Oct. 7, 2003**

**TRADEMARK  
PRINCIPAL REGISTER**

**RS WEB**

O'NEIL SOFTWARE, INC. (CALIFORNIA CORPORATION)  
8 MASON  
IRVINE, CA 92618

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "WEB", APART FROM THE MARK AS SHOWN.

FOR: SOFTWARE RECORD MANAGEMENT, NAMELY, INTERFACING RECORD MANAGEMENT SOFTWARE TO THE WORLD WIDE WEB, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

SN 76-123,791, FILED 9-8-2000.

FIRST USE 2-0-2000; IN COMMERCE 4-0-2000.

ZHALEH DELANEY, EXAMINING ATTORNEY



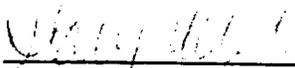
ATTORNEY DOCKET NO: ONEIL-000  
MARK: RSWEB

### 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:

Commissioner of Trademarks  
PO Box 1451  
Alexandria, VA 22313-1451

on December 15, 2004

  
\_\_\_\_\_  
(Signature)

Stacy Wilson

(Typed name of person signing certificate)

Note: Each paper must have its own certificate of mailing, or this certificate must identify each submitted paper.

1. Return Postcard;
2. Transmittal (in triplicate); and
3. FIRST REQUEST TO EXTEND TIME FOR FILING NOTICE OF OPPOSITION (in triplicate);
4. Certificate of Mailing.

LAW OFFICES  
**Stetina Brunda Garred & Brucker**  
A PROFESSIONAL CORPORATION  
PATENT, TRADEMARK, COPYRIGHT AND UNFAIR COMPETITION CAUSES  
75 ENTERPRISE, SUITE 250  
ALISO VIEJO, CALIFORNIA 92656

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bbrunda@stetinalaw.com

December 15, 2004

Commissioner for Trademarks  
PO Box 1451  
Alexandria, VA 22313-1451

Re: Serial No. 78/033,719  
Mark: RSWEB  
Our Reference: ONEIL-000

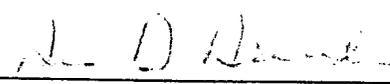
Dear Sir/Madam:

Enclosed herewith for filing in the above-identified matter are the following:

1. Return Postcard;
2. Certificate of Mailing;
3. Transmittal (in triplicate); and
4. First Request for Extension of Time to Oppose (in triplicate).

Please charge any additional fees to Deposit Account No. 19-4330. This Transmittal Letter is enclosed herewith in triplicate.

Respectfully submitted,

By: 

Customer No. 007663

Attorney Bruce B. Brunda, Reg. No. 28,497  
STETINA BRUNDA GARRED & BRUCKER  
75 Enterprise, Suite 250  
Aliso Viejo, CA 92656  
(949) 855-1246

Dear Sir:

Please date stamp and return this card,  
adding the serial number assigned where  
applicable.

(BBB/saw)

Date Mailed: December 15, 2004

Docket Number: ONEIL-000

Serial No.: 78/033,719

Filing Date: November 3, 2000

Title: RSWEB

Papers transmitted herewith:

1. Return Postcard;
2. Transmittal (in triplicate); and
3. FIRST REQUEST TO EXTEND TIME FOR  
FILING NOTICE OF OPPOSITION (in triplicate);
4. Certificate of Mailing.

Case: ONEIL-000

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

In Re: Read & Seal, LLC )  
Serial No.: 78/033,719 )  
Filed: November 3, 2000 )  
For the Mark: RSWEB )

FIRST REQUEST UNDER RULE 2.102 TO EXTEND TIME  
FOR FILING NOTICE OF OPPOSITION

Commissioner for Trademarks  
PO Box 1451  
Alexandria, VA 22313-1451

Dear Sir/Madam:

In the matter of the above-identified application, which was published in the Official Gazette on November 30, 2004, at TM 160, O'Neil Product Development, Inc., through its attorneys, requests that the time for filing a Notice of Opposition to the subject application be extended for a period of thirty (30) days until January 29, 2005.

This is the first request for an extension of time. This extension is necessary to enable counsel to confer with potential Opposer to determine whether an opposition might be required.

The subject Extension of Time is not entered into for purposes of delay, and it is therefore respectfully requested that the Board grant the requested Extension of Time.

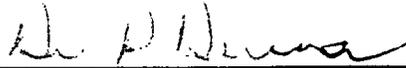
Please charge any fees which may be due in relation to this matter to Deposit Account

Number 19-4330.

Respectfully submitted,

Date: December 15, 2004  
Customer No. 007663

By:



---

Bruce B. Brunda  
Registration No. 28,497  
STETINA BRUNDA GARRED & BRUCKER  
75 Enterprise, Suite 250  
Aliso Viejo, CA 92656  
(949) 855-1246

BBB/saw

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LAW OFFICES  
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A PROFESSIONAL CORPORATION  
PATENT, TRADEMARK, COPYRIGHT AND UNFAIR COMPETITION CAUSES

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January 3, 2005

Box TTAB - Fee  
Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

RE: O'Neil Software, Inc. v. Read & Seal, LLC  
Serial No.: 78/033,719  
Our Reference: ONELL-012M  
For the Mark: RSWEB

Dear Sir/Madam:

Enclosed for filing are the following:

1. Notice of Opposition with Exhibit 1-2 (in triplicate);
2. Transmittal (in triplicate);
3. Check for \$300 for Filing Fees;
4. Certificate of Mailing; and
5. Return Postcard.

Please charge any additional cost to our Deposit Account Number 19-4330. This letter is enclosed herewith in triplicate.

Respectfully submitted,

STETINA BRUNDA GARRED & BRUCKER

By:   
Bruce B. Brunda, Reg. No. 28,497  
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(949)855-1246  
Counsel for Opposer



Customer No.: 007663

01-06-2005

U.S. Patent & TMO/TM Mail Rcpt Dt. #77