

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

| | | |
|--------------------|---|-------------------------|
| Z-TECH, INC., |) | |
| |) | |
| Opposer, |) | |
| |) | |
| vs. |) | Opposition No. 91168324 |
| |) | |
| ACI INTERNATIONAL, |) | |
| |) | |
| Applicant |) | |
| |) | |
| |) | |

Serial No. 78/529,121
Mark: SPRING Z

**MOTION OF OPPOSER
TO COMPEL DISCOVERY AND FOR OTHER RELIEF,
AND BRIEF OF OPPOSER**

Z-Tech, Inc. ("Plaintiff" or "Opposer") moves the Trademark Trial and Appeal Board ("Board") for an Order compelling Applicant to respond to Opposer's discovery requests and for other relief as requested herein, and as grounds therefore states that:

1. On March 22, 2006 Opposer mailed to counsel for Applicant the discovery requests included respectively as exhibits with this paper, namely **Exhibits A-C**, including (i) the REQUEST FOR IDENTIFICATION OF DEPONENTS PURSUANT TO RULE 30(b)(6), (ii) the OPPOSER'S FIRST SET OF INTERROGATORIES TO APPLICANT, and (iii) the OPPOSER'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS FROM APPLICANT (collectively, "Discovery Requests").

2. Each Discovery Request was accompanied by a Certificate of Mailing indicating that copies of the Discovery Requests were mailed to counsel for Applicant on March 22, 2006.

3. 37 CFR §2.120(a) and TBMP §403 provide that Applicant had 35 days to respond to the Discovery Requests, a period of time that ended on April 27, 2006.

4. As required by 37 CFR §2.120(e) and TBMP §523.02, on May 16, 2006 Opposer made a good faith effort by correspondence to resolve with Applicant's counsel by sending a letter to counsel for Applicant via both facsimile transmission and mail requesting responses to

the Discovery Requests. A copy of the letter is attached as **Exhibit D**. Proof that the letter was received by counsel for Applicant is attached as **Exhibit E**.

5. Opposer's counsel received no response to the letter attached as Exhibit D as of the date of mailing this Motion.

6. As additional information for the Board's consideration, Opposer states that Opposer timely responded to discovery requests received from Applicant.

WHEREFORE, Opposer requests an Order from the Board:

1. Compelling Applicant to answer and respond to the Discovery Requests, and compelling Applicant to produce copies of all documents requested by Opposer in OPPOSER'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS FROM APPLICANT, and compelling Applicant to designate the persons identified by Opposer in its REQUEST FOR IDENTIFICATION OF DEPONENTS PURSUANT TO RULE 30(b)(6);

2. entering judgment in favor of Opposer and against Applicant as provided in TBMP §411.04; and

3. forfeiting Applicant's right to object to the Discovery Request on their merits as provided in TBMP §403.03.

OPPOSER'S BRIEF IN SUPPORT OF THE MOTION

Opposer submits the following in compliance with TBMP §37 CFR §2.127(a) and TBMP §502.02(b):

A. Opposer filed, and counsel for Applicant received, the Discovery Requests attached as **Exhibits A-C**.

B. Applicant has failed to answer and respond to the Discovery Requests.

C. Opposer's counsel has made a good faith effort by correspondence to resolve with Applicant's counsel by sending a letter to counsel for Applicant via both facsimile transmission and mail requesting responses to the Discovery Requests. A copy of the letter is attached as **Exhibit D**. Proof that the letter was received by counsel for Applicant is attached as **Exhibit E**.

D. Applicant has failed to reply to the letter attached as **Exhibit D**.

E. All conditions precedent for the requested Order of the Board based on this Motion have been accomplished by Opposer.

F. Although 30 days generally are allowed for responses to interrogatories and requests for production of documents and things, an additional 5 days are added because the Discovery Requests were made by first-class mail. See 37 CFR §2.120(a), TBMP §403.03, and *Fort Howard Paper Co. v. Gambina Inc.*, 4 USPQ2d 1552 (TTAB 1987). That period of time ended on April 27, 2006.

G. In the case of *No Fear Inc. v. Rule*, 54 USPQ2d 1551, 1554 (TTAB 2000) the Board held that it has great discretion in determining whether such forfeiture should be found. Opposer reiterates that Opposer responded in a timely fashion to Applicant's discovery requests.

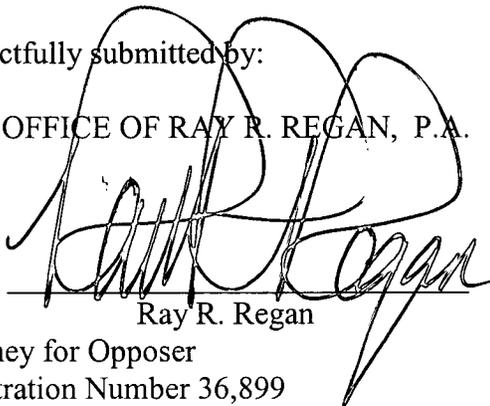
WHEREFORE, Opposer requests an Order from the Board:

1. Compelling Applicant to answer and respond to the Discovery Requests, and compelling Applicant to produce copies of all documents requested by Opposer in OPPOSER'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS FROM APPLICANT, and compelling Applicant to designate the persons identified by Opposer in its REQUEST FOR IDENTIFICATION OF DEPONENTS PURSUANT TO RULE 30(b)(6); or
2. entering judgment in favor of Opposer and against Applicant as provided in TBMP §411.04; and
3. forfeiting Applicant's right to object to the Discovery Request on their merits as provided in TBMP §403.03.

Respectfully submitted by:

LAW OFFICE OF RAY R. REGAN, P.A.

By:

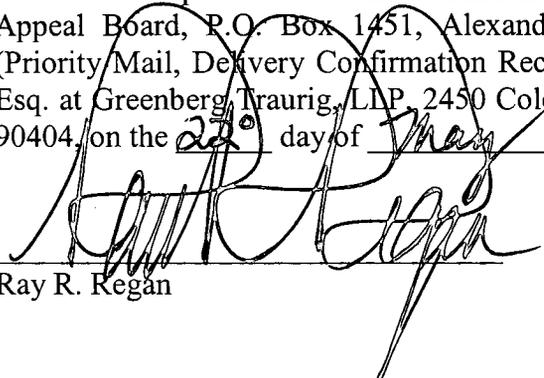


Ray R. Regan

Attorney for Opposer
Registration Number 36,899
P. O. Box 1442, Corrales, New Mexico 87048
Registration No. 36,899
Telephone: (505) 897-7200
Facsimile: (866) 425-2597

CERTIFICATE OF MAILING AND SERVICE

I HEREBY CERTIFY that these papers are being deposited with the United States Postal Service via Express Mail to the Commissioner for Trademarks, Attention: Trademark Trial and Appeal Board, P.O. Box 1451, Alexandria, Virginia 22313-1450; and via first class mail (Priority Mail, Delivery Confirmation Receipt), in an envelope addressed to Louis J. Bovasso, Esq. at Greenberg Traurig, LLP, 2450 Colorado Avenue, Suite 400 E, Santa Monica, California 90404, on the 27th day of May, 2006.


Ray R. Regan

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

Z-TECH, INC.,)
)
 Opposer,)
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vs.)
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ACI INTERNATIONAL,)
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 Applicant)
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Opposition No. 91168324

Serial No. 78/529,121
Mark: SPRING Z

**MOTION OF OPPOSER
TO COMPEL DISCOVERY AND FOR OTHER RELIEF,
AND BRIEF OF OPPOSER**

EXHIBIT A

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

Z-TECH, INC.,)
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 Opposer,)
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vs.)
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ACI INTERNATIONAL,)
)
 Applicant)
)
_____)

Opposition No. 91168324

Serial No. 78/529,121

Mark: SPRING Z

**REQUEST FOR IDENTIFICATION OF
DEPONENTS PURSUANT TO RULE 30(b)(6)**

Applicant, Z-Tech, Inc. (“Plaintiff” or “Opposer”), through its undersigned attorney, requests that that, within the time permitted by the Trademark Trial and Appeal Board Manual (“TBMP”) of the U.S. Trademark Office, Applicant designate and provide to Opposer’s counsel, as provided in the Federal Rules of Civil Procedure, Rule 30(b)(6), the name, title, resident address, and resident telephone numbers of those officers, directors or other persons who will testify about facts and circumstances in connection with Opposer’s selection, adoption, design, use, and filing of (a) the U.S. application for registration for Applicant’s Mark SPRING Z that is the subject matter of the opposition, and (b) any and all marks currently under consideration that are SPRING-formative or Z-formative (collectively, “Rule 30(b)(6) Deponents”).

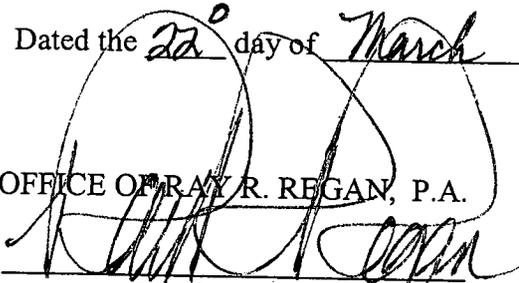
Applicant further requests that Applicant advise Opposer about the nature and extent of the testimony of each Rule 30(b)(6) Deponent.

Applicant further requests that Opposer provide Applicant with dates within a three-day period between Tuesday through Thursday during May, 2006 when all Rule 30(b)(6) Deponents identified by Opposer will be available to be deposed in a single location located in the vicinity either of Applicant's place of business or Applicant's attorneys' place of business.

Dated the 22^o day of March, 2006

LAW OFFICE OF RAY R. REGAN, P.A.

By:


Ray R. Regan

Attorney for Applicant and Defendant

Registration Number 36,899

P. O. Box 1442, Corrales, New Mexico 87048

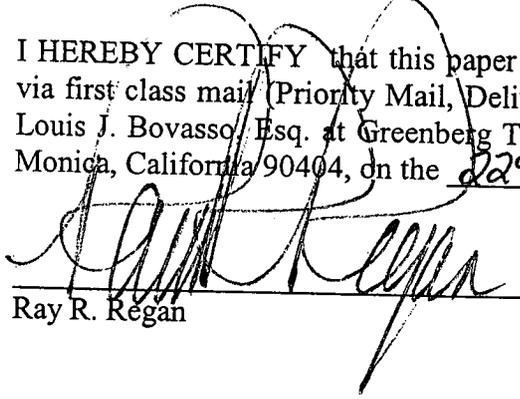
Registration No. 36,899

Telephone: (505) 897-7200

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Ray R. Regan

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**MOTION OF OPPOSER
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EXHIBIT B

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

Z-TECH, INC.,)
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 vs.)
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 Applicant)
)
 _____)

Opposition No. 91168324

Serial No. 78/529,121
Mark: SPRING Z

**OPPOSER'S FIRST SET OF
INTERROGATORIES TO APPLICANT**

DEFINITIONS AND INSTRUCTIONS

Plaintiff (also, "Opposer") submits to Defendant (also, "Applicant") the following interrogatories as provided in TBMP §400 *et seq.* and Rule 34 of the Federal Rules of Civil Procedure ("FRCP"), and as predicate states that:

(A) These interrogatories are continuing, requiring supplemental answers if you obtain further or additional information in connection with any interrogatory after you respond to these interrogatories.

(B) "Person" means any natural person, firm, partnership, joint venture, corporation or other entity.

(C) If an interrogatory requests you to identify a person, please state the person's full name, complete present or last known residential and business addresses, and present telephone numbers and known facsimile numbers.

If the "person" identified is an individual, please also state (i) the name and address of the person who was the person's employer at the time relevant to the interrogatory, (ii) the person's present employer's name, address and telephone number,

and (iii) the person's occupational position or job title at the time relevant to the interrogatory. If the person is self-employed, give the name under which the person generally does business.

If the "person" identified is not an individual but rather a juridical entity, please also state (i) the address of its principal place of business, (ii) the name of its principal executive officer, and (iii) the name of its most senior officer or employee having knowledge of the subject matter of the interrogatory and the person's present business title and business address. Please also list the names of any successor entities known to you.

(D) The information requested by these interrogatories includes any and all information, from whatever source derived, in the possession, custody, or control of you, your attorneys, agents, servants, employees, representatives or officers, or similar persons.

(E) If your answer to any interrogatory is "not applicable" or any similar phrase or answer, explain in detail why that interrogatory is not applicable. If your answer to any interrogatory is "do not know" or any similar phrase or answer, identify the person who, if anyone, would know the answer to the interrogatory, or explain how and where the answer to that interrogatory might be found.

(F) If an interrogatory requests that you identify a document, (1) attach a copy of the document as an exhibit to your answers to these interrogatories, giving the date and description of the document, e.g. "June 26, 2004 letter from Smith to Jones", or (2) identify the document sufficiently so that it may be discovered under Rule 34 of the Federal Rules of Civil Procedure. Please include (i) the date of the document, (ii) the identify of the signers of the document, (iii) the names of all persons identified as recipients of the original copies, (iv) a brief statement summarizing or generally describing its contents, (v) the identify of the person in whose possession the documents now is, and (vi) the identify of each person in whose possession a copy of the document now is.

(G) If these interrogatories request or require that you describe a conversation, please state the date, time, and place of the conversation . In addition, identify each person identify each person present or participating and state in as much detail as possible what each person said during the conversation. In addition, if the conversation was a telephone conversation, identify the location of each speaker.

(H) The term "document" means all written, recorded and graphical matter of every type and description, including, but not limited to, correspondence, memoranda, statements, work sheets, desk diaries, appointment books, recordings, notes of conversations, minutes of meetings, invoices, telegraphic communications, photographs, records, tapes, computer discs of any kind, and every other device or medium on which, or through which, information of any type is transmitted, recorded or preserved, and includes but is not limited to electronic transmissions via either an intranet or the Internet.

(I) If an interrogatory calls for an answer that involves more than one subpart, each subpart answer should be set forth separately so that it is clearly understandable and responsive to the respective subpart.

(J) Where the terms "you" or "Applicant" are used, they are meant to include you, your attorneys, agents, servants, employees, representatives or officers, or similar persons and parties, and separate answers must be given for each party to whom the interrogatories are directed, unless the answer is the same for all such persons.

(K) If you assert privilege in connection with any conversation or document, describe in a privilege log each such conversation, and identify each such document, but do not state what each person said during the conversation or do not summarize the contents of a document. For all claims of privilege please state the nature of the privilege claimed and the facts on which such claim is based.

(L) If an interrogatory requires you to "state the basis of" a particular claim, contention, or allegation, please state in your answer the identify of each and every fact, communication, or document, and each and every legal theory, which you believe supports, refers to, or evidences such claim, contention, or allegation.

(M) The term "Applicant's Mark" means the intent-to-use application for trademark registration assigned Serial No. 78/529,121 by the U.S. Trademark Office, and any and all applications or certificates of registrations filed by Applicant since the filing date of Applicant's Mark that are either SPRING-formative or Z-formative marks.

(N) The term "Opposer's Marks" means the mark Z-COIL, U.S. Registration No. 2,504,011 issued November 6, 2001; Z-COIL and Design, U.S. Registration No. 2,504,010 issued November 6, 2001; and U.S. Registration No. 3,026,281 issued December 13, 2005, formerly Serial No. 76/626,083.

INTERROGATORIES

Interrogatory No. 1 What are the names and addresses of each person who is an owner of Applicant's Mark?

Interrogatory No. 2 If any owner of Applicant's Mark is a corporation or other juristic entity, please state:

- A. the date of such owner's incorporation or other formation;
- B. the full name of the corporation;
- C. the address of its principal office; and
- D. the name and residence address of each officer, member, partner, or venturer.

Interrogatory No. 3 With respect to each owner of Applicant's Mark, please state:

- A. the date ownership was acquired;
- B. the manner in which ownership was acquired; and
- C. whether ownership was acquired from another person, and, if so, the name and address of such person.

Interrogatory No. 4 What is the name, address and occupation of each person or persons who participated in the design, selection, adoption, designation, and any rejection of Applicant's Mark?

Interrogatory No. 5 What are the name, address and occupation of each person or persons who participated in any study, survey, consideration, or assessment of Opposer's Marks?

Interrogatory No. 6 On what date or dates did Applicant commence use, if any, of Applicant's Mark since the date of filing of the application for registration in the U.S. Trademark Office?

Interrogatory No. 7 On the date the decision was made to adopt Applicant's Mark, what goods and services were intended to be associated with Opposer's Marks?

Interrogatory No. 8 Identify each person directly or indirectly associated with Applicant who, prior to making the decision to adopt Applicant's Mark, had knowledge of the existence of Opposer's Marks.

Interrogatory No. 9 In connection with the dates specified in response to Interrogatory No. 7, please state:

- A. if use of Applicant's Mark has commenced, the method by which Applicant's Mark either is affixed to any goods, or shown to be associated with any service;
- B. the name and address of the person who first used Applicant's Mark;
- C. the address where first use of Applicant's Mark took place; and
- D. the goods or services associated with such first use of Applicant's Mark.

Interrogatory No. 10 Please identify any and all persons you have consulted, employed, or conferred with as an expert to act in your behalf in connection with any matter pertaining to this opposition.

Interrogatory No. 11 Please identify any litigation or proceeding involving Applicant's Mark other than this opposition.

Interrogatory No. 12 Please identify any person associated directly or indirectly with Applicant from whom Applicant has sought, obtained, or received an

opinion in connection with availability of each of Opposer's Marks for modification, adoption, or use by Applicant.

Interrogatory No. 13 Describe in detail the actual or planned channels of distribution of Applicant's goods associated with Applicant's Mark to ultimate customers or users.

Interrogatory No. 14 Identify Applicant's advertising persons, agency or agencies, and any advertising account executives for Applicant's goods associated with Applicant's Mark.

Interrogatory No. 15 Identify the person or persons employed by or associated with Applicant most informed as to Applicant's goods and service in the areas of:

- A. sales;
- B. advertising; and
- C. distributorship agreements, if any, between Applicant and any distributee of goods of Applicant.

Interrogatory No. 16 Identify all persons associated directly or indirectly with Applicant who, during the past three calendar years, have attended any trade shows, industrial conventions, exhibitions, and similar industry events where the goods of Opposer have been available, displayed or offered.

Interrogatory No. 17 Identify all documents in Applicant's possession, custody or control that include any reference to, or identify, one or more of Opposer's Marks, other than documents filed with the TTAB in connection with the subject opposition.

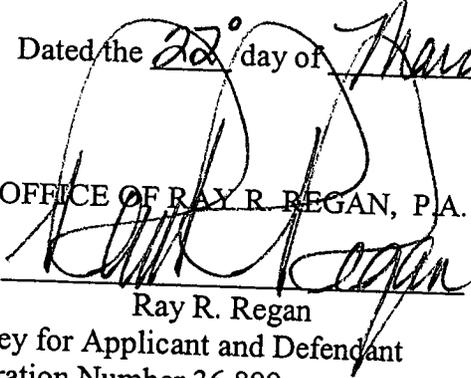
Interrogatory No. 18 Identify all persons consulted or who participated in answering these Interrogatories.

Interrogatory No. 19 Identify any and all documents that include all or any portion of a sketch, photograph, drawing figure or similar rendition of any products actually used, intended to be used, or planned to be sold in association with Applicant's Mark.

Dated the 22^o day of March, 2006

LAW OFFICE OF RAY R. REGAN, P.A.

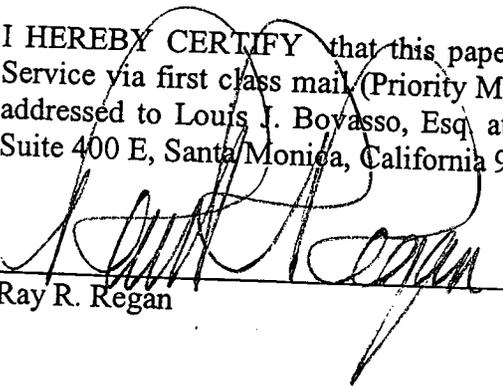
By:


Ray R. Regan

Attorney for Applicant and Defendant
Registration Number 36,899
P. O. Box 1442, Corrales, New Mexico 87048
Registration No. 36,899
Telephone: (505) 897-7200
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Ray R. Regan

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**MOTION OF OPPOSER
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EXHIBIT C

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Z-TECH, INC.,)
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 Applicant)
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Opposition No. 91168324

Serial No. 78/529,121
Mark: SPRING Z

**OPPOSER'S FIRST REQUEST FOR
PRODUCTION OF DOCUMENTS
AND THINGS FROM APPLICANT**

As provided in 37 C.F.R. § 2.120 and Rule 34 of the Federal Rules of Civil Procedure, Opposer ("Plaintiff") requests that Applicant ("Defendant") produce for inspection and/or copying at a mutually agreeable location the following documents and things, or provide copies of the documents and things by delivery within the time allowed by the opposition rules of the Trademark Trial and Appeal Board to: LAW OFFICE OF RAY R. REGAN, P.A., Attention: Ray R. Regan, P.O. Box 1442, Corrales, New Mexico 87048.

DEFINITIONS AND INSTRUCTIONS

(A) The terms used in this Plaintiff's First Request for Production of Documents and Things ("Requests") have the same meaning as the terms defined in Plaintiff's First Set of Interrogatories mailed contemporaneously with this document to Defendant's counsel, and the definitions are incorporated by reference. For example, the term "Applicant's Mark" means the mark sought to be registered on the Principal Register in connection with the Applicant's application for registration assigned serial number 78/529,121, and the term

"Opposer's Marks" means the mark Z-COIL, U.S. Registration No. 2,504,011 issued November 6, 2001; Z-COIL and Design, U.S. Registration No. 2,504,010 issued November 6, 2001; and U.S. Registration No. 3,026,281 issued December 13, 2005, formerly Serial No. 76/626,083.

(B) If any documents within the scope of these Requests are not produced by Applicant, please state the reason each such document was not produced, and also (1) describe the document, (2) state its last known location, (3) identify its last known custodian, (4) state how many pages the document includes, (5) state the date of the document, (6) identify the author or sender of the document, (7) identify the person to whom the document was sent or submitted, (8) identify all persons who have ever received a copy of the document or have reviewed the document, and (9) state the general subject matter of the document.

REQUESTS FOR PRODUCTION

Request No. 1. Please provide copies of any and all documents, records and reports sought, obtained or received by Applicant in connection with any search or investigation of trademarks, trade names, and any trademark records conducted directly or indirectly by or on behalf of the Applicant.

Request No. 2. Please provide (i) a specimen of Applicant's Mark in the form Applicant's Mark first was used by Applicant in commerce if used since the date of filing the intent-to-use mark in the U.S. Trademark Office, and (ii) if use in commerce has commenced, a specimen of each product, label, packaging, tag, brochure, advertisement, promotional item, informational literature, price list, stationery, invoice, and business card on which any trademark or trade name of Applicant has appeared.

Request No. 3. Please provide copies of all documents, invoices, bills of lading, proofs of shipment, and similar documents supporting, reflecting, referring to, or associated with the first use, if any, by Applicant of Applicant's Mark.

Request No. 4. If use in commerce of Applicant's Mark has not commenced, but proposed specimens have been prepared, please provide proposed specimens of Applicant's Mark as it is intended by Applicant to be used on, or in connection with, each type of the goods described in the application for registration of Applicant's Mark.

Request No. 5. Please provide copies of each application by Applicant for foreign trademark registration of Applicant's Mark, and any rejection, response, amendment, or any other record relating to such foreign application.

Request No. 6. Please provide copies of any and all documents that include the following information:

- A. summaries of advertising and sales promotion expenditures associated with Applicant's Mark;
- B. catalogues and price lists associated with goods in connection with Applicant's Mark; and
- C. correspondence and any other records dealing with actual, alleged, or possible conflicts or likelihood of confusion between Applicant's Mark and any other marks or trade names or corporate identifiers, including Opposer's Marks.

Request No. 7. Provide copies of all documents that include all or any portion of a sketch, photograph, drawing figure, or similar rendition of any products actually used, intended to be used, or planned to be sold in association with Applicant's Mark.

Request No. 8. Provide copies of all documents filed or intended to be filed by Applicant in both the U.S. Patent and Trademark Office or a foreign patent office in which Applicant or an inventor associated with Applicant has sought or intends to seek patent protection for any product included among the goods associated with Applicant's Mark

Request No. 9. Provide copies of any and all documents received by or prepared by Applicant, or of any telephonic messages or similar documents or records prepared by Applicant, from any person or juristic entity in connection with any inquiry about confusion or the likelihood of confusion or mistake or deception associated with Applicant's Mark and any other marks or trade names or corporate identifiers of Applicant, and the marks of others, including Opposer's Marks.

Request No. 10. Please provide copies of any and all surveys, market surveys and public opinion polls concerning any matter relating to Applicant's Mark and/or Opposer's Marks.

Request No. 11. Please provide copies of any and all surveys, market surveys and public opinion polls concerning any matter related to Applicant's Mark and/or Opposer's Marks.

Request No. 12. Please provide copies of any and all documents, including handwritten notes and memoranda and e-mail transmissions in Applicant's possession, custody or control, in connection with any conversations or meetings during which the subject of trademarks used either by Applicant or Plaintiff was directly or indirectly a topic.

Request No. 13. Please provide copies of any and all documents, including handwritten notes and memoranda and e-mail transmissions in Applicant's possession, custody or control, which discuss similarity or dissimilarity of Applicant's Mark and one or more of Opposer's Marks, or which support, refer to or relate to any awareness, knowledge or information by Applicant of one or more of Opposer's Marks.

Request No. 14. Please provide copies of any and all documents, including handwritten notes and memoranda and e-mail transmissions, in connection with any comment about the possibility or likelihood of Plaintiff's objection to Applicant's adoption or use of Applicant's Mark by Applicant.

Request No. 15. Please provide copies of any and all documents, including handwritten notes and memoranda and e-mail transmissions in Applicant's possession, custody or control in connection with any possibility of the likelihood of confusion among consumers in connection with Opposer's goods and Applicant's goods.

Request No. 16. Please provide copies of any and all documents in Applicant's possession, custody or control in connection with advertisements since the application for Applicant's Mark was filed in this country about goods of Applicant.

Request No. 17. Please provide copies of any and all documents in connection with correspondence with any media and advertising persons and agencies pertaining to Applicant's Mark and/or Opposer's Marks.

Request No. 18. Please provide legible copies of any and all photographs and comparable visual depictions of the good associated with Applicant's Mark.

Request No. 19. Please provide copies of any and all documents sent to actual and prospective customers since the date of filing any trademark application for the mark SPRING Z inviting customers to visit displays established by Applicant at or in connection with trade shows, industrial conventions, exhibitions, and similar industry events for displaying the goods of Applicant.

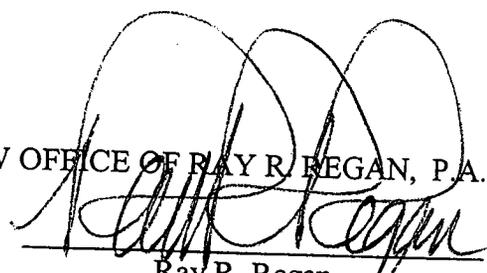
Request No. 20. Please provide copies of any and all documents and things identified in the answers to Plaintiff's First Set of Interrogatories to Applicants filed in this Opposition.

Request No. 21. Please provide any documents that support or tend to support any denial of an allegation in Opposer's Notice of Opposition as recited by Applicant in Applicant's Answer to Notice of Opposition.

Dated the 22^o day of March, 2006

LAW OFFICE OF RAY R. REGAN, P.A.

By:



Ray R. Regan

Attorney for Applicant and Applicant

Registration Number 36,899

P. O. Box 1442, Corrales, New Mexico 87048

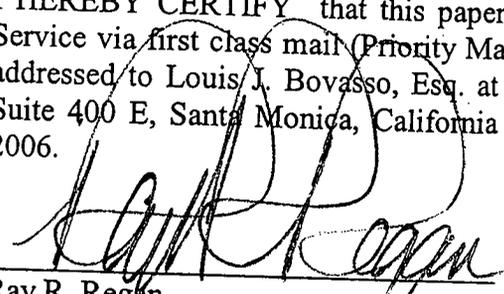
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Facsimile: (866) 425-2597

CERTIFICATE OF MAILING AND SERVICE

I HEREBY CERTIFY that this paper is being deposited with the United States Postal Service via first class mail (Priority Mail, Delivery Confirmation Receipt), in an envelope addressed to Louis J. Bovasso, Esq. at Greenberg Traurig, LLP, 2450 Colorado Avenue, Suite 400 E, Santa Monica, California 90404, on the 22^o day of March, 2006.



Ray R. Regan

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

Z-TECH, INC.,)
)
 Opposer,)
)
vs.)
)
ACI INTERNATIONAL,)
)
 Applicant)
)
_____)

Opposition No. 91168324

Serial No. 78/529,121
Mark: SPRING Z

**MOTION OF OPPOSER
TO COMPEL DISCOVERY AND FOR OTHER RELIEF,
AND BRIEF OF OPPOSER**

EXHIBIT D

Law Office of Ray R. Regan, P.A.

Ray R. Regan, a Registered Patent Attorney, Celebrating Clients Who Through Their Efforts
Promote the Progress of the Useful Arts by Seeking Exclusive Rights to Their Discoveries

--U.S. Constitution Art. 1, §8, Cl. 8

VIA FACSIMILE TRANSMISSION TO (310) 586-7800
COPY VIA PRIORITY MAIL -- DELIVERY CONFIRMATION RECEIPT

May 16, 2006

Greenberg Traurig, LLP
Attention: Louis J. Bovasso, Esq.
2450 Colorado Avenue, Suite 400-E
Santa Monica, California 90404

Re: Z-TECH, INC. vs. ACI INTERNATIONAL CORPORATION
Opposition No. 91168324
Application Serial No. 78/529,121
Filing Date: December 8, 2004
Applicant: ACI INTERNATIONAL CORPORATION
Mark: SPRING Z
International Class: 025
Our Reference: 2266.002

Mr. Louis J. Bovasso:

Your client has not responded to any of our client's discovery requests mailed to you on March 22, 2006 via U.S. Priority Mail and received by R. Nartates of your office on March 25, 2006.

On behalf of my client, I intend to file on May 18, 2006 a Motion to Compel Discovery combined with one or more other motions for judgment.

As required by 37 CFR §2.120(e) and TBMP §523.02, my motion is to be supported by a written statement that I have made a good faith effort to resolve with you the failure of your client failure to respond to our discovery requests. Please respond to this letter no later than 5:00 p.m. Mountain Standard Time on Wednesday, May 17, 2006. I should be available for a telephone discussion today and tomorrow, except for the usual interferences. Thank you.

Yours truly,

Ray R. Regan
rr/cfg

Office: (505) 897-7200 Facsimile (866) 425-2597 E-mail: rayregan@rayregan.com
P.O. Box 1442, Corrales, New Mexico 87048

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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EXHIBIT E

Ray R. Regan

From: "Data On Call" <reports@dataoncall.com>
To: "Ray Regan" <rayregan@rayregan.com>
Sent: Tuesday, May 16, 2006 3:37 PM
Subject: Fax Confirmation - OK

Your fax to Louis J. Bovasso, Esq. at fax number 3105867800 succeeded.

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Documents being delivered:
1 Letter-Bovasso-051606.pdf

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