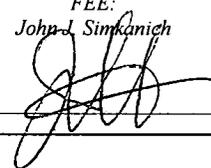


**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Opposition No.: 91169590
 Serial No.: 78/396,033
 Mark: INTELLIMETRIC and design
 Applicant: Vantage Technologies
 Knowledge Assessment, L.L.C.
 Opposer: Scott Elliot
 Docket No: 2911

<p><i>CERTIFICATE OF MAILING</i> DATE OF DEPOSIT: April 13, 2006</p> <p><i>I hereby certify that this paper is being deposited with the United States Postal Service with sufficient postage as first class mail on the date indicated above and is addressed to Trademark Trial and Appeal Board, P.O. Box 1451, Alexandria, VA 22313-1451.</i></p> <p>NAME OF PERSON MAILING PAPER OR FEE: <i>John J. Simkanich</i></p> <p>Signature: </p>

Trademark Trial and Appeal Board
 P.O. Box 1451
 Alexandria, VA 22313-1451

COVER LETTER WITH CERTIFICATE OF MAILING

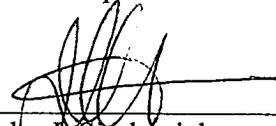
Sir:

Enclosed herewith are the following:

- 1) Cover letter with certificate of mailing (1 pg.);
- 2) Answer (5 pgs.); and
- 5) Paul & Paul postcard to be returned by the PTO.

The Commissioner is authorized to charge any additional fees associated with this communication, or credit any overpayment, to Paul & Paul deposit account No. 16-0750.

Date: April 13, 2006


 John J. Simkanich
 Reg. No. 26,036
 Paul & Paul
 2900 Two Thousand Market St.
 Philadelphia, PA 19103
 (215) 568-4900
 (FAX) 215-567-5057

Order No. 3902



04-18-2006

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

Scott Elliot		
31 Pheasant Run		
New Hope, PA 18938		Opposition No. 91169590
Opposer		Serial No. 78396033
v.		
Vantage Technologies Knowledge		
Assessment, LLC		
110 Terry Drive		
Newtown, PA 18940		
Applicant		

ANSWER

Applicant, responds to and answers the allegations of the opposition petition, paragraph by numbered paragraph, as follows:

1. Applicant, Vantage Technologies Knowledge Assessment, LLC (applicant) denies that Scott Elliot (opposer) is the rightful owner of the mark, INTELLIMETRIC, for the goods and services claimed by applicant in application number 78396033 (hereinafter "the Mark").
2. Applicant, Vantage Technologies Knowledge Assessment, LLC (hereinafter "Vantage") denies that Scott Elliot (hereinafter "Elliot") has sufficient interest in the Mark for the goods claimed by applicant, Vantage, in application number 78396033 to bring this opposition action.
3. Applicant, Vantage, denies that opposer, Elliot, is the sole and rightful owner of the Mark which is the subject matter of application number 78396033.
4. Applicant, Vantage, is without sufficient knowledge to deny or agree that opposer, Elliot, was a principal of Tria Systems in 1994. Applicant, Vantage, is without sufficient knowledge to deny or agree that opposer, Elliot, personally as a principal of Tria Systems, started to develop a software product known as "Intellimetric" in 1994. Applicant, Vantage, denies that any

trademark rights arose in an INTELLIMETRIC mark in 1994 for a software product for which development had just begun.

5. Applicant, Vantage, is without sufficient knowledge to deny or agree that Tria Systems continued until September 30, 1997 to develop the "Intellimetric" Product, or that opposer, Elliot, purchased all right, title and interest, in the software intellectual property and an INTELLIMETRIC mark on September 30, 1997.

6. Applicant, Vantage, is without sufficient knowledge to deny or agree that opposer, Elliot, was the sole owner of the "Intellimetric" software and an INTELLIMETRIC mark on September 30, 1997.

7. Applicant, Vantage, agrees that opposer, Elliot, entered a relationship with Vantage by executing a Sales Representative Agreement with Vantage which had an effective date of February 17, 1997. Vantage denies this Sales Representative Agreement incorporated into it any Confidentiality Agreement. Vantage agrees that Elliot executed a separate Confidentiality Agreement with Vantage, which also had an effective date of February 17, 1997. Vantage denies that the 1997 Sales Representative Agreement had attached to it a Confidentiality Agreement for execution by Elliot at the time that said Sales Representative Agreement was executed. Vantage also denies that said Sales Representative Agreement requires any confidentiality agreement to be attached or appended or incorporated into it.

8. Vantage agrees that the 1997 Sales Representative Agreement did not expressly transfer any rights to any software nor to any trademarks to Vantage. Vantage denies that said 1997 Sales Representative Agreement had attached to it a Confidentiality Agreement for execution by Elliot. Said executed 1997 Confidentiality Agreement has a clause transferring intellectual property rights from Elliot to Vantage.

9. Vantage is without sufficient knowledge to deny or agree to what independent development and marketing activities Elliot was engaged in on February 17, 1997; nor does Vantage have sufficient knowledge to deny or agree that Elliot independently was developing

and marketing software under an INTELLIMETRIC trademark as of February 17, 1997.

Moreover, Elliot's allegations of paragraph 9 are contradicted by his allegations of paragraph 5.

10. Vantage incorporates its answer to paragraph 8, above, as if restated herein in full. In addition, Vantage asserts that Elliot was a full-time W-2 payroll employee of Vantage in the years 2000 - 2005. This employment inured certain rights and benefits to Vantage by operation of law.

11. Elliot's allegation number 11 is objected to as vague and indefinite as it does not have a date or time frame. Vantage began marketing "Intellimetric" goods and/or services under the INTELLIMETRIC mark at issue, at least as early as January 15, 1998 and has continued to do so to date. During this time period Elliot participated in the marketing of "Intellimetric" goods and/or services under the INTELLIMETRIC mark for Vantage. Vantage cannot answer further due to the vague and indefinite nature of the allegation. Vantage is without sufficient knowledge to deny or agree regarding Elliot's activities prior to February 1997.

12. Vantage agrees that it reviewed a copy of a bill of sale from Tria Systems to Elliot wherein Tria Systems sold to Elliot all of its right, title and interest in and to personal property described as: "Intellimetric, a software application designed to automatically score responses to open-ended test questions. Includes source code for training and scoring components." Vantage denies that Elliot acquired anything beyond this.

13. Vantage employed Elliot beginning in 2000 as a full time, W-2 payroll employee, i.e, as an employee at will. Vantage has no knowledge and therefore denies Elliot's allegations of any grant of certain limited marketing rights to "Intellimetric" software, and denies any grant of rights in certain derivatives of "Intellimetric" software. Vantages rights arise by operation of the actions of its employees and in addition arise under the terms of the 1997 Confidentiality Agreement.

14. Vantage denies Elliot's allegations of paragraph 14. Rights in "Intellimetric" software, as it existed in 2000 vested in Vantage by operation of the 1997 Confidential Agreement executed by Elliot, and by the actions of its programmer employees, including employee Kevin Kern who

is the original software developer at Tria Systems of "Intellimetric" code and the software developer at Vantage of "Intellimetric" code. Rights in the INTELLIMETRIC mark vested in Vantage by the sales actions of Elliot on behalf of Vantage pursuant to the 1997 Sales Representative Agreement, and by the sales actions of Vantage employees on behalf of Vantage.

15. Denied, Elliot was not and is not the owner of the INTELLIMETRIC mark.

16. Denied, Vantage was on April 4, 2004, and is now, the rightful owner of the mark sought to be registered out of application 78396033 and has a right to registration.

17. Vantage denies that any lawful damages to Elliot exist now or in the future.

Date: April 13, 2006

Respectfully submitted,
PAUL & PAUL
Attorneys for Applicant

by: _____

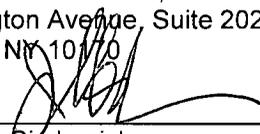

John J. Simkanich, Esq.
2900 Two Thousand Market Street
Philadelphia, PA 19103
(215) 568-4900
(Fax) 215-567-5057

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the forgoing paper titled, ANSWER, was served upon the Opposer, service being made on April 13, 2006, by postage pre-paid, first class U.S. mail, posted on said date and addressed to counsel for Opposer:

Paul Goodman, Esq,
Cyruli, Shanks & Zizmor, LLP
420 Lexington Avenue, Suite 2020
New York, NY 10170

by: _____

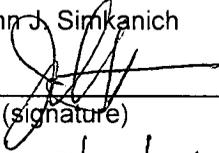

John J. Simkanich
PAUL & PAUL
2900 Two Thousand Market Street
Philadelphia, PA 19103
*Counsel for Vantage Technologies Knowledge
Assessment, LLC*

CERTIFICATE OF MAILING

I hereby certify that the original of this ANSWER correspondence is being deposited in the United States Postal Service, on April 13, 2006, with sufficient postage as first class mail in an envelope addressed to:

Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

by: John J. Simkanich



(signature)

4/13/06

(date)