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

Proceeding	91169590
Party	Defendant Vantage Technologies KnowledgeAssessment, LLC Vantage Technologies Knowledge Assessment t, L.L.C. 110 Terry Drive Newtown, PA 18940
Correspondence Address	John J. Simkanich Paul & Paul 2900 2000 Market Street Philadelphia, PA 19103
Submission	Motion to Compel Discovery
Filer's Name	John J. Simkanich
Filer's e-mail	jsimkanich@paulandpaul.com
Signature	/john j. simkanich, regis. no. 26,036/
Date	09/26/2006
Attachments	2911.oppos.91169590.compel.mot.pdf (32 pages)(2478079 bytes)

**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		

APPLICANT'S MOTION TO COMPEL DISCOVERY

Applicant, Vantage Technologies Knowledge Assessment, LLC, hereby moves the Board to compel discovery of Opposer, Scott Elliot, pursuant to 37 CFR §2.120(e) and T.B.M.P. §§ 523.01 and 523.02.

Applicant timely served discovery requests upon Opposer on August 17, 2006, those being a First Set of Interrogatories (true copy attached as Exhibit "A") and a First Request for Documents and Things (true copy attached as Exhibit "B"). Service was made by personal service to Counsel for Opposer, by process server (true copy attached as Exhibit "C").

Applicant has served discovery Deposition Notices on Opposer, Scott Elliot, and on Scott Elliot business under Rules 30(b)(6), said depositions being noticed for September 20, 2006 and September 22, 2006, respectively (true copy attached as Exhibit "D" and Exhibit "E", respectively). The answers to interrogatories and the documents requested are needed to prepare for and conduct said depositions.

To date, Opposer has raised no objections to Applicant's discovery requests and not requested any protective agreement.

On or about September 15, 2006, Opposer, through his attorney, request a one-week extension to respond to the outstanding discovery requests and asked to have the scheduled depositions moved back one week, to outside the discovery period.

On or about September 19, 2006, the parties executed an agreement to move the scheduled depositions of the Opposer and the Opposer business under Rule 30(b)(6) back a week to outside the discovery period. A copy of the executed agreement was filed of record in this Opposition on September 21, 2006.

The extended time for response to Applicant's interrogatories and document requests having passed, OPPOSER HAS PRODUCED NO ANSWERS TO INTERROGATORIES AND HAS PRODUCED NO DOCUMENTS AND THINGS REQUESTS.

Applicant desires to protect its discovery rights regarding interrogatories, document requests and depositions, and therefore must now move for adjudication on these discovery issues.

The Board is hereby requested to order Opposer to produce responses to Applicant's first set of interrogatories and first set of requests for documents and things, and to reset a time for Applicant to take the noticed deposition of Opposer, Scott Elliot, and the noticed Rule 30(b)(6) deposition of Opposer's business.

Date: *Sept 26, 2006*

Respectfully submitted,
PAUL & PAUL
Attorneys for Applicant

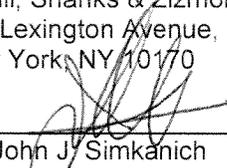
by: _____

[Handwritten Signature]
John J. Simkanich, Esq.
2900 Two Thousand Market Street, Ste 2900
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, MOTION TO COMPEL, was served upon the Opposer, service being made on September 26, 2006, BY EMAIL TO pgoodman@cszlaw.com AND 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

Date: 9/26/06

PAUL & PAUL
2900 Two Thousand Market Street, Ste 2900
Philadelphia, PA 19103
*Counsel for Vantage Technologies Knowledge
Assessment, LLC*

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

Scott Elliot
31 Pheasant Run
New Hope, PA 18938

Opposer

Opposition No. 91169590
Serial No. 78396033

v.

Vantage Technologies Knowledge
Assessment, LLC
110 Terry Drive
Newtown, PA 18940

Applicant

APPLICANT'S FIRST SET OF INTERROGATORIES TO OPPOSER

Pursuant to Rule 2.120 of the Trademark Rules of Practice of the Patent and Trademark Office and Rules 33 and 34 of the Federal Rules of Civil Procedure, Applicant, Vantage Technologies Knowledge Assessment, LLC, hereby requests that Opposer, Scott Elliot, answer the following interrogatories under oath.

These interrogatories must be answered within thirty (30) days of the date of service of these discovery requests. Opposer shall serve the answers to interrogatories at the offices of Applicant's counsel Paul & Paul, 2000 Market Street, Suite 2900, Philadelphia, Pennsylvania, 19103.

Each interrogatory is to be typed immediately before the answer provided.

INTRODUCTION AND DEFINITIONS

A. These interrogatories shall be deemed to seek answers as of the date hereof, but shall be deemed to be continuing so that any additional information relating in any way to these interrogatories which Opposer, acquires or which becomes known to Opposer, up to and including the time of trial shall be furnished to Applicant, Vantage, immediately after such information is acquired or becomes known. Opposer, has the duty to supplement his response to these Interrogatories as required by Rule 26(e) of the Federal Rules of Civil Procedure.

B. As used herein, "Opposer" means not only Scott Elliot, but also includes his family members, predecessors, predecessors in interest, and any related entities and/or their

predecessors, including without limitation divisions and subsidiary companies, joint ventures, partnerships, licensors, and licensees, involved with any subject matter relevant to this opposition, and also including without limitation persons controlled by Opposer, Elliot, and businesses having a relationship in any way to goods or services offered under the mark which is the subject matter of the opposition petition, including their respective officers, directors, employees, agents, representatives, consultants, and attorneys, to the fullest extent the context permits.

C. In answering these interrogatories, Opposer, is required to furnish all information available to him, including information in the possession of his investigators, agents, representatives, attorneys, investigators for its attorneys, and any other person or persons acting on their behalf.

D. If Opposer cannot answer any of the following interrogatories in full, after exercising due diligence to secure the information, so state and answer to the extent possible, specify your inability to answer the remainder, and state whatever information or knowledge you have concerning the unanswered portion.

E. Each interrogatory is intended to and does request that each and every part be answered or responded to with the same force and effect as if such part were the subject of and were asked by a separate discovery request.

F. Each interrogatory not only calls for Opposer's personal knowledge, but also for all knowledge that is available to him after reasonable inquiry, including inquiry of his licensees, representatives and attorneys. Opposer should use additional pages if necessary to complete a full and fair answer or response to any discovery request.

G. As used herein, the term "document" is used in its customary broad sense as described in Rule 34 of the Federal Rules of Civil Procedure, and includes any original, reproduction, or non-identical copy of any kind of written or documentary material, or drafts thereof and other tangible things, including, but not limited to, correspondence, memoranda, inter-office communications, faxes, notes, diaries, contract documents, publications, brochures, advertisements, calculations, estimates, minutes or records of meetings of any kind, computer records of any kind and however stored, e-mails of any kind (including deleted items), visual images of any kind and however stored, audio tapes or cassettes, diskettes, reports, photographs, voice tapes, samples, physical samples, test specimens, test results, any tested subject matter, telegrams, notes of telephone conversations, and notes of any oral communications.

H. As used herein, "identify," or to "give the identity of," means, in general, to give the fullest description, and specifically:

- (i) in the case of a natural person, to state
 - a. name;
 - b. last known residence;
 - c. employer or business affiliation;
 - d. occupation and business position held and length of time in such position.

- (ii) in the case of a company or other business organization, to state
 - a. name;
 - b. place of incorporation;
 - c. principal place of and nature of business;
 - d. identity of persons having knowledge of the matter with respect to which the company is named;
 - e. executive officer or officers of the company;
 - f. its relation, if any, to Opposer or to Opposer's goods or products.

- (iii) in the case of a document, to state
 - a. identity of the persons preparing it and of the sender;
 - b. its title or a description of the general rule of its subject matter;
 - c. the identity of the addressees, if any;
 - d. its date of preparation;
 - e. its dates and manner of distribution and publication, if any;
 - f. location of each copy and identity of present custodian;
 - g. identity of persons who can identify it;
 - h. if privilege is claimed, the specific basis therefore.

- (iv) in the case of a trademark or trademark application or registration, to state
 - a. its country or state, registration number, and application number;
 - b. its date of first use in that country or state and the goods on which used;
 - c. identity of trademark owner;
 - d. identity of any U.S. counterpart application of registration;
 - e. date of first use in the U.S. and the goods on which used.
 - f. identify all documents evidencing, referring to, or otherwise relating to any of the foregoing

- (v) in the case of a product, device or goods or service to state the catalog, stock or like number, the trademark, name, type, grade, and any other description customarily used by the party concerned and the trade to designate such product, device or goods and to distinguish it from others made or sold by the same or a different producer or vendor, and identify all documents evidencing, referring to, or otherwise relating to any of the foregoing.

- (vi) in the case of an event or an action or activity to state the circumstances of how the activity arose, who requested or authorized it, who performed it, and describe in particular the sequence of events and happenings in sufficient detail for a thorough understanding of all aspects of the event, action or activity to be obtained, and identify all documents evidencing, referring to, or otherwise relating to any of the foregoing.

- (vii) in the case of a publication or advertising medium or advertising material to state regarding the appearance of each advertisement
 - a. the title and date of each issue
 - b. page and page of each issue
 - c. the persons and/or organizations responsible for the creation, layout, design and insertion
 - d. identify all documents evidencing, referring to, or otherwise relating to any of the foregoing.

- (viii) in the case of a trade or professional show or sales meeting, or convention at which Opposer displayed, offered for sale or sold product bearing the mark "IntelliMetric"
 - a. state the name of the show, meeting, etc., where it was held and the dates thereof
 - b. describe completely the circumstances and manner of promoting a sale, displaying and demonstrating each product
 - c. identify all items of sales and promotional material distributed
 - d. identify all documents evidencing, referring to, or otherwise relating to any of the foregoing.

I. As used herein, "person" shall mean both natural persons and corporate or other business entities.

J. Opposer is instructed to inform his employees, agents, licensees and consultants not to destroy or alter any of the responsive documents, including e-mails and things, while these requests are pending.

K. "Goods" includes all types of goods in connection with which Opposer uses or has used the mark.

L. "Services" includes all types of services in connection with which Opposer uses or has used the mark.

M. "Commercial activity" includes the manufacture, advertising, conduct, and/or sale of the goods and/or services.

N. "Geographic regions" includes specific states for interstate sales and specific counties of the state for intrastate sales.

O. "Channels of trade" includes the identity of distribution networks, the identity of types and character of suppliers, shippers, distributors, retailers, sellers, re-sellers, advertisers,

and other providers of Opposer's goods and services, including without limitation, the identity of distributors, wholesalers, and retailers who have purchased goods and/or services from the Opposer, or have advertised or offered Opposer's goods and/or services for sale, or both.

P. "Advertising or advertising venues" includes the identity of magazines and other publications, web-sites, radio and television broadcasts and the locations of billboards, posted ads, and signs where Opposer's goods and/or services have been identified or advertised.

Q. "Third Parties" includes business associates, customers, friends, neighbors, family, acquaintances, and government, educational, and business entities to which the Opposer is known.

R. "And" as well as "or" shall be construed disjunctively or conjunctively as is necessary to bring within the scope of the interrogatory all information that might otherwise be construed to be outside its scope.

S. The singular shall include the plural and the present tense shall include the past tense and vice versa in order to bring within the scope of the interrogatory all information that might otherwise be construed to be outside its scope.

T. If Opposer objects to any of the interrogatories below based on claim of privilege or a claim that such interrogatories require the disclosure of attorney work product, state the nature of the privilege claimed and the nature of the information over which privilege is claimed.

U. "State" or "recite" or "define" or "explain" or "describe" shall mean an instruction to answer with a discussion sufficiently particular and detailed to provide the information necessary to completely respond to the interrogatory within the scope sought, whereby it would be unnecessary to return to the interrogatory and interrogatory answer for a fuller explanation or more detail in the information provided.

V. "Nature" shall mean a description of broadest conceptual characterization of a good or service.

W. The use of a descriptive term with a herein above defined term does not and will not modify nor amend the definition of the term.

X. WORDS used in these Interrogatories are to be interpreted in their broadest ORDINARY MEANING and are not to be interpreted with a meaning which would narrow their definition. Where a definition provided herein above for a term varies from its broadest ordinary meaning, that term is to be interpreted and defined by the SUM total of all definitions and meanings.

Y. "Purchase price" shall mean the money and other compensation or consideration exchanged as value for goods or services.

X. THE INTERROGATORIES ARE TO BE CONSIDERED IN THE ORDINARY MEANING OF EACH STATEMENT to obtain as much information as possible without any interpretation contrary to ordinary intent. Where Opposer is uncertain of what is being asked, he is to respond according his interpretation which will provide as much information as possible, making comment that such an interpretation is being made and describing such interpretation.

Z. "IntelliMetric" shall mean that mark in its standard character format, any variations thereof being stylized or graphic or otherwise, and any combinations with other words or logos to form a compound mark.

AA. "Original copy and best copy" and "original copy or best copy" are to be interpreted as inclusive of asking for all information regarding the original copy and any existing best copy with the information to be provided separately with respect to each.

BB. "Present or last known address" is to be interpreted inclusively as asking for the present address if known and the last known address if the present address is not known, with a statement as to which the address offered is.

INTERROGATORIES

1. Identify Tria Systems, including the nature of the business, the identification of each of its products, the identification of all office addresses between 1994 and 1998, the state of incorporation or registration, all officers, all partners if applicable, and all computer programmers, including identifying the computer program (software) or programs each officer/partner and computer programmer was associated with during the time period.

Answer:

2. Identify every individual who worked as a programmer, at any time, on "IntelliMetric" software and identify each routine, subroutine, contribution made, and other work each individual performed, and for each individual identify his/her employer or employers and period(s) of employment for each.

Answer:

3. Identify every individual who contributed performance and/or operational criteria, at any time, for IntelliMetric software and state what criteria is associated with each individual, what time period that criteria was defined, and if that criteria found its way into IntelliMetric software and where, and the employer(s) and period(s) of employment when each criteria was developed and/or contributed.

Answer:

4. State and identify the status, version, operational condition, features, function, performance, speed, inputs and outputs for the IntelliMetric software as of September 30, 1997.

Answer:

5. Identify the present location, and last known location if the present location is unknown, of every copy of IntelliMetric software and for each copy identify its developmental status, version, operational condition, features, function, and performance, speed and any known bugs or short comings.

Answer:

6. State and identify who coined the word IntelliMetric and when the word was coined, and state what "intell" and "metric" connotes.

Answer:

7. Identify every customer for IntelliMetric goods in the time period from 1994 to February 17, 1997. Where the name or address of a customer or other information is unknown, provide what information is known including without limitation, the state and city and geographic region of the country in which the customer is located, the nature of the customer's business, commercial activity, the market, market segment, channels of trade, operating venues, marketing venues, and advertising venues in which the customer operates/operated, the type of governmental or regulatory agency the customer is subject to, the contact person or purchasing agent, the conditions of sale and terms of payment, the salesman who made the sale.

Answer:

8. Identify every customer for IntelliMetric goods in the time period from February 17, 1997 to Opposer's date of employment with Applicant and also identify that first date of employment. Where the name or address of a customer or other information is not known, provide what information is known including without limitation, the state and city and geographic region of the country in which the customer is located, the nature of the customer's business, commercial activity, the market, market segment, channels of trade, operating venues, marketing venues, and advertising venues in which the customer operates/operated, the type of governmental or regulatory agency the customer is subject to, the contact person or purchasing agent, the conditions of sale and terms of payment, the salesman who made the sale.

Answer:

9. Identify every customer for IntelliMetric goods in the time period from Opposer's date of employment with Applicant to Opposer's last day of employment with Applicant and also identify that last date of employment. Where the name or address of a customer or other information is not known, provide what information is known including without limitation, the state and city and geographic region of the country in which the customer is located, the nature of the customer's business, commercial activity, the market, market segment, channels of trade, operating venues, marketing venues, and advertising venues in which the customer operates/operated, the type of governmental or regulatory agency the customer is subject to, the contact person or purchasing agent, the conditions of sale and terms of payment, the salesman who made the sale.

Answer:

10. Identify every customer for IntelliMetric goods in the time period from Opposer's last day of employment with Applicant to present. Where the name or address of a customer or other information is not known, provide what information is known including without limitation, the state and city and geographic region of the country in which the customer is located, the nature of the customer's business, commercial activity, the market, market segment, channels of trade, operating venues, marketing venues, and advertising venues in which the customer operates/operated, the type of governmental or regulatory agency the customer is subject to, the contact person or purchasing agent, the conditions of sale and terms of payment, the salesman who made the sale.

Answer:

11. Identify every use on a product (goods and/or services) of the mark IntelliMetric, at any time, and with respect to each identify the product, its periods of sale or offers for sale, the type of customer for the product, each customer identity if known and not already identified in response to a previous interrogatory, the type or class of customer to which each product was offered for sale, and numbers of potential customers for each type or class of customer, and also identify each advertisement or brochure with dates of use, channels of trade and areas of distribution.

Answer:

12. State the conditions of sale for Opposer's purchase of IntelliMetric software from Tria Systems, including the purchase price, means of payment, and payee.

Answer:

13. State the conditions of sale for Opposer's purchase of the mark IntelliMetric from Tria Systems, including the purchase price, means of payment, and payee.

Answer:

14. State all salient points and the terms for the "business relationship" entered into between Opposer and Applicant on February 17, 1997, and identify where and when the salient points and terms were reduced to writing, and if not reduced to writing identify every point and term which are verbal or parole. For each verbal or parole point and term identify all documentary support thereof, including without limitation the author and date of each, the present location of the original copy and the best copy of each and state which it is.

Answer:

15. Identify the location of the original copy and the best copy of the executed Sales Representative Agreement entered into between Opposer and Applicant, identify each as to an original executed copy or the best copy, and identify the location of Opposer's copy if different from the location of the original copy and the best copy.

Answer:

16. Identify the location of the original copy and the best copy of the executed Confidentiality Agreement entered into between Opposer and Applicant, state if it is an original executed copy or the best copy, and identify the location of Opposer's copy if different from the location of the original or the best copy.

Answer:

17. State and describe what were Opposer's efforts, independently of Applicant, to develop IntelliMetric software during any time period after February 17, 1997, and for each development effort identify and describe the work done, identify who performed each portion of the work and the time period(s) of each contributor's work, the compensation paid to each such individual, and the version, features, operating parameters of each stage of such development.

Answer:

18. State and describe what Opposer did, independently of Applicant, to market IntelliMetric software under the IntelliMetric mark during any time period after February 17, 1997, and for each identify the marketing efforts performed and dates or period of time thereof, identify who

performed such marketing, identify each customer or potential customer and the date of first contact with each customer or potential customer, for each customer or potential customer state if a sale was made, the sales price and date of sale, and identify for each marketing and sales action whether it was for Opposer's benefit, Applicant's benefit, or the benefit of a third party, and identify each third party.

Answer:

19. Regarding Opposer's independent (of Applicant) marketing efforts of Intellimetric software under the IntelliMetric mark after February 17, 1997, identify and describe how the mark was applied to the goods, the form, format, font and presentation of the mark in its use, and describe each specimen of the use of the mark, the location of each specimen and its date of creation, the last known location of any lost specimen and its date of creation, and identify which specimens of use and best copies thereof are presently available for inspection, identify what they are, their location, and state how many of each specimen exist.

Answer:

20. Identify every license granted by Opposer for the use of the IntelliMetric mark, and for each identify and describe the licensee, the terms of the license, the effective period (start and end dates) of the license, the compensation/royalties paid from the licensee, and the location of the original copy and the best copy of the license agreement and identify which, and indicate if any license is a parole license and for each parole license identify all supporting documents, including the author, date, present location thereof, and parties involved.

Answer:

21. Identify and state the date Opposer physically started work as an employee of Applicant, the date Opposer physically ceased work as an employee of Applicant, the total compensation received by Opposer for each year of employment including bonuses, insurance benefits, the days of vacation, and identify each year Opposer was a W-2 employee, and each position and title held and describe Opposer's responsibilities for each.

Answer:

22. At the time Opposer became an employee of Applicant, identify and describe the limited marketing rights to the IntelliMetric software that Opposer granted to Applicant, state and identify if the terms described and the grant were made in an executed written instrument and the present location of the original executed copy and the best copy of such executed written instrument, and if any portion of the terms described and the grant were parole, identify those terms and grant which are parole and identify all documents which support such terms and grant, the author of each, the date, and the present location of the original and the best copy of each.

Answer:

23. At any time after January 1, 2000 to the present, with respect to any IntelliMetric software, identify and describe each effort, task, marketing presentation, development effort, news article, professional paper, software effort, sale, sales presentation, professional seminar, trade show, professional show, sales meeting and convention Opposer attended or otherwise participated in as an employee of Applicant, and for each identify the date(s) and describe nature and degree of Opposer's participation and/or association, and identify all documents and things associated with each.

Answer:

24. At any time after January 1, 2000 to the present, with respect to any IntelliMetric software, identify each effort, task, marketing presentation, development effort, news article, professional paper, software effort, sale, sales presentation, professional seminar, and trade show Opposer was associated with or participated on his own behalf or on behalf of a third party, identify each third party and the date(s) of such activity and describe nature and degree of Opposer's participation and/or association, and for each occurrence identify the individual or party on behalf of whom he was acting.

Answer:

25. Identify and describe Opposer's developmental efforts and Opposer's marketing efforts regarding IntelliMetric software after his employment with Applicant ended and for each activity state the date or dates, identify all third parties involved and the nature of each such involvement, and identify all documents and things which support each Opposer activity.

Answer:

26. Identify and describe every use of the mark "IntelliMetric" from January 1, 2000 to date, and for each use identify the date and/or approximate date and/or time period of the use, the nature of the use, the party making the use, the character of the use, all witnesses to each use, all documentation for each use, all specimens for each use and their present or last known location and also state which.

Answer:

26. State, identify and itemize all royalties paid to Opposer for the use of the mark "IntelliMetric", including identifying each royalty payee and each date of payment, the amount of the payment, the units of sales or other basis for the amount of payment, the check, bank transfer or other payment identification number and account, identify and describe the product associated with each royalty payment and identify each accounting report provided by each payee and the present location of each such accounting report.

Answer:

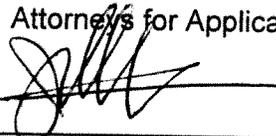
27. For each product identified and described in answer to interrogatory 26, state and identify the individual and/or business which made the product.

Answer:

Date: Aug 16, 2006

Submitted,
PAUL & PAUL
Attorneys for Applicant

by: _____


John J. Simkanich, Esq.
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Philadelphia, PA 19103
(215) 568-4900
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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31 Pheasant Run
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Opposer

Opposition No. 91169590
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v.

Vantage Technologies Knowledge
Assessment, LLC
110 Terry Drive
Newtown, PA 18940

Applicant

**APPLICANT'S FIRST SET OF REQUESTS TO OPPOSER
FOR PRODUCTION OF DOCUMENTS AND THINGS**

Pursuant to Rule 2.120 of the Trademark Rules of Practice of the Patent and Trademark Office and Rules 33 and 34 of the Federal Rules of Civil Procedure, Applicant, Vantage Technologies Knowledge Assessment, LLC, hereby requests that Opposer, Scott Elliot, produce the documents and things requested below within thirty (30) days of the date of service of these discovery requests. Opposer shall produce the documents and things at the offices of Opposer's counsel, Paul & Paul, 2000 Market Street, Suite 2900, Philadelphia, Pennsylvania, 19103.

INTRODUCTION AND DEFINITIONS

A. The introduction and definitions contained in Applicant's First Set of Interrogatories to Opposer are incorporated herein by reference as if stated in full herein..

B. These requests for documents and other things are to be deemed to be continuing so that any additional documents and other things relating in any way to these requests which applicant acquires subsequently or which becomes later known or available to applicant up to and including the time of trial shall be furnished to Applicant immediately after such is acquired or becomes known or available. Opposer has the duty to supplement its production to these requests as required by Rule 26(e) of the Federal Rules of Civil Procedure.

C. All documents and things shall be segregated and identified by the request number to which they are primarily responsive.

EXHIBIT "B"

D. For each document and thing requested herein which is sought to be withheld under a claim of privilege, or other objection, provide the following information:

- (a) identify the nature of the privilege, i.e. work product, which is being claimed;
- (b) the place, approximate date, and manner of recordation or preparation of the document or thing;
- (c) the name and title of the sender, and the name and title of each recipient of the document or thing;
- (d) the name of each person or persons (other than stenographic or clerical assistants) who participated in the preparation of the document or thing;
- (e) the name and corporate position of each person to whom the contents of the document or thing have heretofore been disclosed or communicated by copy, exhibition, reading or substantial summarization;
- (f) a statement of the basis upon which the claim of privilege is asserted and whether or not the subject matter of the contents of the document is limited to legal advice or information provided for the purpose of securing legal advice;
- (g) the number of the request herein to which the document or thing is responsive;
- (h) the identity and corporate position of the person or persons supplying the attorney with the information in subsections (b) through (f) above;
and
- (i) a brief description of the subject matter of the contents of the document or thing.

E. Documents or things to be produced pursuant to this request include all documents and things prepared or used at any time to the present.

F. Each request for documents and things seeks production of all documents and things described herein in the possession, custody or control of Opposer, including but not limited to, his attorneys, licensees, and agents.

G. Each request for documents and things seeks production of the document and thing in its entirety, without abbreviation or expurgation, including all attachments or other matters affixed thereto.

H. If any document or thing requested herein was formerly in Opposer's possession, custody, or control and has been lost or destroyed, or otherwise disposed of, Opposer is requested to submit in lieu of any such document a written statement: (i) describing in detail the

nature of the document and its contents; (ii) identifying the person(s) who prepared or authorized the document and, if applicable, the person(s) to whom the document was sent and indicated or blind copies, (iii) specifying the date on which the document was prepared or transmitted, and (iv) specify, if possible the date on which the document was lost or destroyed and, if destroyed, the conditions of and reasons for such destruction and the persons requesting and performing the destruction.

I. If any document of thing relates in any manner to a meeting or to any other conversation, all participants in the meeting or conversation are to be identified.

J. "IntelliMetric" shall mean that mark in its standard character format, any variations thereof being stylized or graphic or otherwise, and any combinations with other words or logos to form a compound mark.

REQUESTS

1. Opposer's notice of opposition and opposition statements numbered 1 - 17 are incorporated herein by reference as if stated in full.

All documents and things which evidence, support, or relate to in any way to the content or subject matter of these opposition statements, wherein the documents and things shall be segregated and identified by Opposer's opposition paragraph number including the prefix "opposition".

2. Interrogatories 1 - 27, of Applicant's First Set of Interrogatories to Opposer, are incorporated herein by reference as if stated in full.

All documents and things not produced in response to Request 1 which evidence, support or relate to in any way to the content or subject matter of the Interrogatories 1 - 27 or applicant's responses thereto, wherein the documents and things shall be segregated and identified by every applicable opposition paragraph number including the prefix "opposition" and every applicable Interrogatory number including the prefix "interrogatory".

For the following requests for documents and things, such documents produced in response thereto are to be segregated and identified by the respective Request number(s).

3. All documents and things which refer or relate to or comment on Opposer's or an Opposer licensee advertising and/or promotion of any goods and/or services in connection with the mark "IntelliMetric".
4. All documents and things which refer or relate to or comment on Applicant's advertising and/or promotion of any goods and/or services in connection with the mark "IntelliMetric".
5. All documents and things which refer or relate to or comment on Opposer's or an Opposer licensee sales or offers for sale or marketing or product introduction or promotion, of any goods or services in connection with the mark "IntelliMetric".
6. All documents and things which refer or relate to or comment on Applicant's sales or offers for sale or marketing or product introduction or promotion, of any goods or services in connection with the mark "IntelliMetric".
7. All documents and things which refer or relate to or comment on Opposer's or an Opposer licensee use of the mark "IntelliMetric".
8. All documents and things which refer or relate to or comment on Applicant's use of the mark "IntelliMetric".
9. All documents and things which refer or relate to or comment on Opposer's or an Opposer licensee consideration of or decision to select, adopt and/or use the mark "IntelliMetric".
10. All documents and things which refer to or relate to or comment on Applicant's consideration of or decision to select, adopt and/or use the mark "IntelliMetric".
11. All documents and things which refer to or relate to or comment on any searches, investigations or inquiries conducted by Opposer or an Opposer licensee or by any person acting for or on his/its behalf regarding the availability of the mark "IntelliMetric".

12. A sample, copy, photograph, illustration, sketch or other depiction of each and every different label, hangtag, sign, print, package, wrapper, receptacle, pennant, banner and the like which has been or now is being used by Opposer or an Opposer licensee and which bears the mark "IntelliMetric".
13. All documents and things evidencing or supporting every license granted by Opposer.
14. A sample of each and every different advertisement and item of a promotional nature printed or disseminated by or for Opposer or an Opposer licensee, including internet advertising, web pages and the like in which the mark "IntelliMetric" appears.
15. A sample of each different counter display or other point-of-sale display prepared, printed or disseminated by or for Opposer or an Opposer licensee in which the mark "IntelliMetric" appears.
16. All catalogs, advertising mailers and other mail-order literature which have been or now are being used by Opposer or an Opposer licensee in which the mark "IntelliMetric" appears.
17. Copies of all television commercials, radio scripts, internet scripts, telemarketing scripts and other media advertising or sales promotion not previously requested herein, prepared by or for Opposer or an Opposer licensee, whether or not released or aired, in which the mark "IntelliMetric" appears or is present.
18. All documents and things which refer or relate to or comment on Opposer's or an Opposer licensee advertising and promotional expenditures for any goods and/or services offered for sale, rendered, sold and/or distributed under the mark "IntelliMetric".
19. All documents and things which refer or relate to or comment on any communication, oral or in writing, received by Opposer or an Opposer licensee from any person which suggests, implies or infers any connection or association with the Applicant or which inquires as to whether there is or may be such a connection or association.

20. All documents and things which refer or relate to or comment on any inquiry, investigation, shopping or survey conducted by Opposer or an Opposer licensee or any person acting for or on behalf of same regarding any issues involved in this proceeding.

21. All documents and things which refer or relate to or comment on any permission, authorization, or license by Opposer or by any person acting for or on his behalf, to use the mark "IntelliMetric".

22. All documents and things which refer or relate to or comment on any application for registration or any registration by Opposer or any predecessor, parent, subsidiary and/or affiliated company, licensee, partner, joint venture participant of Opposer for the mark "IntelliMetric" for any goods or services:

(a) in the United States Patent and Trademark Office,

and

(b) in any state or states of the United States.

23. Copies of all agreements, contracts, memorandum or other documents and things regarding any activities, goods, or services passed or conducted between Opposer and any third-party in which the documents and things contain reference to or relate to or comment on the mark "IntelliMetric".

24. (a) Copies of any and all statements and/or opinions of any person, other than an attorney rendering legal advice to Opposer or an Opposer licensee, regarding any of the issues involved in this opposition proceeding.

(b) All documents and things which refer or relate to or comment on any of the statements and/or opinions referred to in (a) above.

25. Copies of any and all statements and/or opinions of any expert obtained by Opposer or any person acting for or on behalf of Opposer regarding any of the issues involved in this opposition proceeding.

26. All documents and things, other those produced in response to any of the foregoing requests, which in any way comment on or relate to the mark "IntelliMetric", whether the comment or use is by Applicant, by Opposer, or by others.

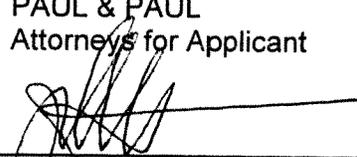
27. All documents and things, other than those produced in response to any of the foregoing requests, upon which Opposer intends to rely in connection with this opposition proceeding.

28. All documents and things, other than those produced in response to any of the foregoing requests, which were examined, reviewed or inspected by Opposer or any person acting for or on behalf of Opposer in connection with the preparation of Opposer's responses to "Applicants First Set of Interrogatories to Opposer".

Date: *Aug 16, 2006*

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

SCOTT ELLIOT

OPPOSER

Index No. OPP#91169590; **

Plaintiff(s)

- against -

VANTAGE TECHNOLOGIES KNOWLEDGE ASSESSMENT, LLC

APPLICANT
Defendant(s)

AFFIDAVIT OF SERVICE
OF:

APPLICANT'S INTERROGATORIES
TO OPPOSER & APPLICANT'S****

STATE OF NEW YORK: COUNTY OF NEW YORK SS:
RAYMOND BURROWES

BEING DULY SWORN DEPOSES AND SAYS DEPONENT IS NOT A PARTY
TO THIS ACTION AND IS OVER THE AGE OF EIGHTEEN YEARS AND RESIDES IN THE STATE OF NEW YORK.

That on 08/17/06 at 0400PM Hours at % CYRULI, SHANKS & ZIZMOUR, LLP 420 LEXINGTON AVE (SUITE 2020) NEW YORK, NY 10
deponent served the within APPLICANT'S INTERROGATORIES TO OPPOSER & APPLICANT'S**** on
PAUL GOODMAN, ESQ. therein named,

INDIVIDUAL

by delivering a true copy of each to said personally; deponent knew the person so served to be the person described as said person therein.

A

(S) He identified (her) himself as such.

CORPORATION

a (domestic) (foreign) corporation by delivering thereat a true copy of each to personally, deponent knew said corporation so served to be the corporation described in legal papers and knew said individual to be thereof

B

SUITABLE
AGE PERSON

by delivering thereat a true copy of each to a person of suitable age and discretion. Said premises is recipient's (actual place of business) (dwelling house) (usual place of abode) within the state. (S) He identified (her) himself as of recipient

C

AFFIXING TO
DOOR, ETC.

by affixing a true copy of each to the door of said premises, which is recipient's (actual place of business) (dwelling house) (usual place of abode) within the state. Deponent was unable, with due diligence to find recipient or a person of suitable age and discretion, thereat, having called there on the dates below:

D

****DOCUMNET REQUESTS TO OPPOSER.

MAILING
USE WITH
C or D

Deponent also enclosed a copy of same in a postpaid sealed wrapper properly addressed to the above recipient and deposited at

said wrapper in (a post office) official depository under exclusive care and custody of the United States Postal Service within New York State.

Deponent further states that he describes the person actually served as follows					
Sex	Skin Color	Hair Color	Age (Approx.)	Height (Approx).	Weight (Approx.)
MALE	WHITE	BROWN	45	5' 8	155

** SERIAL #78396033

MILITARY
SERVICE

Above person has asked, whether the recipient (s) was (were) in the military service of the State of New York or the United States and received a negative reply. Upon information and belief based upon the conversation and observation as aforesaid deponent avers that the recipient (s) is (are) not in the military service of the State of New York or the United States as that term is defined in the statutes of the State of New York or the Federal Soldiers and Sailors Civil Relief Act.

That at the time of such service deponent knew the person (s) so served as aforesaid to be the same person (s) mentioned and described as the defendant(s) in this action.

USE IN
NYC CIVIL CT.

The language required by NYCRR 2900.2(e), (f) & (h) was set forth on the face of said summons (es).

Sworn to before
me on the
08/22/06

IRVIN D. GARTENSTEIN
Notary Public, State of New York
No. 01GA4824708
Qualified in New York County
Commission Expires June 30, 2006

NELLY MOLINA ROMAN
Notary Public, State of New York
No. 01M06130883
Qualified in New York County
Commission Expires July 25, 2009

RAYMOND BURROWES

LICENSE No.
1151219

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

Scott Elliot
31 Pheasant Run
New Hope, PA 18938

Opposer

Opposition No. 91169590
Serial No. 78396033

v.

Vantage Technologies Knowledge
Assessment, LLC
110 Terry Drive
Newtown, PA 18940

Applicant

NOTICE OF DEPOSITION OF SCOTT ELLIOT

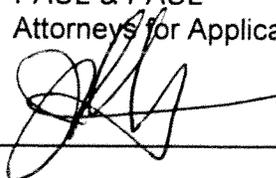
Pursuant to Rule 2.120 of the Trademark Rules of Practice of the United States Patent and Trademark Office (37 CFR § 2.120); and pursuant to T.B.M.P. § 404.01, § 404.02, and § 404.03; and pursuant to Rule 30 of the Federal Rules of Civil Procedure, Applicant, Vantage Technologies Knowledge Assessment, LLC, will take the deposition by oral examination of **Scott Elliot**, before a Notary Public or other person empowered to administer oaths and take testimony, at the offices of Paul & Paul, Suite 2900, 2000 Market Street, Philadelphia, Pennsylvania, 19103, beginning at **10:00 AM** on **September 20, 2006**, and continuing from day to day until completed.

The witness, Scott Elliot, is commanded to bring and have present, the original or best copy if the original does not exist, for inspection in connection with his testimony each document identified in "Appendix A" attached hereto.

Date: *Sept 7, 2006*

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

"APPENDIX A"

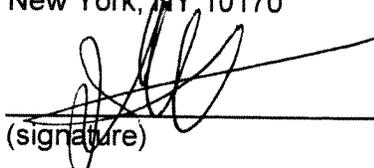
1. All documents and things which substantiate that opposer, Scott Elliot, was a principal of Tria Systems.
2. All documents and things which substantiate any sale or offer for sale by Tria Systems of IntelliMetric software.
3. All documents and things which substantiate any license or offer to license IntelliMetric Software by Tria Systems.
4. All documents and things which substantiate that Scott Elliot purchased the IntelliMetric software on September 30, 1997 to become sole owner thereof.
5. The executed copy of the February 17, 1997 sales representative agreement between Applicant, Vantage, and Scott Elliot.
6. The executed copy of the confidentiality agreement incorporated into and attached to the sales representative agreement executed between the parties.
7. All documents and things which substantiate that Scott Elliot developed or marketed IntelliMetric software at any time after February 17, 1997, including every and any occasion of such acts.
8. All documents and things which substantiate every license granted by Scott Elliot for the use of any trademark or service mark, including the IntelliMetric mark.
9. All documents and things which substantiate every license granted by Scott Elliot for the use of any software, including IntelliMetric software.
10. All documents and things which substantiate what certain limited marketing rights in any software, including the IntelliMetric software, were granted to Applicant, Vantage, by Scott Elliot in 2000.
11. All documents and things which substantiate what rights were granted by Scott Elliot to Applicant, Vantage, in derivatives of the IntelliMetric software in 2000.
12. All documents and things which demonstrate or refer to or relate to or comment on any of (a) Scott Elliot's, (b) a Scott Elliot owned business', (c) a Scott Elliot partner's, associate's, employee's or agent's, (d) a Scott Elliot licensee's, activities in advertising or marketing or offering for sale, or selling any goods or services in connection with the IntelliMetric mark.

13. All documents and things which evidence any sale or license of IntelliMetric software, in the time period of September 30, 1997 to date, by Scott Elliot, or a Scott Elliot licensee.

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the forgoing paper titled, Notice of Deposition of Scott Elliot, was served upon the Opposer, service being made by prepaid, first class U.S. mail, posted on Sept 7 2006, addressed to counsel for Opposer:

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



(signature)

Sept 7, 2006
(date)

John J. Simkanich, Esq.
Paul & Paul

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

Scott Elliot
31 Pheasant Run
New Hope, PA 18938

Opposer

Opposition No. 91169590
Serial No. 78396033

v.

Vantage Technologies Knowledge
Assessment, LLC
110 Terry Drive
Newtown, PA 18940

Applicant

NOTICE OF RULE 30(b)(6) DEPOSITION OF SCOTT ELLIOT BUSINESS

Pursuant to Rule 2.120 of the Trademark Rules of Practice of the United States Patent and Trademark Office (37 CFR § 2.120); and pursuant to T.B.M.P. § 404.01, § 404.02, and § 404.03; and pursuant to Rule 309(b)(6) of the Federal Rules of Civil Procedure, Applicant, Vantage Technologies Knowledge Assessment, LLC, will take the deposition by oral examination of Opposer's **Scott Elliot Business**, the definition of which is recited below, before a Notary Public or other person powered to administer oaths and take testimony, at the offices of Paul & Paul, Suite 2900, 2000 Market Street, Philadelphia, Pennsylvania, 19103, beginning at **1:00 PM on September 22, 2006**, and continuing from day to day until completed.

Opposer is required to designate and present as a witness for testimony one or more of the officers, directors, managers, partners, joint venture investors, agents, administrators, or executives who are most knowledgeable regarding the subject matters listed below in "Appendix 1" and who will testify on Opposer's business behalf. The name and position or title of each designated witness along with the subject matter of his testimony is to be identified to applicant's counsel on or before 1:00 PM, Thursday, September 22, 2006.

Each witness is commanded to bring and have present, the original or best copy if the original does not exist, for inspection in connection with his testimony each document identified in "Appendix 1". The subject matters for examination will include:

"APPENDIX 1"

Definitions:

a) A "Scott Elliot business" shall mean any company, corporation, non-profit organization, partnership, association, consulting service, proprietorship, fictitious name business, or other entity, which has been associated with the development of Intellimetric software or the use of the Intellimetric mark after September 30, 1997, and in which Opposer, Scott Elliot, has had an ownership interest and has exerted direction or control as a principal.

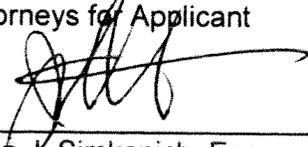
Subject matter and documents:

1. All documents and things which substantiate that a Scott Elliot business developed or marketed IntelliMetric software at any time after September 30, 1997, including substantiation of every and any occasion of such acts.
2. All documents and things which substantiate every license granted by a Scott Elliot business for the use of any trademark or service mark, including the IntelliMetric mark.
3. All documents and things which substantiate every license granted by a Scott Elliot business for the use of any software, including IntelliMetric software.
4. All documents and things which substantiate any sale of IntelliMetric software by a Scott Elliot business in the time period of September 30, 1997 to date.

Date: *Sept 7, 2006*

PAUL & PAUL
Attorneys for Applicant

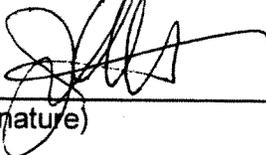
by: _____


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, Notice of 30(b)(6) Deposition of Scott Elliot Business, was served upon the Opposer, service being made by prepaid, first class U.S. mail, posted on Sept 7 2006, addressed to counsel for Opposer:

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



(signature)

Sept 7, 2006
(date)

John J. Simkanich, Esq.
Paul & Paul