

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

In re Serial No. 78/443,048
MINTBUY.COM

BUY.COM INC. and
BUYMUSIC INC.

Opposers,

v.

MINTBUY.COM

Applicant.

Opposition No. 91171936

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

APPLICANT'S ANSWER

Applicant, Mintbuy.com (hereinafter "Mintbuy" or "Applicant"), owner of United States Trademark Application No. 78/443,048 (hereinafter "Applicant's Application"), for its answer to the Notice of Opposition filed by Opposers, Buy.com Inc. and Buymusic Inc. (individually and collectively hereinafter "Opposers"), avers as follows:

1. Applicant is without sufficient information or belief as to the truth of the allegations set forth in Paragraph 1 of the Notice of Opposition, and on that basis denies them.

09-25-2006

2. Applicant is without sufficient information or belief as to the truth of the allegations set forth in Paragraph 2 of the Notice of Opposition, including subparts a.-e. thereof, with the exception that each of the referenced trademark registrations has a filing date prior to July 23, 2004, the filing date of Applicant's Application, and on that basis denies them.

3. Applicant is without sufficient information or belief as to the truth of the allegations set forth in Paragraph 3 of the Notice of Opposition, and on that basis denies them.

4. Applicant is without sufficient information or belief as to the truth of the allegations set forth in Paragraph 4 of the Notice of Opposition, and on that basis denies them.

5. Applicant denies each and every one of the allegations set forth in Paragraph 5 of the Notice of Opposition.

6. Applicant denies each and every one of the allegations set forth in Paragraph 6 of the Notice of Opposition.

7. Applicant denies each and every one of the allegations set forth in Paragraph 7 of the Notice of Opposition.

8. Applicant denies each and every one of the allegations set forth in Paragraph 8 of the Notice of Opposition.

AFFIRMATIVE DEFENSES

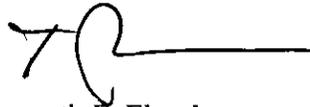
1. Opposer's asserted BUY.COM marks are highly descriptive of, *inter alia*, Opposer's retail services and therefore fail to form a basis for opposition of Applicant's Application.

2. Opposer's BUY.COM marks fail to create a family of marks that would form a basis for opposition of Applicant's Application.

3. Opposer's BUY.COM marks have not acquired fame so as to provide a basis for opposition of Applicant's Application, to establish a family of marks or create a likelihood of confusion.

WHEREFORE, Applicant requests that the Notice of Opposition be dismissed in its entirety, and Applicant's Application proceed to registration.

Respectfully submitted,



Kenneth F. Florek
Hedman & Costigan, P.C.
Attorneys for Applicant

Dated: September 21, 2006

MAILING ADDRESS:
Hedman & Costigan, P.C.
1185 Avenue of the Americas
New York, NY 10036-2646
Telephone 212-302-8989
Facsimile 212-302-8998

I hereby certify that this paper or fee is being deposited with the United States Postal Service as first class mail, postage prepaid, on **September 21, 2006** in an envelope addressed to:

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

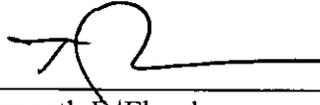


Kenneth F. Florek, Reg. No. 33,173

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing APPLICANT'S ANSWER was served upon Opposer by depositing a copy of the same in the United States Mail, postage prepaid, on **September 21, 2006** in an envelope addressed to:

Mitchell P. Brook, Esq.
Luce, Forward, Hamilton & Scripps, LLP
11988 El Camino Real, 2nd Floor
San Diego, CA 92130

A handwritten signature in black ink, appearing to read 'K. Florek', is written over a horizontal line.

Kenneth F. Florek