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

Proceeding	91173189
Party	Plaintiff MONSTERCOMMERCE, LLC
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Submission	Reply in Support of Motion
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Date	06/10/2008
Attachments	Reply in Support of Motion to Join.PDF (4 pages)(94746 bytes)

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

In the matter of Application Serial No. 78/612,360
Published in the *Official Gazette* on May 30, 2006

TEMPLATEMONSTER

MONSTERCOMMERCE, LLC,)	
)	
Opposer,)	
)	
v.)	Opposition No. 91173189
)	
IGOR LOGNIKOV,)	
)	
Applicant.)	
)	

**OPPOSER MONSTERCOMMERCE’S REPLY IN SUPPORT OF MOTION TO
JOIN NETWORK SOLUTIONS, LLC AS A PARTY OPPOSER**

Opposer, MonsterCommerce, LLC (“MonsterCommerce” or “Opposer”) submits the following reply brief in support of its Motion to Join Network Solutions, LLC (“Network Solutions”) as a Party Opposer.

On May 9, 2008, MonsterCommerce requested that Network Solutions be joined as a party opposer in this proceeding pursuant to TBMP § 512.01 because Registration No. 2,947,268 for MONSTERCOMMERCE (“the ‘268 Registration”), relied on by MonsterCommerce in the operative opposition notice, was recently assigned to Network Solutions. Applicant opposed MonsterCommerce’s request to join Network Solutions because Applicant contends that the operative opposition notice does not plead the ‘268 Registration as a basis for opposing Applicant’s mark, and therefore, ownership of the ‘268 Registration cannot

allow Network Solutions to join the proceeding.¹ Applicant’s strained and erroneous reading of the operative opposition notice, which clearly pleads the ‘268 Registration, does not provide a basis for denying MonsterCommerce’s request to join Network Solutions.

A notice of opposition must include a short and plain statement of the reasons why opposer believes it would be damaged by the registration of the opposed mark, and a short and plain statement of one or more grounds for opposition. TBMP § 309.03(a)(1). The notice of opposition should include enough detail to give the defendant fair notice of the basis for each claim. TBMP § 309.03(a)(2).

MonterCommerce’s Second Amended Notice of Opposition, which is the operative opposition notice in this proceeding, states:

“Pursuant to 15 U.S.C. §§ 1052, 1063, and 1125 of the Lanham Act and 37 C.F.R. §§ 2.101 and 2.104, and predicated on the following grounds, opposer alleges as follows: . . . (2.) Opposer is the owner of the MONSTERCOMMERCE mark, the subject of a federal registration, Registration No. 2,947,268 . . . (3.) A copy of the registration is attached as Exhibit A.”

The above paragraph specifically pleads the MONSTERCOMMERCE mark and the ‘268 Registration as a basis for this opposition proceeding. Not only does MonsterCommerce provide fair notice² of the basis for its claim by specifically pleading the MONSTERCOMMERCE mark and the ‘268 Registration, but it also provides a copy of the pleaded registration in an exhibit. Accordingly, MonsterCommerce has properly pleaded the

¹ In a footnote, Applicant also makes a vague accusation that MonsterCommerce should have supplemented its discovery responses with a copy of the assignment, but does not identify the alleged discovery request calling for this document. In fact, under the requests and responses served by the parties, MonsterCommerce has no obligation to produce this document.

² Applicant does not allege that was not provided fair notice of the ‘268 Registration, or that it was prejudiced by not having fair notice.

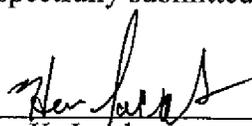
'268 Registration as a basis for opposing Applicant's mark, which was the subject of the recent assignment to Network Solutions.

Applicant appears to contend that the MONSTERCOMMERCE mark and the '268 Registration were not pleaded in this opposition proceeding because MonsterCommerce did not specifically include the MONSTERCOMMERCE mark and the '268 Registration in Paragraph 4 of the operative opposition notice. Applicant misreads the operative notice of opposition. The MONSTERCOMMERCE mark and the '268 Registration are both an independent ground for the opposition proceeding, and part of the MONSTER Family of Marks. Applicant's strained reading of the operative opposition notice provides no reasonable basis for denying MonsterCommerce's request to join Network Solutions. However, should the Board require that the notice of opposition be clarified on this point, MonsterCommerce will amend its notice of opposition accordingly, and hereby requests leave to do so.

Applicant has articulated no basis to deny joining Network Solutions as a party opposer to this proceeding. Accordingly, and pursuant to TBMP § 512.01, MonsterCommerce respectfully requests that Network Solutions be joined as a party opposer in this proceeding.

Respectfully submitted,

Date: June 10, 2008

By: 

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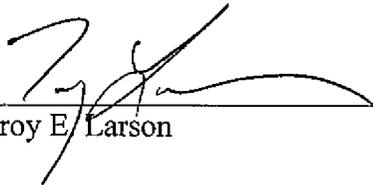
ATTORNEYS FOR OPPOSER

CERTIFICATE OF SERVICE

I, Troy E. Larson, hereby certify that on today's date, I caused a copy of the foregoing MonsterCommerce's Reply in Support of Motion to Join Network Solutions, LLC as a Party Opposer to be served by United States First Class mail, postage prepaid, on counsel for Applicant as set forth below:

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Dated: June 10, 2008



Troy E. Larson