

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

Parametric Technology Corporation, )  
Opposer, )  
v. )  
PLMIC, LLC, )  
Applicant. )

Opposition No. 91/174,641

76/662,967

PLMIC, LLC, )  
Opposer, )  
v. )  
Parametric Technology Corporation, )  
Applicant. )

Opposition No. 91/177,168

**Certificate of First Class Mailing (37 CFR 1.8(a))**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Trademark Trial and Appeal Board, U.S. Patent and Trademark Office, P. O. Box 1451, Alexandria, VA 22313-1451 on the date set forth below.

January 6, 2009  
Date of Signature and of Mail Deposit

By: Thomas V. Smurzynski  
Thomas V. Smurzynski  
Attorney for Applicant

Trademark Trial and Appeal Board  
U.S. Patent and Trademark Office  
P.O. Box 1451  
Alexandria, VA 22313-1451

**MOTION TO AMEND NOTICE OF  
OPPOSITION TO CONFORM TO EVIDENCE**

Parametric Technology Corporation (PTC), the opposer in Opposition No. 91/174,641, one of the two oppositions that have been consolidated in this proceeding, hereby moves to amend the notice of opposition to conform to the evidence submitted during the two testimony periods (one for each party) that have occurred thus far.



01-08-2009

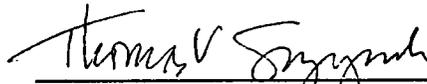
A copy of the Amended Notice of Opposition that PTC wishes to file and serve is attached to this motion.

The proposed amendment would conform the notice of opposition to the evidence in accord with Fed. R. Civ. Proc. 15(b).

The proposed amendment adds additional paragraphs 8 and 9 which allege that the opposed application falsely claimed dates of first use and first use in commerce of July 13, 2003 and July 20, 2004, respectively, while the evidence of the testimony of the Applicant's principal, Mr. Jason Silvestri, is that the mark was first put into use after the filing date of the application.

Respectfully submitted,  
Parametric Technology Corporation  
By its attorneys,

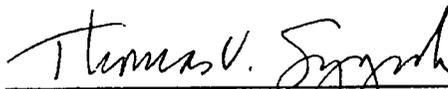
Date: January 6, 2009



Thomas V. Smurzynski  
LAHIVE & COCKFIELD, LLP  
One Post Office Square  
Boston, MA 02109  
(617) 227-7400

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing MOTION TO AMEND NOTICE OF OPPOSITION TO CONFORM TO EVIDENCE was served by first-class mail, postage-prepaid, on counsel for Applicant, Edward A. Haffer, Sheehan Phinney Bass & Green, P.A., 1000 Elm Street, P.O. Box 3701, Manchester, NH 03105-3701, on this 6<sup>th</sup> day of January, 2009.



Thomas V. Smurzynski

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By:

\_\_\_\_\_  
Thomas V. Smurzynski  
Attorney for Applicant

**AMENDED NOTICE OF OPPOSITION**

Opposer, Parametric Technology Corporation, a Massachusetts corporation with its principal place of business at 140 Kendrick Street, Needham, Massachusetts 02494, believes that it will be damaged and injured by registration of the mark FlexPLM in application Serial No. 78/835,516, filed on March 13, 2006, by PLMIC, LLC, of Middleborough, Massachusetts, and published for opposition in the Official Gazette of October 31, 2006, and hereby opposes the same.

The grounds for opposition are as follows:

1. Opposer, since before any use by Applicant of its mark, has continuously used the mark FLEXPLM, in the field of computer software for product lifecycle management and the automation of design information; the establishment and control of workflows, shared workspaces and production processes in the nature of product design and creation; product configuration and data management; collaboration and process control; the visualization and digital mockup of designs, and use in software configuration and development, along with user guides sold with such software as a unit; and technical support services, namely, troubleshooting of computer software problems via telephone; updating of computer software; maintenance of computer software, namely, error correction services for computer software; consultation and software implementation services; and product development for others.

2. Opposer is the owner of U.S. Trademark Application No. 76/662,967 filed July 13, 2006, for the mark FLEXPLM for

computer software for product lifecycle management and the automation of design information; the establishment and control of workflows, shared workspaces and production processes in the nature of product design and creation; product configuration and data management; collaboration and process control; the visualization and digital mockup of designs, and use in software configuration and development, along with user guides sold with such software as a unit, in class 9;

and

technical support services, namely, troubleshooting of computer software problems via telephone; updating of computer software; maintenance of computer software, namely, error correction services for computer software; consultation and software implementation services; and product development for others, in class 42.

3. Applicant, PLMIC, LLC, filed application Serial No. 78/835,516 on March 13, 2006, for FlexPLM for "cooperative advertising and marketing of products and services by way of solicitation, customer service and providing marketing information via websites on a global computer network." The application was published for opposition in the Official Gazette of October 31, 2006.

4. The services recited in application Serial No. 78/835,516, are similar to the goods and services offered by Opposer under its trademark FLEXPLM.

5. The mark FlexPLM sought to be registered by Applicant, when used on or in connection with the services recited in the application, will so resemble the mark, FLEXPLM, as used by Opposer, as to cause confusion, or to cause mistake, or to deceive.

6. Opposer will be damaged by registration of Applicant's mark, since the Applicant would obtain at least a prima facie right to the ownership and exclusive use of the mark in commerce for the services recited in the application.

7. Opposer will be damaged by registration of Applicant's mark, since the Applicant would be in a position to raise doubts as to the extent of Opposer's right to the ownership and exclusive use of its mark.

8. Applicant, PLMIC, LLC, through its predecessor-in-title, filed application Serial No. 78/835,516 on March 13, 2006, on the basis of use, claiming that the mark was first used on July 13, 2003 and first used in interstate commerce on July 20, 2004.

9. In fact, the mark was first put into use in commerce after the filing date of the application. The dates of first use and first use in commerce set out in the filed application were false.

WHEREFORE, Opposer requests that registration of the mark of Applicant, Serial No. 78/835,516, be denied and this opposition be sustained.

Parametric Technology Corporation  
By its attorneys,

Date: \_\_\_\_\_

\_\_\_\_\_  
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