

ESTTA Tracking number: **ESTTA149417**

Filing date: **07/05/2007**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Xerox Corporation
Granted to Date of previous extension	07/11/2007
Address	800 Long Ridge Road Stamford, CT 06904 UNITED STATES

Attorney information	Seana L. Watts Xerox Corporation 800 Long Ridge Road Stamford, CT 06904 UNITED STATES Seana.Watts@xerox.com, Margaret.Walker@xerox.com Phone:2039683286
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Applicant Information

Application No	78860546	Publication date	03/13/2007
Opposition Filing Date	07/05/2007	Opposition Period Ends	07/11/2007
Applicant	DUPLO U.S.A. CORPORATION 3050 South Daimler Street Santa Ana, CA 92705 UNITED STATES		

Goods/Services Affected by Opposition

Class 007. All goods and seivces in the class are opposed, namely: Commercial paper handling machines, namely, paper binding machines and paper cutting machines
Class 009. All goods and seivces in the class are opposed, namely: Photocopying machines

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2979123	Application Date	08/12/2003
Registration Date	07/26/2005	Foreign Priority Date	NONE
Word Mark	DOCUMATE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2003/11/13 First Use In Commerce: 2003/11/13 Optical character recognition (OCR) scanners and operating software

U.S. Registration No.	3120170	Application Date	07/27/2005
Registration Date	07/25/2006	Foreign Priority Date	NONE
Word Mark	DOCUMATE 250		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2003/10/29 First Use In Commerce: 2003/10/29 Optical character recognition scanners and parts thereof, and scanner operating software		

U.S. Registration No.	3120168	Application Date	07/27/2005
Registration Date	07/25/2006	Foreign Priority Date	NONE
Word Mark	DOCUMATE 252		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2004/05/27 First Use In Commerce: 2004/05/27 Optical character recognition scanners and parts thereof, and scanner operating software		

U.S. Registration No.	3112092	Application Date	07/27/2005
Registration Date	07/04/2006	Foreign Priority Date	NONE
Word Mark	DOCUMATE 262		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2004/12/21 First Use In Commerce: 2004/12/21 Optical character recognition scanners, scanner operating software, parts thereof		

U.S. Registration No.	3117002	Application Date	07/27/2005
Registration Date	07/18/2006	Foreign Priority Date	NONE
Word Mark	DOCUMATE 510		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 009. First use: First Use: 2003/10/29 First Use In Commerce: 2003/10/29 Optical character recognition scanners, scanner operating software, and parts thereof		
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U.S. Registration No.	3117003	Application Date	07/27/2005
Registration Date	07/18/2006	Foreign Priority Date	NONE
Word Mark	DOCUMATE 520		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2003/11/19 First Use In Commerce: 2003/11/19 Optical character recognition scanners, scanner operating software, parts thereof		

U.S. Registration No.	2368798	Application Date	09/17/1999
Registration Date	07/18/2000	Foreign Priority Date	NONE
Word Mark	DOCUBROKER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1998/01/02 First Use In Commerce: 1998/01/02 Computer software, namely for use in database management, text management printer management and sales support		

U.S. Registration No.	1967323	Application Date	04/26/1994
Registration Date	04/09/1996	Foreign Priority Date	NONE
Word Mark	DOCUCARD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1994/07/08 First Use In Commerce: 1994/07/08 laser imprintable identification card, containing a machine readable strip, used for a variety of purposes Class 016. First use: First Use: 1994/07/08 First Use In Commerce: 1994/07/08 laser imprintable identification card used for a variety of purposes		

U.S. Registration No.	2175973	Application Date	02/08/1996
Registration Date	07/28/1998	Foreign Priority Date	NONE
Word Mark	DOCUCM		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 009. First use: First Use: 1994/10/00 First Use In Commerce: 1994/10/00 document scanner and operating software therefor		
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U.S. Registration No.	1993976	Application Date	07/18/1994
Registration Date	08/13/1996	Foreign Priority Date	NONE
Word Mark	DOCUCS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1994/10/00 First Use In Commerce: 1994/10/00 scanner and operating software		

U.S. Registration No.	2290275	Application Date	10/29/1998
Registration Date	11/02/1999	Foreign Priority Date	NONE
Word Mark	DOCUIIMAGE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1996/10/00 First Use In Commerce: 1996/10/00 Document scanners, computer operating software for use with document scanners		

U.S. Registration No.	2211474	Application Date	06/19/1996
Registration Date	12/15/1998	Foreign Priority Date	NONE
Word Mark	DOCUJOB		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1996/07/01 First Use In Commerce: 1996/07/01 computer programs, namely, for changing files and data		

U.S. Registration No.	2224762	Application Date	04/16/1997
Registration Date	02/16/1999	Foreign Priority Date	NONE
Word Mark	DOCULAN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1998/04/15 First Use In Commerce: 1998/04/15 computer software used for facsimile transmission		

U.S. Registration No.	2217595	Application Date	06/19/1996
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Registration Date	01/12/1999	Foreign Priority Date	NONE
Word Mark	DOCULINK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1997/02/00 First Use In Commerce: 1997/02/00 photocopier		

U.S. Registration No.	2149577	Application Date	10/07/1993
Registration Date	04/07/1998	Foreign Priority Date	NONE
Word Mark	DOCULOCK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1997/07/01 First Use In Commerce: 1997/07/01 computer services, namely providing security coding services for others to render electronic documents inaccessible without authorization		

U.S. Registration No.	1867608	Application Date	12/28/1992
Registration Date	12/13/1994	Foreign Priority Date	NONE
Word Mark	DOCUPAC		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1993/02/00 First Use In Commerce: 1993/02/00 covers for binders and folders		

U.S. Registration No.	2168063	Application Date	03/12/1996
Registration Date	06/23/1998	Foreign Priority Date	NONE
Word Mark	DOCUPATH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1997/04/00 First Use In Commerce: 1997/04/00 document scanners, computer operating software for use with document scanners		

U.S. Registration No.	2302380	Application Date	06/19/1996
Registration Date	12/21/1999	Foreign Priority Date	NONE
Word Mark	DOCUPM		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 1998/08/15 First Use In Commerce: 1998/08/15 computer programs for file management

U.S. Registration No.	2561788	Application Date	08/03/2001
Registration Date	04/16/2002	Foreign Priority Date	NONE
Word Mark	DOCUPRINT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 002. First use: First Use: 1992/10/01 First Use In Commerce: 1992/10/01 Toner and ink jet cartridges		

U.S. Registration No.	1965619	Application Date	05/09/1995
Registration Date	04/02/1996	Foreign Priority Date	NONE
Word Mark	DOCUPRINT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1992/10/00 First Use In Commerce: 1992/10/00 laser printers		

U.S. Registration No.	1707482	Application Date	08/30/1991
Registration Date	08/11/1992	Foreign Priority Date	NONE
Word Mark	DOCUPRINT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1983/04/25 First Use In Commerce: 1983/04/25 computerized printing services		

U.S. Registration No.	2346353	Application Date	10/15/1997
Registration Date	05/02/2000	Foreign Priority Date	NONE
Word Mark	DOCUPRINT 6135		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1995/08/01 First Use In Commerce: 1995/08/01 Laser printers		

U.S. Registration	2532449	Application Date	08/21/1998
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No.			
Registration Date	01/22/2002	Foreign Priority Date	NONE
Word Mark	DOCUPRINT NC60		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1999/05/01 First Use In Commerce: 1999/05/01 Laser printers and parts therefor		

U.S. Registration No.	2322161	Application Date	07/22/1997
Registration Date	02/22/2000	Foreign Priority Date	NONE
Word Mark	DOCUPRINT P8		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1998/05/00 First Use In Commerce: 1998/05/00 laser printers		

U.S. Registration No.	2451218	Application Date	06/19/1997
Registration Date	05/15/2001	Foreign Priority Date	NONE
Word Mark	DOCUPRINTSERVER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1998/09/01 First Use In Commerce: 1998/09/01 software for print network management		

U.S. Registration No.	2237972	Application Date	09/27/1996
Registration Date	04/13/1999	Foreign Priority Date	NONE
Word Mark	DOCUSEAL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1988/11/00 First Use In Commerce: 1988/11/00 envelopes, namely, mailers		

U.S. Registration No.	2224761	Application Date	04/16/1997
Registration Date	02/16/1999	Foreign Priority Date	NONE
Word Mark	DOCUSHARE		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 1997/06/30 First Use In Commerce: 1997/06/30 computer software for document management

U.S. Registration No.	1971774	Application Date	04/26/1994
Registration Date	04/30/1996	Foreign Priority Date	NONE
Word Mark	DOCUSP		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1995/06/00 First Use In Commerce: 1995/06/00 computer software for use in printer interface		

U.S. Registration No.	2636100	Application Date	11/19/1999
Registration Date	10/15/2002	Foreign Priority Date	NONE
Word Mark	DOCUSTAMP		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1999/11/21 First Use In Commerce: 1999/11/21 Computer software, namely for scanning, image processing, and network transmission		

U.S. Registration No.	1673839	Application Date	05/31/1990
Registration Date	01/28/1992	Foreign Priority Date	NONE
Word Mark	DOCUTECH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1990/10/02 First Use In Commerce: 1990/10/02 electronic photocopying, printing, and scanning equipment		

U.S. Registration No.	1785360	Application Date	11/27/1992
Registration Date	08/03/1993	Foreign Priority Date	NONE
Word Mark	DOCUTECH NETWORK PUBLISHER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1992/07/17 First Use In Commerce: 1992/07/17 photocopier with scanning and network capabilities		

Attachments	78679779#TMSN.jpeg (1 page)(bytes) 78679725#TMSN.jpeg (1 page)(bytes) 78679758#TMSN.jpeg (1 page)(bytes) 78679796#TMSN.jpeg (1 page)(bytes) 78679816#TMSN.jpeg (1 page)(bytes) 75801472#TMSN.gif (1 page)(bytes) 75579353#TMSN.gif (1 page)(bytes) 75121829#TMSN.gif (1 page)(bytes) 76294124#TMSN.gif (1 page)(bytes) 75381025#TMSN.gif (1 page)(bytes) 75328357#TMSN.gif (1 page)(bytes) DOCUCATE Opp.pdf (5 pages)(465351 bytes)
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Signature	/Seana L. Watts/
Name	Seana L. Watts
Date	07/05/2007

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

**In the matter of trademark application Serial No. 78/860,546
For the mark DOCUCATE
Published in the Official Gazette on March 13, 2007**

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XEROX CORPORATION,	:
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Opposer,	:
	:
v.	:
	:
DUPLO U CORPORATION,	:
	:
Applicant.	:
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NOTICE OF OPPOSITION

Xerox Corporation (“Opposer”), a corporation organized and existing under the laws of the state of New York, with offices at 800 Long Ridge Road, Stamford, Connecticut, 06904 believes that it will be damaged by registration of the “DOCUCATE” mark shown in Application Serial No. 78/860,546, as published for purposes of opposition in the Official Gazette on March 13, 2007, applied for by Duplo U Corporation. (“Applicant”)

As grounds for Opposition it is alleged that:

1. Opposer is a corporation organized and existing under the laws of the state of New York, with offices at 800 Long Ridge Road, Stamford, Connecticut, 06904.
2. Opposer has an international reputation for offering an array of innovative document solutions, services and systems of the highest quality and other related goods/and services (the “Goods”).

3. In connection with the Goods, Opposer is the owner of the DOCUMATE trademark and several other "DOCU" composite trademarks ("Opposer's Trademarks").

4. In connection with Opposer's Trademarks, Opposer is the owner of the following United States Trademark Registrations:

DOCUMATE - Reg. No. 2,979,123, registered July 26, 2005 in Class 9;

DOCUMATE 250 - Reg. No. 3,120,170, registered July 25, 2006 in Class 9;

DOCUMATE 252- Reg. No. 3,120,168, registered July 25, 2006 in Class 9;

DOCUMATE 262- Reg. No. 3,112,092, registered July 4, 2006 in Class 9;

DOCUMATE 510- Reg. No. 3,117,002, registered July 18, 2006 in Class 9;

DOCUMATE 520- Reg. No. 3,117,003, registered July 18, 2006 in Class 9;

DOCUBROKER - Reg. No. 2,368,798, registered July 18, 2000 in Class 9;

DOCUCARD - Reg. No. 1,967,323, registered April 9, 1996 in Classes 09 and 16;

DOCUCM - Reg. No. 2,175,973, registered July 28, 1998 in Class 09;

DOCUCS - Reg. No. 1,993,976, registered August 13, 1996 in Class 09;

DOCUIMAGE - Reg. No. 2,290,275, registered November 2, 1999 in Class 09;

DOCUJOB - Reg. No. 2,211,474, registered December 15, 1998 in Class 09;

DOCULAN - Reg. No. 2,224,762, registered February 16, 1999 in Class 09;

DOCULINK - Reg. No. 2,217,595, registered January 12, 1999 in Class 09;

DOCULOCK - Reg. No. 2,149,577, March 14, 1995 in Class 42;

DOCUPAC - Reg. No. 1,867,608, registered December 13, 1994 in Class 16;

DOCUPATH - Reg. No. 2,168,063, registered June 23, 1998 in Class 09;

DOCUPM - Reg. No. 2,302,380, registered December 21, 1999 in Class 09;

DOCUPRINT - Reg. No. 2,561,788, registered April 16, 2002 in Class 02;

DOCUPRINT - Reg. No. 1,965,619, registered April 2, 1996 n Class 09;
DOCUPRINT - Reg. No. 1,707,482, registered August 11, 1992 in Class42;
DOCUPRINT 6135 - Reg. No. 2,346,353, registered May 2, 2000 in Class 09;
DOCUPRINT NC60 - Reg. No. 2,532,449, registered January 22, 2002 in Class 09;
DOCUPRINT P8 – Reg. No. 2,322,161, registered February 22, 2000 in Class 09;
DOCUPRINT SERVER – Reg. No. 2,451,218, registered May 15, 2001 in Class09;
DOCUSEAL – Reg. No. 2,237,972, registered April 13, 1999 in Class 16;
DOCUSHARE - Reg. No. 2,224,761, registered February 16, 1999 in Class 09;
DOCUSP – Reg. No. 1,971,774, registered April 30, 1996 in Class 09;
DOCUSTAMP – Reg. No. 2,636,100, registered October 15, 2002 in Class 09;
DOCUTECH - Reg. No. 1,673,839, registered January 26, 1992 in Class 09; and
DOCUTECH NETWORK PUBLISHER - Reg. No. 1,785,360, registered August 3,
1993 in Class 09.

5. Opposer has used Opposer's Trademarks in commerce in the United States connection with all or some of the Goods since at least as early as 1990.
6. Through the years, Opposer has expended substantial amounts of money, time and effort in advertising, promoting and popularizing Opposer's Trademarks.
7. The trade, industry and public have throughout the years used, associated and attributed usage of Opposer's Trademarks with Opposer and Opposer alone, so that the trade in general and the purchasing public in particular have come to know and recognize Opposer's Trademarks and Goods originate with and belong to Opposer.

8. Opposer's Trademarks are strong and famous throughout the world and have developed goodwill and a good reputation exclusive to Opposer.
9. The purported DOCUCATE trademark covered by Applicant's application is confusingly and deceptively similar to Opposer's Trademarks, which Opposer has been using long prior to Applicant's application; hence, Applicant is not entitled to adopt, use or seek registration of the purported DOCUCATE trademark in connection with the goods identified in Applicant's application.
10. The goods identified in Applicant's application are closely related to the Goods sold by Opposer under Opposer's Trademarks.
11. The goods covered by Applicant's application are of the type distributed and sold through the same channels of trade as Opposer's Goods, to the same class of purchasers as Opposer's Goods.
12. Such goods would reasonably be expected by the trade and purchasing public to emanate from or be sponsored by the same source.
13. Opposer's Trademarks and Applicant's purported mark are nearly identical in appearance, connotation and pronunciation, so that contemporaneous use of the respective marks will create a likelihood of confusion, mistake or deception among the trade and consumers.
14. Because of the strength and fame of Opposer's Trademarks and because Applicant's purported mark is nearly identical thereto, any faults or imperfections in the goods offered by Applicant will reflect adversely on Opposer and its established goodwill and reputation, all to the detriment of Opposer unless the opposition is sustained.

15. Opposer clearly has superior and paramount rights as compared to Applicant and Opposer in interest have used Opposer's Trademarks in commerce continuously and from a time prior to any date claimed by or available to Applicant. Consequently, Opposer avers that confusion, mistake and deception in the trade and in the minds of the purchasers as between Opposer's and Applicant's marks and as to the origin of their respective services will be likely and bound to occur with resulting damage to Opposer.

WHEREFORE, Opposer respectfully requests that the Opposition is sustained and the registration of DOCUCATE to Applicant is refused.

The Commissioner is requested to deduct the required fee from Opposer's Deposit Account No. 24-0035.

Respectfully submitted,

XEROX CORPORATION

Dated: July 5, 2007

By: 

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