

ESTTA Tracking number: **ESTTA166981**

Filing date: **10/05/2007**

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	Information Builders, Inc.		
Entity	Corporation	Citizenship	New York
Address	2 Penn Plaza NEW YORK, NY 10121-2898 UNITED STATES		

Attorney information	Alan H. Levine Levine & Mandelbaum 444 Madison Avenue, 35th Floor NEW YORK, NY 10022 UNITED STATES mail@levman.com Phone:(212) 588-9800		
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Applicant Information

Application No	78954755	Publication date	09/25/2007
Opposition Filing Date	10/05/2007	Opposition Period Ends	10/25/2007
Applicant	Bristol Technologies, Inc. 134 Morgan Creek Lane Bozeman, MT 59718 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. First Use: 2006/07/25 First Use In Commerce: 2006/07/25
All goods and services in the class are opposed, namely: Computer operating programs; Computers and instructional manuals sold as a unit; Operating system programs

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1652265	Application Date	08/23/1990
Registration Date	07/30/1991	Foreign Priority Date	NONE
Word Mark	FOCUS		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 009. First use: First Use: 1975/03/00 First Use In Commerce: 1975/03/00 computer programs for data base management

U.S. Registration No.	2606298	Application Date	12/11/1998
Registration Date	08/13/2002	Foreign Priority Date	NONE
Word Mark	FOCUS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1996/12/00 First Use In Commerce: 1996/12/00 COMPUTER SERVICES, NAMELY, PROVIDING ONLINE INFORMATION TO FACILITATE DEMONSTRATION, TEST USE, AND ORDERING OF COMPUTER SOFTWARE		

U.S. Registration No.	1300245	Application Date	12/27/1982
Registration Date	10/16/1984	Foreign Priority Date	NONE
Word Mark	PC/FOCUS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1982/12/10 First Use In Commerce: 1982/12/10 Diskettes Containing a Microprocessor Program for Use in Preparation of Reports and Graphs from Data Stored in a Personal Computer		

U.S. Registration No.	1478426	Application Date	06/08/1987
Registration Date	03/01/1988	Foreign Priority Date	NONE
Word Mark	FOCUS VISION		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1986/10/25 First Use In Commerce: 1986/10/25 PRE-RECORDED COMPUTER PROGRAMS USED TO STORE IMAGES IN A DATABASE		

U.S. Registration No.	2223450	Application Date	02/18/1993
Registration Date	02/16/1999	Foreign Priority Date	NONE
Word Mark	FOCUS FORECASTING		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1974/00/00 First Use In Commerce: 1974/00/00		

	consulting services in the field of inventory management and control for businesses including the use of computers and computer techniques in the field of inventory management and control for businesses		
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U.S. Registration No.	2223457	Application Date	06/15/1994
Registration Date	02/16/1999	Foreign Priority Date	NONE
Word Mark	FOCUS FORECASTING		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1978/00/00 First Use In Commerce: 1978/00/00 computer programs recorded on electronic media, namely tapes or discs, for use by businesses to plan inventory needs and to manage and control inventory		

U.S. Registration No.	2248562	Application Date	03/03/1997
Registration Date	06/01/1999	Foreign Priority Date	NONE
Word Mark	WEBFOCUS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1996/04/00 First Use In Commerce: 1996/04/00 computer programs for data base management		

U.S. Registration No.	2685249	Application Date	06/30/2000
Registration Date	02/11/2003	Foreign Priority Date	NONE
Word Mark	WEBFOCUS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1996/04/00 First Use In Commerce: 1996/04/00 COMPUTER SOFTWARE FOR DATABASE MANAGEMENT; COMPUTER SOFTWARE FOR ACCESSING DATABASES BY MEANS OF GLOBAL COMPUTER NETWORKS TO GENERATE REPORTS; SOFTWARE DEVELOPMENT TOOLS FOR MAKING REPORTING AND ANALYSIS AVAILABLE THROUGH GLOBAL COMPUTER NETWORK WORLDWIDE WEBSITES AND FOR EXTENDING THE FUNCTIONALITY OF ENTERPRISE REPORTING AND ANALYSIS SYSTEMS ON TO GLOBAL COMPUTER NETWORKS; AND COMPUTER SOFTWARE FOR ACCESSING AND UPDATING DATABASES THROUGH GLOBAL COMPUTER NETWORKS		

U.S. Registration No.	2989088	Application Date	12/30/2003
Registration Date	08/30/2005	Foreign Priority Date	NONE
Word Mark	FOCUS		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2003/06/17 First Use In Commerce: 2003/06/17 Business Accountability Software to Insure Compliance with Governmental Requirements and Standards

Attachments	75250817#TMSN.gif (1 page)(bytes) 76081024#TMSN.gif (1 page)(bytes) 78346655#TMSN.jpeg (1 page)(bytes) NotofOppIBI6490US.pdf (4 pages)(57132 bytes)
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Signature	/Alan H. Levine/
Name	Alan H. Levine
Date	10/05/2007

2. Since 1975, Opposer has been marketing its software under the trademark FOCUS to computer users in a wide variety of industries, and Opposer has registered its trademark in the Patent and Trademark Office under Nos. 1,652,265; 2,606,298; and 2,821,942.

3. In the early 1980's, Opposer began marketing its software under various trademarks including the word FOCUS. Opposer is the owner of the following Patent and Trademark Office registrations:

<u>Registration No.</u>	<u>Trademark</u>
1,300,245	PC/FOCUS
1,478,426	FOCUS VISION
2,223,450	FOCUS FORECASTING
2,223,457	FOCUS FORECASTING
2,248,562	WEBFOCUS
2,685,249	WEBFOCUS
2,989,088	FOCUS

4. Opposer sells computer software enabling users, via the Internet, to manage data using applicant's FOCUS software.

5. Opposer sells computerized instruction and training courses, accompanied by related printed materials, for teaching the use of FOCUS software.

6. Opposer has published a magazine entitled FOCUS SYSTEMS JOURNAL, and newsletters entitled FOCUS NEWS and FOCUS FLASH, distributed to computer users, as well as an online magazine entitled "The FOCUS Quarterly", and currently publishes WEBFOCUS Journal.

7. Opposer established "The Focus Users Group" (FUSE) to which its customers belong, and this group holds annual conferences at which representatives of those who use FOCUS software attend educational workshops, see product demonstrations, and otherwise exchange information about FOCUS software.

8. Applicant seeks to register BRISTOL FOCUS for "computer operating programs; computers and instructional manuals sold as a unit; operating system programs".

9. Upon information and belief, Applicant's goods are so closely related to Opposer's software, the printed and online materials distributed by Opposer, and Opposer's services, that use of similar marks on the respective goods and services of the parties is likely to cause confusion or mistake, or to deceive purchasers as to the origin of the goods and services.

10. Upon information and belief, the registration by Applicant of BRISTOL FOCUS for goods closely related to Opposer's goods and services will impair Opposer's free use of its trademark, and will dilute the distinctive quality of Opposer's famous "Focus" trademarks, which became famous prior to Applicant's first use date, and will result in injury to the good will Opposer has acquired with respect to its trademark, all to Opposer's damage.

WHEREFORE, Opposer prays that the registration for which application has been made be disallowed, and that this opposition be sustained.