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

Proceeding	91189225
Party	Defendant Nexenta Systems, Inc
Correspondence Address	NEXENTA SYSTEMS, INC 814 S FREMONT ST SAN MATEO, CA 94402-1410 evan@nexenta.com
Submission	Answer
Filer's Name	Steven M. Levitan
Filer's e-mail	steve.levitan@haynesboone.com, jgonder@macpherson-kwok.com, slevitan@macpherson-kwok.com, arobles@macpherson-kwok.com
Signature	/Steven M. Levitan/
Date	04/20/2009
Attachments	TTAB - Nexsan Answer.pdf (4 pages)(119038 bytes)

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

**In the Matter of Trademark Application Serial No. 77/423,804
For the Mark NEXENTA
Published in the *Official Gazette* on March 10, 2009**

<p style="text-align:center">NEXSAN TECHNOLOGIES, INC.,</p> <p style="text-align:center">Opposer,</p> <p style="text-align:center">v.</p> <p style="text-align:center">NEXENTA SYSTEMS, INC.,</p> <p style="text-align:center">Applicant.</p>	<p style="text-align:center">Opposition No. 91189225</p>
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APPLICANT’S ANSWER AND RESPONSE TO NOTICE OF OPPOSITION

Applicant, Nexenta Systems, Inc. (“Applicant”), hereby answers and responds to the Notice of Opposition filed by Opposer, Nexsan Technologies, Inc., as follows:

1. Applicant admits that on March 17, 2008 it filed an application for the mark NEXENTA and that the application was assigned serial number 77/423,804. Applicant further admits that in this application Applicant identified the goods for the NEXENTA mark as “[c]omputer operating programs and computer operating systems”, “[c]omputer operating systems”, “[o]perating system programs”, and “[c]omputer software for storage of data”.

Applicant denies the remaining allegations recited in paragraph 1 of the Notice of Opposition.

2. Applicant denies the allegations recited in paragraph 2 of the Notice of Opposition.

3. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations recited in paragraph 3 of the Notice of Opposition, and therefore denies the same.

4. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations recited in paragraph 4 of the Notice of Opposition, and therefore denies the same.

5. Applicant admits that the mark registered under U.S. Registration Number 3,169,059 contains two instances of a stylized version of the term “nexsan” and that the mark registered under U.S. Registration Number 3,077,096 contains a stylized version of the word “nexsan”. Applicant further admits that the record owner of U.S. Registration Numbers 3,169,059 and 3,077,096 is Nexsan Technologies, Inc. Applicant denies the remaining allegations recited in paragraph 5 of the Notice of Opposition.

6. Applicant admits that each of the trademark applications assigned U.S. Serial Numbers 77/635,737 and 77/635,737 includes the word “NEXSAN” and that the record owner of the trademark applications assigned U.S. Serial Numbers 77/635,737 and 77/635,737 is Nexsan Technologies. Applicant denies the remaining allegations recited in paragraph 6 of the Notice of Opposition.

7. Applicant admits that on Applicant’s website at www.nexenta.com, the phrase “Enterprise class storage for EVERYONE” appears next to Applicant’s logo as follows:



Applicant denies the remaining allegations in paragraph 7 of the Notice of Opposition.

8. Applicant denies the allegations recited in paragraph 8 of the Notice of Opposition.

9. Applicant denies the allegations recited in paragraph 9 of the Notice of Opposition.

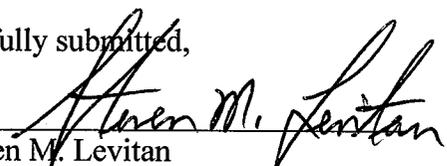
WHEREFORE, Applicant prays for relief as follows:

1. that the Notice of Opposition be denied and dismissed with prejudice; or
2. in the alternative, if the Notice of Opposition is not denied and dismissed with prejudice, that Applicant be granted a concurrent registration of its NEXENTA mark on the Principal Register; or
3. in the alternative, if the Notice of Opposition is not denied and dismissed with prejudice, that Applicant's NEXENTA application be amended and sustained with a restrictive identification of a form to be identified by the Trademark Trial and Appeal Board; and
4. for such other and further relief to which Applicant may be entitled.

Dated: April 20, 2009

Respectfully submitted,

By: _____


Steven M. Levitan

Jennifer M. Lantz

Jason M. Gonder

HAYNES AND BOONE, LLP

2033 Gateway Place, Suite 400

San Jose, California 95110

Phone: (408) 392-9250

Fax: (408) 392-9262

Attorneys for Applicant,
Nexenta Systems, Inc.

CERTIFICATE OF SERVICE

I, Andrea Elaine Robles, declare as follows:

I am a resident of the State of California. I am employed in Santa Clara County, State of California, in the office of attorneys for Applicant, Nexenta Systems, Inc., at whose direction the service was made. I am over the age of eighteen years and not a party to the within action. My business address is 2033 Gateway Place, Suite 400, San Jose, California 95110. On the date set forth below I served:

APPLICANT'S ANSWER AND RESPONSE TO NOTICE OF OPPOSITION

- By placing such a copy enclosed in a sealed envelope, postage thereon fully prepaid, in the United States Postal Service for collection and mailing this day in accordance with ordinary business practices at Haynes & Boone LLP.
- By consigning such a copy to a messenger for guaranteed hand delivery.
- By consigning such copy to an overnight courier for guaranteed next day delivery.
- By consigning such copy (without exhibits) to a facsimile operator at fax number (408) 392-9262 for transmittal on this date to the addressee(s) listed below.

I served the above document(s) on the following persons:

**Valerie Greenberg
The Greenberg Law Firm
121 Brite Avenue
Scarsdale, NY 10583**

I am readily familiar with Haynes & Boone LLP's practice for collection and processing of correspondence for delivery according to instructions indicated above. In the ordinary course of business, correspondence would be handled accordingly.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed at San Jose, California, on April 20, 2009.



Andrea Robles