

ESTTA Tracking number: **ESTTA284937**

Filing date: **05/20/2009**

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	Think Computer Corporation
Granted to Date of previous extension	05/20/2009
Address	884 College Avenue Palo Alto, CA 94306-1303 UNITED STATES

Correspondence information	Aaron Greenspan President & CEO Think Computer Corporation 884 College Avenue Palo Alto, CA 94306-1303 UNITED STATES legal@thinkcomputer.com Phone:4156709350
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Applicant Information

Application No	77408050	Publication date	01/20/2009
Opposition Filing Date	05/20/2009	Opposition Period Ends	05/20/2009
Applicant	UNITED BUSINESS MEDIA LLC 600 COMMUNITY DRIVE 4TH FLOOR MANHASSET, NY 11030 UNITED STATES		

Goods/Services Affected by Opposition

Class 042. First Use: 2008/02/29 First Use In Commerce: 2008/02/29 All goods and services in the class are opposed, namely: Providing news and information via the internet in the field of information technology, computer technology, computer programming and computer software development; Providing a website that features blogs, discussion forums and newsgroups in the fields of technology, computing, computer programming and software development

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2926298	Application Date	01/02/2002
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Registration Date	02/15/2005	Foreign Priority Date	NONE
Word Mark	THINK COMPUTER		
Design Mark	 Think Computer		
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1997/05/02 First Use In Commerce: 1997/05/02 computer programs, computers, computer peripherals and personal digital assistants, for business, entertainment, scientific, technical, commercial, educational and personal uses, in the fields of operating systems, database systems, word processing, scheduling, electronic mail, spreadsheets, presentations, network browsing, and instructional manuals distributed therewith		

U.S. Registration No.	3063293	Application Date	03/03/2005
Registration Date	02/28/2006	Foreign Priority Date	NONE
Word Mark	LAMP SHADE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2003/07/02 First Use In Commerce: 2003/07/02 computer programs for use in designing, executing, and monitoring the operation of other computer programs on computers, computer networks, and global communications networks, and instruction manuals sold therewith; computer programs for use in entering, updating, navigating, browsing, transferring information, and distributing and viewing other computer programs on computers, computer networks and global communications networks, and instruction manuals sold therewith		

Related Proceedings	92050924, 92050925, 92050926
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Attachments	78100628#TMSN.gif (1 page)(bytes) 78579937#TMSN.jpeg (1 page)(bytes) 20090520.opposition.pdf (5 pages)(82902 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Aaron Greenspan/
Name	Aaron Greenspan
Date	05/20/2009

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

THINK COMPUTER CORPORATION,

Opposer,

v.

UNITED BUSINESS MEDIA LLC,

Applicant.

Opposition No.

NOTICE OF OPPOSITION

Mark: THINK SERVICES

Serial No.: 77/408,050

Filing Date: February 27, 2008

NOTICE OF OPPOSITION

Think Computer Corporation (“Think”), having its place of business at 884 College Avenue, Palo Alto, CA 94306-1303, believes it will be damaged by the registration of the mark shown in United States trademark application serial number 77/408,050 and hereby opposes the same.

As grounds for the opposition, Think alleges:

1. United Business Media LLC (“Applicant”) is the listed applicant for United States trademark application serial number 77/408,050 for THINK SERVICES for “Providing news and information via the internet in the field of information technology, computer technology, computer programming and computer software development; Providing a website that features blogs, discussion forums and newsgroups in the fields of technology, computing, computer programming and software development,” in International Class 042 with a filing date of February 27, 2008, a published for opposition date of January 20, 2009, and an alleged first use in commerce date of February 29, 2008 (“the ‘050 Application”).

2. Think is the listed owner of United States Trademark Registration No. 2,926,298 for THINK COMPUTER for “computer programs, computers, computer peripherals and personal

digital assistants, for business, entertainment, scientific, technical, commercial, educational and personal uses, in the fields of operating systems, database systems, word processing, scheduling, electronic mail, spreadsheets, presentations, network browsing, and instructional manuals distributed therewith,” in International Class 009 with a filing date of January 2, 2002, an issuance date of February 15, 2005, and a first use in commerce date of May 2, 1997 and is the listed owner for LAMPSHADE for “computer programs for use in designing, executing, and monitoring the operation of other computer programs on computers, computer networks, and global communications networks, and instruction manuals sold therewith; computer programs for use in entering, updating, navigating, browsing, transferring information, and distributing and viewing other computer programs on computers, computer networks and global communications networks, and instruction manuals sold therewith,” in International Class 009 with a filing date of March 3, 2005, an issuance date of February 28, 2006, and a first use in commerce date of July 2, 2003 (“Think’s Marks”).

3. Since at least as early as 1997, Think has provided goods and services under Think’s Marks and the name “Think” including, but not limited to, providing “information via the internet in the field of information technology, computer technology, computer programming and computer software development.”

4. Since at least as early as 2001, Think has created computer software and associated content, including but not limited to on-line instruction manuals, that provide “information via the internet in the field of information technology, computer technology, computer programming and computer software development” under Think’s Marks (“Think’s Goods”).

5. Think has used Think’s Marks in association with computer repair, networking, web site design, digital graphic design, software development and other information technology services (“Think’s Services”).

COUNT I

(Priority of Use and Likelihood of Confusion)

6. Think incorporates by reference paragraphs 1 through 5 as if fully stated here.
7. Since prior to the filing date in '050 Application, Think has been using Think's Marks in connection with Think's Goods and Think's Services.
8. Since prior to the claimed priority date in the '050 Application, Think has been using Think's Marks in connection with Think's Goods and Think's Services.
9. The goods listed in the '050 Application are either identical or closely related to Think's Goods.
10. The subject mark of the '050 Application so resembles Think's Marks as to be likely to cause confusion, or to cause mistake, or to deceive when used in connection with the goods listed in the '050 Application.
11. The subject mark of the '050 Application so resembles the phrase "Think's Services" as to be likely to cause confusion, or to cause mistake, or to deceive when used in connection with the services listed in the '050 Application.
12. Think has owned the domain name "thinkservices.com" since November 4, 2002.
13. CMP Media LLC, a subsidiary, sister company, or other affiliate of Applicant, has owned the domain name "think-services.com" and other hyphenated "think-services" domain names since February 25, 2008.
14. Due to Applicant's actions, Think has received thousands of electronic messages and web site inquiries and occasional telephone calls intended for Applicant due to actual customer confusion.
15. The registration of the subject of the '050 Application will cause injury to Think's business plans, will impair Think's rights in its Mark, is inconsistent with Think's rights, and will cause injury to Think.

COUNT II

(Fraud on the Patent and Trademark Office)

16. Think incorporates by reference paragraphs 1 through 5 as if fully stated here.

17. Think alleges on information and belief that Applicant knew it did not have rights in the subject mark of the '050 Application when Applicant submitted its application to the United States Patent and Trademark Office.

18. Think alleges on information and belief that Applicant made false statements with the intent to induce authorized agents of the United States Patent and Trademark Office to grant the '050 Application.

19. The registration of the subject mark of the '050 Application will cause injury to Think's business plans, will impair Think's rights in its Marks, is inconsistent with Think's rights, and will cause injury to Think.

20. Applicant is not entitled to registration of the '050 Application because Applicant committed fraud in the '050 Application.

WHEREFORE, Think hopes that the registration of the opposed application for serial number 77/408,050 be denied and the registration of the trademark THINK SERVICES be rejected.

Respectfully submitted,

THINK COMPUTER CORPORATION

Dated: May 20, 2009

By



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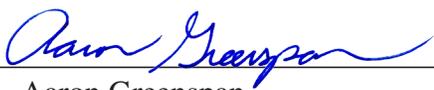
CERTIFICATE OF MAILING AND SERVICE

I certify that on May 20, 2009, the foregoing **NOTICE OF OPPOSITION** is being electronically transmitted to:

Trademark Trial and Appeal Board
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

It is further certified that on May 20, 2009, the foregoing **NOTICE OF OPPOSITION** is being served by mailing a copy thereof by first-class mail and by courtesy e-mail addressed to counsel for Applicant:

Susan L. Heller
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By  _____
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