

ESTTA Tracking number: **ESTTA303862**

Filing date: **08/31/2009**

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

Proceeding	91191199
Party	Defendant Appex Networks LLC.
Correspondence Address	APPEX NETWORKS LLC. APPEX NETWORKS LLC. 920 SAN MARCOS CIR MOUNTAIN VIEW, CA 94043-3126 wang_yd@yahoo.com
Submission	Answer
Filer's Name	Yongdong Wang
Filer's e-mail	wang_yd@yahoo.com
Signature	/Yongdong Wang/
Date	08/31/2009
Attachments	answer_91191199.pdf (1 page)(28172 bytes)

Answer to the Opposition

This is the answer to the Opposition number 91191199, with ESTTA Tracking number of ESTTA296870 and filing date of 07/22/2009.

APPEX' trademark application 77168619 (APPEX NETWORKS) is in International class 9, and the goods are all related to computer software and hardware used to improve the network bandwidth efficiency. None of Apex LLC's registered trademarks are in International class 9, and none of the goods recited in Apex LLC's trademark applications are related to computer software or computer hardware.

The answers to the following key points brought up by plaintiff in section "COUNT I: LIKELIHOOD OF CONFUSION " of Notice of Opposition from Apex:

11. The goods recited in Application No. 77/168,618 are closely related to those of Apex, in particular, to Apex's services and products sold via those services.

APPEX' answer: We do not see any similarity between goods recited in Application No. 77/168,618 and those of Apex. We would like Apex to give details on this claim.

13. In light of the foregoing, Applicant's APPEX trademark for the services recited in the opposed application is confusingly similar to Opposer's Apex Marks and is likely to cause confusion or mistake, and to deceive the public into believing that Applicant's goods or services originate or are in some manner sponsored, licensed, associated or otherwise authorized by Apex in violation of Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d).

APPEX' answer: APPEX networks is in computer network acceleration business, and Apex is in retail and service business. We believe there is very clear distinction between the goods offered by the two companies, and will not cause any confusion Apex claimed.

WHEREFORE, APPEX networks respectfully requests that Apex withdraws this Opposition and that registration to Applicant for the APPEX NETWORKS trademark in International Class 9 be granted.

APPEX Networks LLC

By: /Yongdong Wang/
Yongdong Wang
President
APPEX NETWORKS LLC
920 San Marcos Cir.
Mountain View, CA 94043
wang_yd@yahoo.com

Aug. 31, 2009