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

Proceeding	91204456
Party	Defendant nTrust Corp.
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Date	05/07/2012
Attachments	Answer.pdf (5 pages)(16957 bytes)

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

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INTRUST FINANCIAL CORPORATION	:	Opposition No. 91204456
	:	
Opposer,	:	ANSWER TO
	:	<u>NOTICE OF OPPOSITION</u>
- against -	:	
NTRUST CORP.	:	
Applicant.	:	
-----X		

Mark: NTRUST (85/250,992)

Applicant nTrust Corp. (“Applicant”), by its undersigned attorneys, Davis Wright Tremaine LLP, hereby answers and otherwise responds to the Notice of Opposition (the “Opposition”) of Intrust Financial Corporation (the “Opposer”) against Applicant’s Application Serial No. 85/250,992 for the marks NTRUST, (the “Applicant’s Mark”), as follows:

1. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations asserted in paragraph 1 of the Opposition and, therefore, denies the same.
2. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations asserted in paragraph 2 of the Opposition and, therefore, denies the same.
3. Denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations asserted in paragraph 3 of the Opposition and, therefore, denies the same.
4. Denies knowledge or information sufficient to form a belief as to the truth

or falsity of the allegations asserted in paragraph 4 of the Opposition and, therefore, denies the same.

5. With respect to paragraph 5, including subparagraphs 5A – 5L, Applicant refers to Registration Nos. 1,802,917; 2,738,638; 3,358,359; 3,219,237; 2,197,748; 1,957,654; 1,840,083; 1,849,586; 1,841,487; 1,879,319; 1,832,427; and 3,711,317 for a full and complete recitation of the contents thereof.

6. To the extent the allegations of paragraph 6 of the Opposition are allegations of law, Applicant is not required to plead thereto; to the extent the allegations of paragraph 6 of the Opposition are allegations of fact, Applicant denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations asserted in paragraph 6 of the Opposition and, therefore, denies the same.

7. Denies each and every allegation of paragraph 7 of the Opposition.

8. Admits that Serial No. 85/250,992 was filed on February 24, 2011, pursuant to Lanham Act §1(b), for “Financial services conducted via electronic communications networks, namely, electronic funds transfer; bill payment services; cashless purchasing services for merchants and consumers whereby purchase monies are held in trust and sent to merchants upon sales to consumers; stored value card services; electronic money issuance and transfer services; direct deposit of funds into customer bank accounts” in Class 32 and “Providing financial fraud protection and prevention” in Class 45, was subsequently published for opposition on January 17, 2012, and except as so admitted, denies each and every allegation in paragraph 8 of the Opposition.

9. To the extent the allegations of paragraph 9 of the Opposition are allegations of law, Applicant is not required to plead thereto; admits that Applicant has been

operating a website available at www.ntrust.com; except as so admitted, denies each and every allegation in paragraph 9 of the Opposition.

10. Denies each and every allegation of paragraph 10 of the Opposition.
11. Denies each and every allegation of paragraph 11 of the Opposition.
12. Denies each and every allegation of paragraph 12 of the Opposition.
13. Denies each and every allegation of paragraph 13 of the Opposition.
14. Denies each and every allegation of paragraph 14 of the Opposition.
15. Denies each and every allegation of paragraph 15 of the Opposition.
16. Denies each and every allegation of paragraph 16 of the Opposition.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

17. The Complaint fails, in whole or in part, to state a claim for relief.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

18. Opposer's claims are barred, in whole or in part, by the doctrines of waiver, acquiescence, estoppel, and/or laches.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

19. Opposer's claims are barred, in whole or in part, by the doctrine of unclean hands.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

20. Applicant asserts there is no likelihood of confusion, mistake or deception because based on information and belief, the services, channels of trade and consumers of Opposer's and Applicant's respective services are distinctly different.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

21. To the extent Opposer acquired any rights in the INTRUST mark, those rights have been lost as a result of third party dilution of said mark and/or a failure to enforce the mark.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

22. Applicant reserves the right to add additional affirmative defenses as investigation and discovery continue.

WHEREFORE, Applicant respectfully requests that the Opposition be dismissed in its entirety, and that registration for Application Serial No. 85/250,992 be allowed to issue.

Respectfully submitted,

/Colleen M. Keegan/

By: James D. Nguyen
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Attorneys for Applicant
nTrust Corp.

Dated: May 7, 2012

CERTIFICATE OF SERVICE

This certifies that a true and correct copy of this Answer is being served by first class mail directed to Opposer's attorneys, William P. Matthews, Michael J. Norton and Alicia E. Bodecker, Esq. of Foulston Siefkin LLP at 1551 N. Waterfront Parkway, Suite 100, Wichita Kansas 67206 on May 7, 2012.

/Colleen M. Keegan/
