

ESTTA Tracking number: **ESTTA552257**

Filing date: **08/05/2013**

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	Knowlengt Group Inc.		
Entity	Corporation	Citizenship	Delaware
Address	3 Mountain View Road 2nd Floor Warren, NJ 07059 UNITED STATES		

Attorney information	Elyse A. Marcus, Esq. Sills Cummis & Gross P.C. 30 Rockefeller Plaza 29th Floor, IP Dept. New York, NY 10112 UNITED STATES pto@sillscummis.com,emarcus@sillscummis.com,elongobardi@sillscummis.com Phone:212-643-7000
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### Applicant Information

Application No	85571150	Publication date	07/09/2013
Opposition Filing Date	08/05/2013	Opposition Period Ends	08/08/2013
International Registration No.	NONE	International Registration Date	NONE
Applicant	Searle, Greg Unit 4 9 Alice Street Alexandra Headland QLD, 4572 AUSTRALIA		

### Goods/Services Affected by Opposition

Class 035. First Use: 2011/08/25 First Use In Commerce: 2011/08/25 All goods and services in the class are opposed, namely: Business knowledge management services
Class 042. First Use: 2011/08/25 First Use In Commerce: 2011/08/25 All goods and services in the class are opposed, namely: Computer services, namely, acting as an application service provider in the field of knowledge management to host computer application software for the purpose of knowledge acquisition and dissemination

### Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

### Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	85682573	Application Date	07/20/2012
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Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	KNOWLEDGENT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2010/03/08 First Use In Commerce: 2010/03/08 Business information, advisory, and consultancy services namely, advising and consulting on operational efficiency, product effectiveness and customer relationships		

Attachments	Notice of Opposition - Application Serial No. 85571150.pdf(325652 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	/Elyse A. Marcus/
Name	Elyse A. Marcus, Esq.
Date	08/05/2013

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

KNOWLEDGENT GROUP INC.,	:	NOTICE OF OPPOSITION
	:	
Opposer,	:	Application Serial No. 85/571,150
	:	
v.	:	
	:	
GREG SEARLE, DBA,	:	
KNOWLEDGEMENT PTY LTD.	:	
	:	
Applicant,	:	
	:	

Sills Cummis & Gross P.C., are the attorneys for Knowledgent Group Inc. (“Opposer”), a Delaware corporation with an address at 3 Mountain View Road, 2nd Floor, Warren, New Jersey 07059. Opposer believes that it will be damaged by the registration of Greg Searle, DBA, Knowledgement Pty Ltd.’s (“Applicant”) application No. 85/571,150 for KNOWLEDGEMENT in International Classes 35 and 42 (“Applicant’s Mark”). Applicant’s application was filed on March 16, 2012 under Section 1(a) of the Lanham Act. As grounds for its opposition, Opposer, alleges as follows:

1. Opposer is a consultancy company that provides business information, advisory, and consultancy services. Opposer has been providing these services in connection with the KNOWLEDGENT trademark to its customers since at least as early as March 8, 2010.

2. Upon information and belief, Applicant is Greg Searle, an individual, doing business as DBA Knowledgement Pty Ltd., located at Unit 4, 9 Alice Street, Alexandra Headland QLD Australia 4572.

3. Since at least as early as March 8, 2010, Opposer has been using the KNOWLEDGENT trademark (“Opposer’s Mark”) in the United States in connection with business information, advisory, and consultancy services.

4. On July 20, 2012 Opposer filed a trademark application for KNOWLEDGENT (Application Serial No. 85/682573) for information, advisory, consultancy and systems integration services, namely, advising and consulting on operational efficiency, product effectiveness and customer relationships, with a claimed first use date of at least as early as March 8, 2010. A copy of the TEAS page for Application Serial No. 85/682,573 is attached at **Exhibit A**.

5. On November 21, 2012, the Trademark Office issued an office action refusing registration of the application for KNOWLEDGENT citing a likelihood of confusion between Applicant’s Mark and Opposer’s Mark. A copy of the office action is attached at **Exhibit B**.

6. On or about March 16, 2012, Applicant filed an application to register the mark KNOWLEDGEMENT for the following services: business knowledge management services in International Class 35 and computer services, namely, acting as an application service provider in the field of knowledge management to host computer application software for the purpose of knowledge acquisition and dissemination in Class 42. Both Classes are based on a first use date of August 25, 2011. A copy of the TEAS page for Application Serial No. 85/571,150 is attached at **Exhibit C**.

7. On March 1, 2013, Opposer sent a cease and desist letter to Applicant stating that its use of KNOWLEDGEMENT in the United States infringed upon Opposer’s prior rights in and to its KNOWLEDGENT trademark.

8. Having received no response, on May 21, 2013, Opposer sent a follow-up letter to Applicant reiterating its demands. Applicant received no response.

9. Applicant's August 25, 2011 claimed first use date is more than a year after Opposer's first use date of March 8, 2010.

10. Applicant's KNOWLEDGEMENT mark is confusingly similar to Opposer's KNOWLEDGENT trademark in sight, sound and meaning.

11. The services covered by the Applicant's Mark are identical, similar or closely related to the services on which Opposer has used, continues to use, and intends to use Opposer's Mark, including those services identified in Opposer's KNOWLEDGENT application.

12. On information and belief, Applicant will target the same type of consumers that purchase Opposer's KNOWLEDGENT services and that will purchase Opposer's KNOWLEDGENT services or to whom Opposer markets and promotes or intends to market or promote such services.

13. Applicant's Mark is nearly identical to and confusingly similar with Opposer's Mark, and Applicant's Mark conveys a nearly identical and very similar commercial impression as Opposer's Mark.

14. Based on the similarities of the parties' respective marks, channels of trade and services, Applicant's use of Applicant's Mark will cause the public to falsely associate Applicant's KNOWLEDGEMENT branded services with Opposer or with Opposer's services; to falsely believe that Applicant's services emanate from or are sponsored, endorsed or licensed by Opposer, and to falsely believe that there is some relationship between Applicant and Opposer, all in violation of Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d).

15. Applicant's Mark and the presumption of exclusivity that would arise from a registration to Applicant of the KNOWLEDGEMENT trademark are inconsistent with Opposer's prior rights flowing from its prior use.

16. Should Applicant's Mark be registered, Opposer would be irreparably harmed and damaged by Applicant's ability thereafter to use and claim ownership of a mark that (i) is confusingly similar to Opposer's Mark; and (ii) will cause confusion, mistake or deception.

WHEREFORE, it is respectfully submitted that this opposition be sustained and that the registration in Classes 35 and 42 sought by Application Serial No. 85/571,150 be denied.

Please deduct the Opposition fee in the amount of \$600.00 for two classes, along with any deficiency, from Opposer's attorneys' Deposit Account No. 03-1250.

Dated: August 5, 2013

Respectfully Submitted,

SILLS CUMMIS & GROSS P.C.

By:   
Elyse A. Marcus

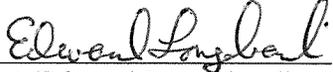
30 Rockefeller Plaza  
New York, New York 10112  
Tel.: 212-643-7000  
[emarcus@sillscummis.com](mailto:emarcus@sillscummis.com);  
[pto@sillscummis.com](mailto:pto@sillscummis.com)

*Attorneys for Opposer Knowledge Group Inc.*

Certificate of Service

I hereby certify that on August 5, 2013, I caused a true and correct copy of the within Notice of Opposition to be served by first class mail, postage prepaid, in an envelope addressed to:

Matthew H. Swyers, Esq.  
The Trademark Company  
344 Maple Avenue West, Suite 151  
Vienna, Virginia 22180

  
Edward Longobardi  
Edward Longobardi

## **EXHIBIT A**



United States Patent and Trademark Office

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# KNOWLEDGENT

<b>Word Mark</b>	KNOWLEDGENT
<b>Goods and Services</b>	IC 035. US 100 101 102. G & S: Business information, advisory, and consultancy services namely, advising and consulting on operational efficiency, product effectiveness and customer relationships. FIRST USE: 20100308. FIRST USE IN COMMERCE: 20100308
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	85682573
<b>Filing Date</b>	July 20, 2012
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Owner</b>	(APPLICANT) Knowledgent Group Inc. CORPORATION DELAWARE 2nd Floor 3 Mountain View Road Warren NEW JERSEY 07059
<b>Attorney of Record</b>	Philip Braginsky
<b>Type of Mark</b>	SERVICE MARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead Indicator</b>	LIVE

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## **EXHIBIT B**

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**To:** Knowledgent Group Inc. ([pto@sillscummis.com](mailto:pto@sillscummis.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 85682573 - KNOWLEDGENT - 03600137.000  
**Sent:** 11/21/2012 5:42:14 PM  
**Sent As:** ECOM103@USPTO.GOV  
**Attachments:** [Attachment - 1](#)  
[Attachment - 2](#)

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UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)  
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION

APPLICATION SERIAL NO. 85682573

MARK: KNOWLEDGENT

**\*85682573\***

**CORRESPONDENT ADDRESS:**

DOCKETING  
SILLS CUMMIS & GROSS P.C.  
30 ROCKEFELLER PLZ  
NEW YORK, NY 10112-0015

CLICK HERE TO RESPOND  
<http://www.uspto.gov/trademarks/te>

APPLICANT: Knowledgent Group Inc.

**CORRESPONDENT'S REFERENCE/DOCKET NO :**

03600137.000

**CORRESPONDENT E-MAIL ADDRESS:**

[pto@sillscummis.com](mailto:pto@sillscummis.com)

***OFFICE ACTION***

**STRICT DEADLINE TO RESPOND TO THIS LETTER**

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW.

ISSUE/MAILING DATE: 11/21/2012

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §2.62(a), 2.65(a); TMEP §§711, 718.03.

[Search Results](#)

The trademark examining attorney has searched the Office's database of registered and pending marks and has found no similar registered mark that would bar registration under Trademark Act Section 2(d). TMEP §704.02; *see* 15 U.S.C. §1052(d). However, a mark in a prior-filed pending application may present a bar to registration of applicant's mark.

The filing date of pending U.S. Application Serial No. 85571150 precedes applicant's filing date. See attached referenced application. If the mark in the referenced application registers, applicant's mark may be refused registration under Trademark Act Section 2(d) because of a likelihood of confusion between the two marks. *See* 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, upon receipt of applicant's response to this Office action, action on this application may be suspended pending final disposition of the earlier-filed referenced application.

In response to this Office action, applicant may present arguments in support of registration by addressing the issue of the potential conflict between applicant's mark and the mark in the referenced application. Applicant's election not to submit arguments at this time in no way limits applicant's right to address this issue later if a refusal under Section 2(d) issues.

#### **Recitation of Services**

The wording "information, advisory, consultancy and systems integration services, namely, advising and consulting on operational efficiency, product effectiveness and customer relationships" in the identification of services is indefinite and must be clarified to indicate the field or subject matter, e.g., business. *See* TMEP §1402.01. Applicant must amend this wording to specify the common commercial or generic name for the services. If there is no common commercial or generic name for the services, then applicant must describe the nature of the services as well as their main purpose, channels of trade, and the intended consumer(s).

Applicant may amend to adopt the following, if accurate:

- Business Information, advisory, and consultancy services namely, advising and consulting on operational efficiency, product effectiveness and customer relationships.

#### **SCOPE OF IDENTIFICATION**

An applicant may amend an identification of services only to clarify or limit the services; adding to or broadening the scope of the services is not permitted. 37 C.F.R. §2.71(a); *see* TMEP §§1402.06 *et seq.*, 1402.07 *et seq.*

#### **ID MANUAL**

For assistance with identifying and classifying goods and/or services in trademark applications, please see the online searchable *Manual of Acceptable Identifications of Goods and Services* at <http://tess2.uspto.gov/netahtml/tidm.html>. *See* TMEP §1402.04.

/Gina Hayes/  
Examining Attorney  
Law Office 103  
(571) 272-9407  
gina.hayes@uspto.gov

**TO RESPOND TO THIS LETTER:** Go to [http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp). Please wait 48-72 hours from the issue/ mailing date before using TEAS, to allow for necessary system updates of

the application. For *technical* assistance with online forms, e-mail [TEAS@uspto.gov](mailto:TEAS@uspto.gov). For questions about the Office action itself, please contact the assigned trademark examining attorney. **E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.**

**All informal e-mail communications relevant to this application will be placed in the official application record.**

**WHO MUST SIGN THE RESPONSE:** It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

**PERIODICALLY CHECK THE STATUS OF THE APPLICATION:** To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using Trademark Applications and Registrations Retrieval (TARR) at <http://tarr.uspto.gov/>. Please keep a copy of the complete TARR screen. If TARR shows no change for more than six months, call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

**TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS:** Use the TEAS form at <http://www.uspto.gov/teas/eTEASpageE.htm>.

**Print: Nov 21, 2012**

**85571150**

**DESIGN MARK**

**Serial Number**

85571150

**Status**

NON-FINAL ACTION - MAILED

**Word Mark**

KNOWLEDGEMENT

**Standard Character Mark**

Yes

**Type of Mark**

SERVICE MARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Searle, Greg DBA Knowledge Pty Ltd INDIVIDUAL AUSTRALIA Unit 4 9  
Alice Street Alexandra Headland QLD AUSTRALIA 4572

**Goods/Services**

Class Status -- ACTIVE. IC 035. US 100 101 102. G & S: Business  
knowledge management services. First Use: 2011/08/25. First Use In  
Commerce: 2011/08/25.

**Goods/Services**

Class Status -- ACTIVE. IC 042. US 100 101. G & S: Computer  
services, namely, acting as an application service provider in the  
field of knowledge management to host computer application software  
for the purpose of knowledge acquisition and dissemination. First  
Use: 2011/08/25. First Use In Commerce: 2011/08/25.

**Filing Date**

2012/03/16

**Examining Attorney**

KON, ELISSA GARBER

# KNOWLEDGEMENT

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**To:** Knowledgent Group Inc. ([pto@sillscummis.com](mailto:pto@sillscummis.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 85682573 - KNOWLEDGENT - 03600137.000  
**Sent:** 11/21/2012 5:42:16 PM  
**Sent As:** ECOM103@USPTO.GOV  
**Attachments:**

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IMPORTANT NOTICE REGARDING YOUR  
U.S. TRADEMARK APPLICATION

**USPTO OFFICE ACTION HAS ISSUED ON 11/21/2012 FOR  
SERIAL NO. 85682573**

Please follow the instructions below to continue the prosecution of your application:

**TO READ OFFICE ACTION:** Click on this [link](#) or go to <http://portal.uspto.gov/external/portal/tow> and enter the application serial number to access the Office action.

**PLEASE NOTE:** The Office action may not be immediately available but will be viewable within 24 hours of this e-mail notification.

**RESPONSE IS REQUIRED:** You should carefully review the Office action to determine (1) how to respond; and (2) the applicable response time period. Your response deadline will be calculated from 11/21/2012 (or sooner if specified in the office action).

Do **NOT** hit "Reply" to this e-mail notification, or otherwise attempt to e-mail your response, as the USPTO does **NOT** accept e-mailed responses. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System Response Form.

**HELP:** For *technical* assistance in accessing the Office action, please e-mail [TDR@uspto.gov](mailto:TDR@uspto.gov). Please contact the assigned examining attorney with questions about the Office action.

**WARNING**

Failure to file the required response by the applicable deadline will result in the ABANDONMENT of your application.

## **EXHIBIT C**



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# KNOWLEDGEMENT

<b>Word Mark</b>	KNOWLEDGEMENT
<b>Goods and Services</b>	IC 035. US 100 101 102. G & S: Business knowledge management services. FIRST USE: 20110825. FIRST USE IN COMMERCE: 20110825
	IC 042. US 100 101. G & S: Computer services, namely, acting as an application service provider in the field of knowledge management to host computer application software for the purpose of knowledge acquisition and dissemination. FIRST USE: 20110825. FIRST USE IN COMMERCE: 20110825
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	85571150
<b>Filing Date</b>	March 16, 2012
<b>Current Basis</b>	1A;44E
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	July 9, 2013
<b>Owner</b>	(APPLICANT) Searle, Greg DBA Knowledge Pty Ltd INDIVIDUAL AUSTRALIA Unit 4 9 Alice Street Alexandra Headland QLD AUSTRALIA 4572
<b>Attorney of Record</b>	Matthew H. Swyers
<b>Type of Mark Register</b>	SERVICE MARK PRINCIPAL

Live/Dead  
Indicator      LIVE

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