

ESTTA Tracking number: **ESTTA566593**

Filing date: **10/23/2013**

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	OPIN Systems, Inc
Granted to Date of previous extension	10/26/2013
Address	7900 International Drive, Suite 770 Bloomington, MN 55425 UNITED STATES
Attorney information	JAMES T. NIKOLAI NIKOLAI & MERSEREAU, P.A. 900 SECOND AVENUE SOUTH, SUITE 1550 MINNEAPOLIS, MN 55402 UNITED STATES Jim@nm-iplaw.com, peter.nikolai@nm-iplaw.com, bonnie.ryan@nm-iplaw.com, april.nelson@nm-iplaw.com Phone:612-339-7461

**Applicant Information**

Application No	85867891	Publication date	08/27/2013
Opposition Filing Date	10/23/2013	Opposition Period Ends	10/26/2013
Applicant	Itty Bitty Apps Pty Ltd Unit 1, 663 Victoria Street Abbotsford, 3067 AUSTRALIA		

**Goods/Services Affected by Opposition**

Class 009. All goods and services in the class are opposed, namely: Computer software for the remote runtime analysis of software applications; Computer software for the remote modification of software applications
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
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**Mark Cited by Opposer as Basis for Opposition**

U.S. Registration No.	1949863	Application Date	05/11/1992
Registration Date	01/23/1996	Foreign Priority Date	NONE
Word Mark	REVEAL		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 1988/07/28 First Use In Commerce: 1988/11/28 computer utility program for electronic report access and distribution

Attachments	Notice_of_Opposition.pdf(3378311 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	/James T. Nikolai/
Name	JAMES T. NIKOLAI
Date	10/23/2013

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

In the matter of Trademark Application Serial No. **85/867891**  
For the mark: **REVEAL**  
Published in the Official Gazette on **August 27, 2013**.

October 23, 2013

OPIN Systems, Inc.,

Opposer,                      Opposition No. \_\_\_\_\_

v.

Itty Bitty Apps Pty Ltd,

Applicant.

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**NOTICE OF OPPOSITION**

TTAB  
Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

OPIN Systems, Inc., a Florida corporation, having its principal place of business at 7900 International Drive, Suite 770, Bloomington, MN 55425, believes it will be damaged by the issuance of a registration of the mark REVEAL as applied for in Application Serial No. 85/867891 filed on March 6, 2013 by Applicant Itty Bitty Apps Pty Ltd ("Applicant"), a limited liability company of Australia, with a mailing address of Unit 1, 663 Victoria Street, Abbotsford AUSTRALIA 3067. As used herein, "Opposer" means the aforesaid OPIN Systems, Inc. and "OPIN" means Opposer and its predecessors in interest in and to the REVEAL

mark.

As grounds for the opposition, Opposer alleges that:

1. Opposer is the owner of U.S. Trademark Registration No. 1,949,863 granted January 23, 1996 for the mark REVEAL for a "computer utility program for electronic report access and distribution." A true and correct copy of the registration certificate is attached as Exhibit A. OPIN first used the REVEAL mark in commerce in 1988 on and in connection with such goods. Since that time, OPIN's use of the REVEAL mark on and in connection with such goods has been continuous and ongoing. Opposer's registration of the REVEAL mark is now incontestable.

2. Opposer's products offered under the REVEAL mark provide a highly advanced enterprise report and content management solution that consolidates all report and output content into a secure, central repository, enabling cost-effective access and distribution for employees, customers, and partners. Opposer's products offered under the REVEAL mark provide automated capture of output from multiple systems running simultaneously on any platform and are highly scalable to any number of users and any number of documents. Opposer's products offered under the REVEAL mark automatically index captured report content, apply precise security rules, and bursts or bundles report pages prior to distribution.

3. Customers choose Opposer's products offered under the

REVEAL mark for numerous reasons including, without limitation, features which provide (a) precise security rules which permit easy management of entitlements down to the page level so that groups and users can see only the information they are entitled to see; (b) capture, archiving, and distribution of critical information from business applications like SAP, Oracle, IBM, PeopleSoft, Cognos, JD Edwards, and AMISYS, as well as custom, mainframe, and legacy applications; (c) superior administration resulting from over 20 years of experience in optimization and refinement; (d) support for compliance with the requirements of HIPAA, PCI, Sarbanes-Oxley, and other privacy and security standards; and (e) automated conversion of report data for *ad hoc* analysis or export into other software applications.

4. Applicant now seeks registration of the REVEAL mark for "Computer software for the remote runtime analysis of software applications; Computer software for the remote modification of software applications." Opposer's REVEAL products are used to provide remote runtime analysis and remote modification of software applications and data and reports generated using Opposer's REVEAL products and third party applications such as SAP, Oracle, IBM, PeopleSoft, Cognos, JD Edwards, and AMISYS, as well as custom, mainframe, and legacy applications.

5. Opposer, Opposer's REVEAL mark and the good will associated with Opposer's REVEAL mark will all be damaged by

Applicant's use and registration of the REVEAL mark for "Computer software for the remote runtime analysis of software applications; Computer software for the remote modification of software applications."

6. On March 6, 2013, Applicant filed the subject application asserting that it had "a *bona fide* intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services." The "identified goods and/or services" listed in the application were: "Packaged software; Computer software; Application software; Computer software for the remote runtime analysis of software applications; Computer software for the remote modification of software applications." A true and correct copy of the application as filed is attached as Exhibit B.

7. On April 5, 2013, less than a month after Applicant filed its application to register the REVEAL mark, Opposer first notified Applicant of Opposer's right and concerns. On information and belief, Applicant received this notice before it sold any goods labeled with the REVEAL mark anywhere in the United States of America. Attached as Exhibit C is a true and correct copy of the letter giving such notice. As set forth in the letter, Opposer advised Applicant:

"The application you filed is of substantial concern to our client given that the mark covered by your

application is identical to the registered mark owned by our client and is also for goods which are similar, if not identical, to the goods offered by our client under the REVEAL mark. Given the similarity between the two marks and between the goods, we believe that a likelihood of confusion will arise should Itty Bitty Apps Pty. Ltd. begin using the REVEAL mark in connection with its software products. The trademark laws of the United States are designed to prevent such confusion and provide remedies in the form of injunctive relief, recovery of profits and damages, payment of attorney's fees and costs, destruction of infringing articles, and the like when infringement has occurred."

8. Opposer also requested Applicant abandon the subject application and select an alternative mark in the April 5, 2013 letter. Specifically, the letter stated:

"Now that we have brought this matter to your attention, we expect that Itty Bitty Apps. Pty. Ltd. will abandon its application to register the REVEAL mark and choose a mark other than REVEAL or another mark not confusingly similar to REVEAL, for use in connection with the advertising and sale of products of the type listed in the trademark application you filed. If the subject application is not abandoned and ever proceeds to the point where it is published for opposition, rest assured that Opin Systems, Inc. will oppose the application. Likewise, should you begin advertising or offering for sale under the REVEAL mark such products, we reserve the right to pursue all legal remedies available to Opin Systems, Inc."

9. By April 26, 2013, no reply was received to the April 5, 2013 letter so a second letter was sent to Applicant. A true and correct copy of this second letter is attached as Exhibit D.

10. On May 11, 2013, Opposer received an unsatisfactory response from Applicant. A true and correct copy of this

response is attached as Exhibit E.

11. On or about June 18, 2013, the U.S. Patent and Trademark Office rejected the subject application on likelihood of confusion grounds, citing, among other reasons, a likelihood of confusion with Opposer's REVEAL mark as set forth in Opposer's U.S. Trademark Registration No. 1,949,863. Applicant's description of the goods, as set forth in the application filed by Applicant on March 6, 2013, was also found to be unacceptable "because some of the terms are indefinite." A true and correct copy of the office action containing this rejection is attached as Exhibit F.

12. On or about June 28, 2013, Applicant responded to the office action by amending the description of the goods to read: "Computer software for the remote runtime analysis of software applications; Computer software for the remote modification of software applications." Applicant provided no information to the U.S. Patent and Trademark Office in this response, or at any other time, related to the likelihood of confusion concerns addressed to Applicant in the aforementioned April 5, 2013 letter. In fact, the response to the office action never even discussed the likelihood of confusion rejection.

13. On August 27, 2013, Applicant's mark was published for opposition. On September 26, 2013, Opposer filed a request for an extension of time to oppose which was granted that same day.

Applicant is now using the REVEAL mark to promote goods and services on its website and using the address "RevealApp.com" for the website. Such use of REVEAL will misdirect consumers and cause confusion in the marketplace.

**FIRST GROUND FOR OPPOSITION: LIKELIHOOD OF CONFUSION**

14. Opposer incorporates by reference Paragraphs 1-13, inclusive, as fully set forth herein.

15. Applicant's REVEAL mark and Opposer's REVEAL mark are identical in appearance, sound and commercial impression. Both marks consist of an identical term, specifically REVEAL. As such, Applicant's REVEAL mark is confusingly similar to Opposer's REVEAL mark.

16. The goods described in the subject application as originally filed and as later amended are the same as or closely related to the goods offered by Opposer under the REVEAL mark.

17. The types of goods identified in the subject application, as originally filed and as later amended, and those offered by Opposer under the REVEAL mark, are normally offered through the same or intersecting channels of trade.

18. Since at least as early as April 2013, and prior to any use by Applicant of the REVEAL mark in commerce controlled by Congress, Applicant has been aware of Opposer's preexisting rights in and to the REVEAL mark and Applicant has chosen to adopt and proceed with efforts to register the REVEAL mark with

knowledge of such rights.

19. Use and registration by Applicant of the REVEAL mark is likely to cause confusion, to cause mistake, or to deceive as to the affiliation, connection, and/or association of Applicant with Opposer.

20. Use and registration by Applicant of the REVEAL mark is likely to cause confusion, to cause mistake, or to deceive as to the origin, sponsorship, or approval of Applicant's goods, services and commercial activities by Opposer.

21. The REVEAL mark which Applicant now seeks to register is a reproduction, counterfeit, copy or colorable imitation of Opposer's registered REVEAL mark. Use by Applicant of the REVEAL mark on or in connection with the goods listed in the application as originally filed is likely to cause confusion or to cause mistake or to deceive. Likewise, use by Applicant of the REVEAL mark on or in connection with the goods listed in the subject application as amended is likely to cause confusion or to cause mistake or to deceive.

22. Accordingly, registration of the REVEAL mark by Applicant will injure Opposer by causing the public to be confused or mistakenly believe that the goods provided by Applicant are associated with, endorsed by or sponsored by Opposer or that Applicant is otherwise affiliated with Opposer. Opposer has no control over the nature and quality of any goods

offered by Applicant under the REVEAL mark. Damage and jeopardy to Opposer's reputation and good will, all to Opposer's detriment, will arise if Applicant's goods offered under the REVEAL mark are not made in conformance with Opposer's quality standards. Further, any defect, objection or fault found with Applicant's goods marketed under the REVEAL name would necessarily reflect upon and seriously injure the reputation of Opposer.

23. Should Applicant be permitted to register and use the REVEAL mark, Applicant could use that registration to interfere with Opposer's legitimate right to sell products under the REVEAL mark.

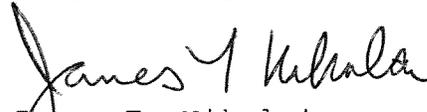
24. The REVEAL mark for which Applicant now seeks registration so resembles Opposer's REVEAL mark, previously registered in the U.S. Patent and Trademark Office, as to be likely, when used in connection with the goods, services and commercial activities of Applicant, to cause confusion, to cause mistake or to deceive.

25. Opposer has used REVEAL as a mark since at least as early as 1988, twenty-five years before Applicant applied for registration of the identical mark. The REVEAL mark for which Applicant now seeks registration so resembles Opposer's REVEAL mark as to be likely, when used in connection with the goods, services and commercial activities of Applicant, to cause

confusion, to cause mistake or to deceive.

26. Accordingly, registration of the mark herein opposed will damage Opposer because Applicant's mark is likely, when used on or in connection with the goods described in the proposed application, to cause confusion, to cause mistake or to deceive. Thus, the REVEAL mark is unregistrable to Applicant under §§2(d) and 3 of the Trademark Act, as amended, 15 U.S.C. §§1052(d) and 1053. Applicant should therefore be refused registration.

Respectfully submitted,



James T. Nikolai  
ATTORNEY FOR OPPOSER

NIKOLAI & MERSEREAU, P.A.  
900 Second Avenue South  
Suite 1550  
Minneapolis, Minnesota 55402  
Phone: (612) 339-7461  
Fax : (612) 349-6556

Dated: Oct. 23, 2013

## EXHIBIT A

Int. Cl.: 9

Prior U.S. Cl.: 38

Reg. No. 1,949,863  
United States Patent and Trademark Office Registered Jan. 23, 1996

TRADEMARK  
PRINCIPAL REGISTER

REVEAL

O'PIN SYSTEMS, INC. (MINNESOTA CORPO-  
RATON)  
7900 INTERNATIONAL DRIVE, SUITE 635  
BLOOMINGTON, MN 55425

FIRST USE 7-28-1988; IN COMMERCE  
11-28-1988.

SER. NO. 74-274,036, FILED 5-11-1992.

FOR: COMPUTER UTILITY PROGRAM FOR  
ELECTRONIC REPORT ACCESS AND DISTRI-  
BUTION, IN CLASS 9 (U.S. CL. 38).

ESTHER BELENKER, EXAMINING ATTOR-  
NEY

## EXHIBIT B

# Trademark/Service Mark Application, Principal Register

Serial Number: 85867891

Filing Date: 03/06/2013

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	85867891
<b>MARK INFORMATION</b>	
*MARK	<a href="#">Reveal</a>
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	Reveal
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
<b>APPLICANT INFORMATION</b>	
*OWNER OF MARK	Itty Bitty Apps Pty Ltd
*STREET	Unit 1, 663 Victoria Street
*CITY	Abbotsford
*COUNTRY	Australia
*ZIP/POSTAL CODE (Required for U.S. applicants only)	3067
EMAIL ADDRESS	mail@remarqueble.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
<b>LEGAL ENTITY INFORMATION</b>	
TYPE	limited liability company
STATE/COUNTRY WHERE LEGALLY ORGANIZED	Australia
<b>GOODS AND/OR SERVICES AND BASIS INFORMATION</b>	
INTERNATIONAL CLASS	009

<b>*IDENTIFICATION</b>	Packaged software; Computer software; Application software; Computer software for the remote runtime analysis of software applications; Computer software for the remote modification of software applications
<b>FILING BASIS</b>	SECTION 1(b)
<b>CORRESPONDENCE INFORMATION</b>	
<b>NAME</b>	Sean Woodhouse
<b>DOCKET/REFERENCE NUMBER</b>	1aaf14c3a09b
<b>FIRM NAME</b>	Itty Bitty Apps Pty Ltd
<b>STREET</b>	Unit 1, 663 Victoria Street
<b>CITY</b>	Abbotsford
<b>COUNTRY</b>	Australia
<b>ZIP/POSTAL CODE</b>	3067
<b>EMAIL ADDRESS</b>	mail@remarqueble.com
<b>AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>FEE INFORMATION</b>	
<b>NUMBER OF CLASSES</b>	1
<b>FEE PER CLASS</b>	325
<b>*TOTAL FEE DUE</b>	325
<b>*TOTAL FEE PAID</b>	325
<b>SIGNATURE INFORMATION</b>	
<b>SIGNATURE</b>	NOT PROVIDED
<b>SIGNATORY'S NAME</b>	NOT PROVIDED
<b>SIGNATORY'S POSITION</b>	NOT PROVIDED
<b>DATE SIGNED</b>	NOT PROVIDED

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## Trademark/Service Mark Application, Principal Register

**Serial Number: 85867891**

**Filing Date: 03/06/2013**

### To the Commissioner for Trademarks:

**MARK:** Reveal (Standard Characters, see [mark](#))

The literal element of the mark consists of Reveal.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Itty Bitty Apps Pty Ltd, a limited liability company legally organized under the laws of Australia, having an address of

Unit 1, 663 Victoria Street  
Abbotsford 3067  
Australia

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 009: Packaged software; Computer software; Application software; Computer software for the remote runtime analysis of software applications; Computer software for the remote modification of software applications

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

The applicant's current Correspondence Information:

Sean Woodhouse  
Itty Bitty Apps Pty Ltd  
Unit 1, 663 Victoria Street  
Abbotsford 3067, Australia  
mail@remarqueble.com (authorized)

The docket/reference number is 1aaf14c3a09b.

A fee payment in the amount of \$325 has been submitted with the application, representing payment for 1 class(es).

### Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is

properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

### **Declaration Signature**

Signature: Not Provided    Date: Not Provided

Signatory's Name: Not Provided

Signatory's Position: Not Provided

RAM Sale Number: 85867891

RAM Accounting Date: 03/06/2013

Serial Number: 85867891

Internet Transmission Date: Wed Mar 06 06:33:36 EST 2013

TEAS Stamp: USPTO/BAS-121.214.55.175-201303060633363

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e23ec5c3e8b1507f3c8465f8d83a986fa7631173

-CC-8859-20130306062709478202

# Reveal

## EXHIBIT C

April 5, 2013

**VIA E-MAIL & AIR MAIL**

e-mail: mail@remarqueble.com  
Sean Woodhouse, Esq.  
ITTY BITTY APPS PTY. LTD.  
Unit I, 663 Victoria Street  
Abbotsford 3067  
AUSTRALIA

Re: U.S. Trademark Ser. No. 85/867,891  
Mark: REVEAL  
Our File No. 920114

Dear Mr. Woodhouse:

Our firm represents OpIn Systems, Inc. in patent, copyright and trademark matters. OpIn Systems, Inc. is the owner of U.S. Trademark Registration No. 1,949,863 granted on January 23, 1996 covering the mark REVEAL for computer software including computer utility programs for electronic report access and distribution. This registration is now incontestable.

We understand that you recently filed with the U.S. Patent and Trademark Office on behalf of Itty Bitty Apps Pty. Ltd. an application to register the mark REVEAL for "Packaged software; Computer software; Application software; computer software for the remote runtime analysis of software applications; Computer software for the remote modification of software applications." We also understand from reviewing the U.S. Patent and Trademark Office file concerning your application that the application was filed based on your assertion that the company intends to use the mark in connection with such goods. No actual use of the mark is claimed or asserted in the application.

The application you filed is of substantial concern to our client given that the mark covered by your application is identical to the registered mark owned by our client and is also for goods which are similar, if not identical, to the goods offered by our client under the REVEAL mark. Given the similarity between the two marks and between the goods, we

Sean Woodhouse, Esq.

April 5, 2013

Page 2

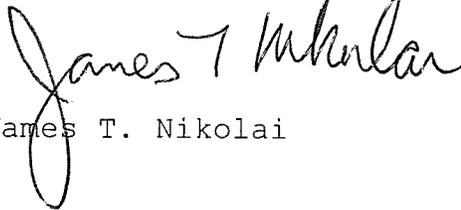
believe that a likelihood of confusion will arise should Itty Bitty Apps Pty. Ltd. begin using the REVEAL mark in connection with its software products. The trademark laws of the United States are designed to prevent such confusion and provide remedies in the form of injunctive relief, recovery of profits and damages, payment of attorney's fees and costs, destruction of infringing articles, and the like when infringement has occurred.

Now that we have brought this matter to your attention, we expect that Itty Bitty Apps. Pty. Ltd. will abandon its application to register the REVEAL mark and choose a mark other than REVEAL or another mark not confusingly similar to REVEAL, for use in connection with the advertising and sale of products of the type listed in the trademark application you filed. If the subject application is not abandoned and ever proceeds to the point where it is published for opposition, rest assured that Opin Systems, Inc. will oppose the application. Likewise, should you begin advertising or offering for sale under the REVEAL mark such products, we reserve the right to pursue all legal remedies available to Opin Systems, Inc.

Please file papers with the U.S. Patent and Trademark Office formally abandoning the application **April 19, 2013**. Also, please provide us with written confirmation by that same date that you have done so and Itty Bitty Apps. Pty. Ltd. will not be using the REVEAL mark in connection with any of its software products.

Sincerely,

NIKOLAI & MERSEREAU, P.A.



James T. Nikolai

JTN:br

cc: Opin Systems, Inc.

## EXHIBIT D

April 26, 2013

**VIA E-MAIL & AIR MAIL**

e-mail: mail@remarqueble.com  
Sean Woodhouse, Esq.  
ITTY BITTY APPS PTY. LTD.  
Unit I, 663 Victoria Street  
Abbotsford 3067  
AUSTRALIA

Re: U.S. Trademark Ser. No. 85/867,891  
Mark: REVEAL  
Our File No. 920114

Dear Mr. Woodhouse:

To date, we have not yet received the courtesy of a response from you to our letter dated April 5, 2013. This letter was e-mailed and air mailed to you on that date and requested a response by April 19, 2013. Please let us know immediately if you will be taking the steps requested in our April 5, 2013 letter.

Sincerely,

NIKOLAI & MERSEREAU, P.A.

  
James T. Nikolai

JTN:br  
cc: Opin Systems, Inc.

## EXHIBIT E

Att: James T. Nikolai  
Nikolai & Mersereau P.A Attorneys At Law  
900 Second Avenue South,  
Suite 820,  
Minneapolis,  
MN 55402-3813

Re: U.S. Trademark Ser. No. 85/867,891  
Mark: REVEAL  
Your file No. 920114

MAY 20 2013

WITHOUT PREJUDICE

10th May, 2013

Dear Mr Nikolai,

With respect to your communication on April 5th and 26th regarding our trademark application 85867891 for the term 'Reveal', our intention is not to cause confusion with your client's (Opin Systems') registered trademark. Our product is significantly different to Opin Systems' and is targeted at a completely different market within the IT sector. Our product is a tool aimed at developers for analyzing and modifying software applications.

Our trademark application is in good faith, and based on the fact that other software products have been successful registering the same mark, Ref:

U.S. Trademark Ser. No. 77/241,653  
U.S. Trademark Ser. No. 77/074,025

In order to alleviate your client's concern regarding trademark application 85867891 we would be willing to further narrow the goods and services description to 'Computer software for the remote runtime analysis of software applications; Computer software for the remote modification of software applications'.

Please confirm by **May 24th** that this action is sufficient to prevent any further action on behalf of your client. To expedite this communication please email me direct at sean@ittybittyapps.com in addition to written confirmation.

Regards



Sean Woodhouse

Director, Itty Bitty Apps Pty. Ltd.

## EXHIBIT F

**To:** Itty Bitty Apps Pty Ltd ([mail@remarqueble.com](mailto:mail@remarqueble.com))

**Subject:** U.S. TRADEMARK APPLICATION NO. 85867891 - REVEAL - 1aaf14c3a09b

**Sent:** 6/18/2013 11:51:39 AM

**Sent As:** ECOM116@USPTO.GOV

**Attachments:** [Attachment - 1](#)  
[Attachment - 2](#)  
[Attachment - 3](#)  
[Attachment - 4](#)  
[Attachment - 5](#)  
[Attachment - 6](#)  
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[Attachment - 50](#)  
[Attachment - 51](#)

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

**U.S. APPLICATION SERIAL NO.** 85867891

**MARK:** REVEAL

**\*85867891\***

**CORRESPONDENT ADDRESS:**

SEAN WOODHOUSE; ITTY BITTY APPS PTY LTD  
UNIT 1, 663 VICTORIA STREET  
ABBOTSFORD  
3067  
AUSTRALIA

**CLICK HERE TO RESPOND TO**  
<http://www.uspto.gov/trademarks/teas/r1>

**APPLICANT:** Itty Bitty Apps Pty Ltd

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

1aaf14c3a09b

**CORRESPONDENT E-MAIL ADDRESS:**

mail@remarqueble.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: 6/18/2013**

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, 2.65(a); TMEP §§711, 718.03.

**SECTION 2(d) REFUSAL – LIKELIHOOD OF CONFUSION**

Registration of the applied-for mark is refused because of a likelihood of confusion with the marks in U.S. Registration Nos. 4240970; 4168321; 3479934; 3886614; 3818802; 3311085; 1949863; 4331289; 4235474; 4185204; 4177937; 4091130; 3789272; 3507404; and 2995504. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the enclosed registrations.

Taking into account the relevant *du Pont* factors, a likelihood of confusion determination in this case involves a two-part analysis. The marks are compared for similarities in their appearance, sound, connotation and commercial impression. TMEP §§1207.01, 1207.01(b). The goods and/or services are compared to determine whether they are similar or commercially related or travel in the same trade channels. *See Herbko Int'l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1164-65, 64 USPQ2d 1375, 1380 (Fed. Cir. 2002); *Han Beauty, Inc. v. Alberto-Culver Co.*, 236 F.3d 1333, 1336, 57 USPQ2d 1557, 1559 (Fed. Cir. 2001); TMEP §§1207.01, 1207.01(a)(vi).

The proposed mark is REVEAL for:

IC 009: Packaged software; Computer software; Application software; Computer software for the remote runtime analysis of software applications; Computer software for the remote modification of software applications

The registered marks are multiple REVEAL marks or variations thereof.

The marks are similar and create the same general impression due to the term REVEAL (or variation thereof) in the marks. When comparing marks, the test is not whether the marks can be distinguished in a side-by-side comparison, but rather whether the marks are sufficiently similar in their entirety that confusion as to the source of the goods and/or services offered under applicant's and registrant's marks is likely to result. *Midwestern Pet Foods, Inc. v. Societe des Produits Nestle S.A.*, 685 F.3d 1046, 1053, 103 USPQ2d 1435, 1440 (Fed. Cir. 2012); *Edom Labs., Inc. v. Lichter*, 102 USPQ2d 1546, 1551 (TTAB 2012); TMEP §1207.01(b). The focus is on the recollection of the average purchaser, who normally retains a general rather than specific impression of trademarks. *L'Oreal S.A. v. Marcon*, 102 USPQ2d 1434, 1438 (TTAB 2012); *Sealed Air Corp. v. Scott Paper Co.*, 190 USPQ 106, 108 (TTAB 1975); TMEP §1207.01(b).

The parties provide related software. With respect to applicant's and registrant's goods and/or services, the question of likelihood of confusion is determined based on the description of the goods and/or services stated in the application and registration at issue, not on extrinsic evidence of actual use. *See, e.g., Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369-70, 101 USPQ2d 1713, 1722 (Fed. Cir. 2012); *Octocom Sys. Inc. v. Hous. Computers Servs. Inc.*, 918 F.2d 937, 942, 16 USPQ2d 1783, 1787 (Fed. Cir. 1990).

Absent restrictions in an application and/or registration, the identified goods and/or services are “presumed to travel in the same channels of trade to the same class of purchasers.” *In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (quoting *Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1268, 62 USPQ2d 1001, 1005 (Fed. Cir. 2002)). Additionally, unrestricted and broad identifications are presumed to encompass all goods and/or services of the type described. See *In re Jump Designs, LLC*, 80 USPQ2d 1370, 1374 (TTAB 2006) (citing *In re Elbaum*, 211 USPQ 639, 640 (TTAB 1981)); *In re Linkvest S.A.*, 24 USPQ2d 1716, 1716 (TTAB 1992).

In this case, the identification set forth in the application has no restrictions as to nature, type, channels of trade, or classes of purchasers. Therefore, it is presumed that these goods travel in all normal channels of trade, and are available to the same class of purchasers. Further, the application uses the broad wording “Packaged software; Computer software; Application software” to describe the goods and/or services and this wording is presumed to encompass all goods and/or services of the type described, including those with functions relating to the registrants’ more narrow identifications.

Consumers who encounter the applicant’s similar marks used on their related goods are likely to be confused about the source of the goods.

Although applicant’s mark has been refused registration, applicant may respond to the refusal(s) by submitting evidence and arguments in support of registration.

### **EARLIER FILED PENDING APPLICATIONS**

The filing dates of pending U.S. Application Serial Nos. 85794324; 85482511; 85087541; 85311732; 85190013; 85755325; 85653365; 85799762 precede applicant’s filing date. See attached referenced applications. If one or more of the marks in the referenced applications register, applicant’s mark may be refused registration under Trademark Act Section 2(d) because of a likelihood of confusion with the registered mark(s). 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 applications.

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 marks in the referenced applications. 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.

Applicant must respond to the requirement(s) set forth below.

### **IDENTIFICATION OF GOODS**

The identification of goods is unacceptable and must be clarified because some of the terms are indefinite. See TMEP §1402.01. The indefinite terms are listed below, followed by the changes needed.

The wording “Packaged software; Computer software; Application software” is indefinite because the specific function of the software is not specified.

## **SUGGESTED IDENTIFICATION OF GOODS**

Applicant may adopt the following identification, if accurate:

**IC 009:** Packaged software used to improve performance of mobile phone operating system software; Computer software used to analyze website traffic; Computer application software used for monitoring website traffic; Computer software for the remote runtime analysis of software applications; Computer software for the remote modification of software applications

Identifications of goods can be amended only to clarify or limit the goods; adding to or broadening the scope of the goods is not permitted. 37 C.F.R. §2.71(a); *see* TMEP §§1402.06 *et seq.*, 1402.07. Therefore, applicant may not amend the identification to include goods that are not within the scope of the goods set forth in the present identification.

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/netathtml/tidm.html>. *See* TMEP §1402.04.

## **UNSIGNED APPLICATION**

The application was not signed and verified, both of which are application requirements. *See* 15 U.S.C. §§1051(b), 1126(d)-(e); 37 C.F.R. §§2.33(a), (b)(2), 2.34(a)(2), (a)(3)(i), (a)(4)(ii). Therefore, applicant must verify the statements specified further below in a signed affidavit or declaration under 37 C.F.R. §2.20. *See* 15 U.S.C. §§1051(b)(3), 1126(d)-(e); 37 C.F.R. §§2.33(a), (b)(2), (c), 2.193(e)(1); TMEP §§804.02, 806.01(b)-(d).

**If applicant responds to this Office action online via the Trademark Electronic Application System (TEAS)**, applicant may satisfy this requirement by answering “yes” to the TEAS response form wizard question relating to submitting a “signed declaration,” and following the instructions within the form for signing. *See* 37 C.F.R. §§2.33(a), (b)(2), (c), 2.193(a), (c)-(d), (e)(1); TMEP §§611.01(c), 804.01(b).

**If applicant responds to this Office action on paper, via regular mail**, applicant may satisfy this requirement by providing the following statements and declaration at the end of the response, personally signed by a person authorized under 37 C.F.R. §2.193(e)(1) and dated, with the printed or typed name of the signatory appearing immediately below the signature. *See* 37 C.F.R. §§2.20, 2.33(a), (b)(2), (c), 2.193(a), (d); TMEP §§611.01(b), 804.01(b).

STATEMENTS: The undersigned is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be entitled to use the mark in commerce; applicant has had a bona fide intention to use the mark in commerce on or in connection with the goods and/or services listed in the application as of the application filing date; the facts set forth in the application are true and accurate; and to the best of the undersigned’s knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive.

DECLARATION: The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print or Type Name and Position)

\_\_\_\_\_  
(Date)

If applicant has questions regarding this Office action, please telephone or e-mail the assigned trademark examining attorney. All relevant e-mail communications will be placed in the official application record; however, an e-mail communication will not be accepted as a response to this Office action and will not extend the deadline for filing a proper response. *See* 37 C.F.R. §2.191; TMEP §§304.01-.02, 709.04-.05. Further, although the trademark examining attorney may provide additional explanation pertaining to the refusal(s) and/or requirement(s) in this Office action, the trademark examining attorney may not provide legal advice or statements about applicant's rights. *See* TMEP §§705.02, 709.06.

/Ellen Awrich/  
Trademark Examining Attorney  
Law Office 116  
571-272-9123  
ellen.awrich@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 the Trademark Electronic Application System (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 the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep

a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov) or 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/trademarks/teas/correspondence.jsp>.

Print: Jun 18, 2013

74274036

**TYPED DRAWING**

**Serial Number**

74274036

**Status**

REGISTERED AND RENEWED

**Word Mark**

REVEAL

**Standard Character Mark**

No

**Registration Number**

1949863

**Date Registered**

1996/01/23

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

OPIN SYSTEMS, INC. CORPORATION FLORIDA 7900 INTERNATIONAL DRIVE SUITE  
770 BLOOMINGTON MINNESOTA 55425

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 038. G & S: computer utility  
program for electronic report access and distribution. First Use:  
1988/07/28. First Use In Commerce: 1988/11/28.

**Filing Date**

1992/05/11

**Examining Attorney**

BELENKER, ESTHER

**Attorney of Record**

James T. Nikolai

**DESIGN MARK**

**Serial Number**

76393421

**Status**

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

**Word Mark**

REVEALING

**Standard Character Mark**

No

**Registration Number**

2995504

**Date Registered**

2005/09/13

**Type of Mark**

TRADEMARK; SERVICE MARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

Thinking Strings, LLC LIMITED LIABILITY COMPANY NEW JERSEY P. O. Box  
233 West Stockbridge MASSACHUSETTS 01266

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Computer software for building and executing interactive multimedia  
training and educational programs and tests therefor, with related  
manuals, workbooks and texts, sold as a unit. First Use: 2002/03/01.  
First Use In Commerce: 2002/03/01.

**Goods/Services**

Class Status -- ACTIVE. IC 016. US 002 005 022 023 029 037 038 050.  
G & S: Printed trade and educational books, workbooks, pamphlets,  
booklets, printed tests, test manuals, score reports and instructional  
manuals featuring the natural, physical and social sciences, the arts  
and the humanities, sold individually or in kits. First Use:  
2002/03/01. First Use In Commerce: 2002/03/01.

**Goods/Services**

Class Status -- ACTIVE. IC 041. US 100 101 107. G & S: Providing  
entertainment and educational information in the fields of the

natural, physical and social sciences, the arts and the humanities; education and training, namely, providing academic courses at the primary, secondary, college and post-graduate level, and vocational training in the fields of the arts, sciences, humanities and vocations; educational testing; developing educational programs for others in the fields of the natural, physical and social sciences, the arts and the humanities; consultation in the field of developing educational training and research programs; preparing educational audio and visual displays in the fields of the natural, physical and social sciences, the arts and the humanities. First Use: 2002/03/01. First Use In Commerce: 2002/03/01.

**Filing Date**

2002/04/10

**Examining Attorney**

FAINT, CATHERINE

**Attorney of Record**

Christopher J. McHattie, Esq.

# REVEALING

**DESIGN MARK**

**Serial Number**

77074025

**Status**

REGISTERED

**Word Mark**

REVEAL

**Standard Character Mark**

Yes

**Registration Number**

3311085

**Date Registered**

2007/10/16

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Persyst Development Corporation, Inc. CORPORATION ARIZONA Suite E2  
1060 Sandretto Dr. Prescott ARIZONA 86305

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Computer software for interpretation of neuro and brain scans provided  
by diagnostic imaging equipment. First Use: 2001/01/01. First Use In  
Commerce: 2001/01/01.

**Filing Date**

2007/01/01

**Examining Attorney**

BIBBINS, ODESSA

**Attorney of Record**

Cynthia M. Jones

# Reveal

**DESIGN MARK**

**Serial Number**

77241650

**Status**

REGISTERED

**Word Mark**

REVEAL

**Standard Character Mark**

No

**Registration Number**

3818802

**Date Registered**

2010/07/13

**Type of Mark**

TRADEMARK; SERVICE MARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

**Owner**

Cargill, Incorporated CORPORATION DELAWARE 15407 McGinty Road West  
Wayzata MINNESOTA 55391

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
computer software for analysis of nutrients used in animal feed.  
First Use: 2007/06/08. First Use In Commerce: 2007/06/08.

**Goods/Services**

Class Status -- ACTIVE. IC 042. US 100 101. G & S: animal feed  
analysis services for others. First Use: 2007/06/08. First Use In  
Commerce: 2007/06/08.

**Goods/Services**

Class Status -- ACTIVE. IC 040. US 100 103 106. G & S: custom  
animal feed blending services. First Use: 2007/06/08. First Use In  
Commerce: 2007/06/08.

**Colors Claimed**

Color is not claimed as a feature of the mark.

**Print: Jun 18, 2013**

**77241650**

**Filing Date**

2007/07/30

**Examining Attorney**

MURRAY, DAVID

**Attorney of Record**

Ronald E. Hunter



**reveal**

**DESIGN MARK**

**Serial Number**

77241653

**Status**

REGISTERED

**Word Mark**

REVEAL

**Standard Character Mark**

Yes

**Registration Number**

3886614

**Date Registered**

2010/12/07

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Cargill, Incorporated CORPORATION DELAWARE 15407 McGinty Road West  
Wayzata MINNESOTA 55391

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Computer software for analysis of nutrients used in animal feed.  
First Use: 2007/06/08. First Use In Commerce: 2007/06/08.

**Filing Date**

2007/07/30

**Examining Attorney**

KEAN, AMY

**Attorney of Record**

Ronald E. Hunter

REVEAL

**DESIGN MARK**

**Serial Number**

77278797

**Status**

REGISTERED

**Word Mark**

REVEALERS

**Standard Character Mark**

Yes

**Registration Number**

3507404

**Date Registered**

2008/09/30

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Digital Juice, Inc. CORPORATION FLORIDA 600 Technology Park Suite 104  
Lake Mary FLORIDA 32746

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
compact discs, digital versatile discs, and digital multimedia file  
downloads featuring animations and special effects software for use  
with video editing, presentations, web, television, film, games, cell  
phones, and all multimedia applications and hardware. First Use:  
2006/08/09. First Use In Commerce: 2006/08/09.

**Filing Date**

2007/09/13

**Examining Attorney**

OKEKE, BENJAMIN

**Attorney of Record**

Neal J. Blaher

# REVEALERS

Print: Jun 18, 2013

77353342

**DESIGN MARK**

**Serial Number**

77353342

**Status**

REGISTERED

**Word Mark**

REVEAL

**Standard Character Mark**

Yes

**Registration Number**

3479934

**Date Registered**

2008/08/05

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Canfield Scientific, Inc. CORPORATION NEW JERSEY 253 Passaic Avenue  
Fairfield NEW JERSEY 070042524

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Facial imaging systems, namely, image capture computer hardware and  
software for use in image capture, display, image processing,  
analysis, and simulation within the fields of medicine, health care,  
fitness, cosmetology, fashion, social work and law enforcement. First  
Use: 2008/02/02. First Use In Commerce: 2008/02/02.

**Filing Date**

2007/12/17

**Examining Attorney**

MAHONEY, PAULA

REVEAL

**DESIGN MARK**

**Serial Number**

77647901

**Status**

REGISTERED

**Word Mark**

VREVEAL

**Standard Character Mark**

Yes

**Registration Number**

3789272

**Date Registered**

2010/05/18

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

MotionDSP, Inc. CORPORATION DELAWARE 1650 Borel Place, Suite 208 San Mateo CALIFORNIA 94402

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S: Computer programs, namely, software for editing images, sound and video sold to individuals and other end users and video enhancement plug-ins and executable code library components used in connection with software programs sold by others to professional end users. First Use: 2009/01/03. First Use In Commerce: 2009/01/03.

**Filing Date**

2009/01/12

**Examining Attorney**

SMITH, REBECCA

**Attorney of Record**

Valerie Verret

vReveal

**DESIGN MARK**

**Serial Number**

77881260

**Status**

REGISTERED

**Word Mark**

REVEAL

**Standard Character Mark**

Yes

**Registration Number**

4168321

**Date Registered**

2012/07/03

**Type of Mark**

SERVICE MARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

JDT PROCESSWORKS, INC. CORPORATION MICHIGAN 19780 HAGGERTY ROAD  
LIVONIA MICHIGAN 48152

**Goods/Services**

Class Status -- ACTIVE. IC 042. US 100 101. G & S: Providing on-line non-downloadable software in the field of business process management for use by manufacturers; Providing on-line non-downloadable software in the field of data management software, namely, database management software for organizing, synthesizing and collecting data from the manufacturing plant floor for use by manufacturers; Providing on-line non-downloadable software in the field of decision support software to aid in the factory floor decisions of personnel for use by manufacturers; Providing on-line non-downloadable software in the field of manufacturing plant floor management in the fields of plant efficiency, plant assessment, plant optimization, and virtual plant modeling. First Use: 2011/05/04. First Use In Commerce: 2011/05/04.

**Filing Date**

2009/11/25

**Print: Jun 18, 2013**

**77881260**

**Examining Attorney**  
KEATING, MICHAEL

**Attorney of Record**  
Thomas P. Philbrick

REVEAL

**DESIGN MARK**

**Serial Number**

85087541

**Status**

FOURTH EXTENSION - GRANTED

**Word Mark**

REVEAL

**Standard Character Mark**

Yes

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Reveal Design Automation, Inc. CORPORATION DELAWARE 1600 Huron Pkwy.,  
Bldg. 520, 2nd Floor Ann Arbor MICHIGAN 48105

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
software for use in the field of design automation that analyzes  
integrated circuits for the purpose of detecting design flaws.

**Filing Date**

2010/07/19

**Examining Attorney**

ROBERTSON, DEIRDRE

**Attorney of Record**

Susan M. Kornfield

REVEAL

**DESIGN MARK**

**Serial Number**

85190013

**Status**

THIRD EXTENSION - GRANTED

**Word Mark**

ONETOUCH REVEAL

**Standard Character Mark**

Yes

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

JOHNSON & JOHNSON CORPORATION NEW JERSEY One Johnson & Johnson Plaza  
New Brunswick NEW JERSEY 089337001

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Software used in conjunction with blood glucose monitoring devices,  
namely, software which aggregates data from multiple glucose devices  
and provides graphs and patterns of information, quality control and  
inventory management reports, and provides personalized advice for  
small adjustments that can be made to better stay in a glucose range.

**Goods/Services**

Class Status -- ACTIVE. IC 010. US 026 039 044. G & S: Blood  
glucose monitoring devices.

**Prior Registration(s)**

1484999;2631514;2863393

**Filing Date**

2010/12/03

**Examining Attorney**

RINGLE, JIM

**Attorney of Record**

Laurence S. Rickles

ONETOUCH REVEAL

**DESIGN MARK**

**Serial Number**

85311732

**Status**

THIRD EXTENSION - GRANTED

**Word Mark**

RANDOM REVEAL

**Standard Character Mark**

Yes

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

WMS GAMING INC. CORPORATION DELAWARE 800 SOUTH NORTHPOINT BOULEVARD  
WAUKEGAN ILLINOIS 60085

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Components for gaming machines that generate or display wager  
outcomes, namely, controllers, displays, button panels, bolsters,  
electrical wiring, and computer hardware and software associated  
therewith; Gaming machines, namely, devices which accept a wager;  
Gaming software that generates or displays wager outcomes of gaming  
machines.

**Filing Date**

2011/05/04

**Examining Attorney**

MCMORROW, RONALD

**Attorney of Record**

KRISTIANNE NABONG

# RANDOM REVEAL

**DESIGN MARK**

**Serial Number**

85321712

**Status**

REGISTERED

**Word Mark**

REVEALSTORAGE

**Standard Character Mark**

Yes

**Registration Number**

4177937

**Date Registered**

2012/07/24

**Type of Mark**

SERVICE MARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Copperegg Corporation CORPORATION TEXAS 105 Loyola Dr Pflugerville  
TEXAS 78660

**Goods/Services**

Class Status -- ACTIVE. IC 042. US 100 101. G & S: Software as a  
service (SAAS) services, namely, hosting software for use by others  
for use in monitoring and analysis of computer storage systems, and  
networked computer storage systems. First Use: 2011/02/18. First Use  
In Commerce: 2011/02/18.

**Filing Date**

2011/05/16

**Examining Attorney**

BIDDULPH, HEATHER

# RevealStorage

**DESIGN MARK**

**Serial Number**

85381314

**Status**

REGISTERED

**Word Mark**

NETREVEAL

**Standard Character Mark**

Yes

**Registration Number**

4091130

**Date Registered**

2012/01/24

**Type of Mark**

TRADEMARK; SERVICE MARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

BAE Systems plc public limited company (plc) UNITED KINGDOM 6 Carlton Gardens London SW1Y5AD UNITED KINGDOM

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S: Computer software for analyzing, processing and monitoring transactions, patterns and networks in data; computer software for use in data mining and customer relationship management; computer software for use in the detection and prevention of fraud and in security, anti-money laundering, anti-terrorism and anti-smuggling operations.

**Goods/Services**

Class Status -- ACTIVE. IC 035. US 100 101 102. G & S: Data processing services relating to the analysis, processing and monitoring of transactions, patterns and networks and data; customer relationship management services.

**Goods/Services**

Class Status -- ACTIVE. IC 042. US 100 101. G & S: Computer software services, namely, design and customization of software relating to the analysis, processing and monitoring of transactions,

patterns and networks and data, data mining, and customer relationship management; information technology consultancy services, namely, consulting, advising and providing information relating to the aforesaid; providing data mining services.

**Foreign Country Name**

UNITED KINGDOM

**Foreign Priority**

FOREIGN PRIORITY CLAIMED

**Foreign Application Number**

2576333

**Foreign Filing Date**

2011/03/24

**Foreign Registration Number**

2576333

**Foreign Registration Date**

2011/07/08

**Foreign Expiration Date**

2021/03/24

**Prior Registration(s)**

3302537

**Filing Date**

2011/07/26

**Examining Attorney**

MISTER, KATINA

**Attorney of Record**

J. Scott Gerien

NETREVEAL

**DESIGN MARK**

**Serial Number**

85404213

**Status**

REGISTERED

**Word Mark**

SPYREVEAL

**Standard Character Mark**

Yes

**Registration Number**

4235474

**Date Registered**

2012/10/30

**Type of Mark**

TRADEMARK

**Register**

SUPPLEMENTAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Ninja Otter Incorporated CORPORATION CANADA Unit 104 203 Ross St.  
Halifax, Nova Scotia CANADA B3M3Z2

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Computer software for use in detecting and removing keylogger  
programs. First Use: 2009/02/27. First Use In Commerce: 2009/02/27.

**Filing Date**

2011/08/22

**Amended Register Date**

2012/09/06

**Examining Attorney**

FICKES, JERI J.

**Attorney of Record**

John Wood

SPYREVEAL

**DESIGN MARK**

**Serial Number**

85482511

**Status**

NOTICE OF ALLOWANCE - ISSUED

**Word Mark**

REVEAL

**Standard Character Mark**

Yes

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

The New York Times Company CORPORATION NEW YORK 620 Eighth Avenue New York NEW YORK 10018

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S: Interactive entertainment system comprising a computer, multiple image display screen, monitor, and mirror that uses face recognition, motion controls, voice commands, and a RFID technology enabled shelf that can respond to products placed on it, all used to generate personalized data such as health information, calendar information, news and news feeds, and other personalized information; computer hardware and software for interactive entertainment systems and computers that feature face recognition, motion controls, voice commands, and a RFID technology enabled shelf that can respond to products placed on it, all used to generate personalized data such as health information, calendar information, news and news feeds, and other personalized information.

**Filing Date**

2011/11/29

**Examining Attorney**

MURRAY, DAVID

**Attorney of Record**

Jordan A. LaVine

# Reveal

**DESIGN MARK**

**Serial Number**

85537758

**Status**

REGISTERED

**Word Mark**

REVEAL

**Standard Character Mark**

Yes

**Registration Number**

4240970

**Date Registered**

2012/11/13

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Clausen, Dorte Liv INDIVIDUAL UNITED STATES PO Box 1209 Summerland CALIFORNIA 93067

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S: Computer game software for a game that is non-competitive and unrelated to business or beauty products. First Use: 2012/01/01. First Use In Commerce: 2012/02/01.

**Goods/Services**

Class Status -- ACTIVE. IC 028. US 022 023 038 050. G & S: Game cards for a game that is non-competitive and unrelated to business or beauty products. First Use: 2012/01/01. First Use In Commerce: 2012/02/01.

**Filing Date**

2012/02/09

**Examining Attorney**

WHITTAKER-BROWN, TRACY

REVEAL

**DESIGN MARK**

**Serial Number**

85653365

**Status**

NON-FINAL ACTION - MAILED

**Word Mark**

PD REVEAL

**Standard Character Mark**

Yes

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Precision Discovery LLC CORPORATION DELAWARE 25 West 45th Street,  
Suite 701 New York NEW YORK 10036

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Feature of computer software for use in the legal field to assist in  
the reviewing of content and data as part of litigation, regulatory  
proceedings, and other legal-related activities. First Use:  
2012/03/07. First Use In Commerce: 2012/03/07.

**Filing Date**

2012/06/15

**Examining Attorney**

LAWRENCE, SUE

**Attorney of Record**

DANIEL CHUN

# PD Reveal

**DESIGN MARK**

**Serial Number**

85707792

**Status**

REGISTERED

**Word Mark**

INSPERITY REVEAL

**Standard Character Mark**

Yes

**Registration Number**

4331289

**Date Registered**

2013/05/07

**Type of Mark**

SERVICE MARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Insperty, Inc. CORPORATION DELAWARE 19001 Crescent Springs Drive  
Kingwood TEXAS 77339

**Goods/Services**

Class Status -- ACTIVE. IC 042. US 100 101. G & S: Software as a service (SAAS) services featuring software for businesses that enables a user to quickly access and view a range of pertinent financial and accounting information via an online dashboard and to prepare and view financial charts and financial reports, and for use in accounting and financial analysis, financial management, financial planning, and cash flow analysis. First Use: 2012/07/16. First Use In Commerce: 2012/07/16.

**Prior Registration(s)**

4184429;4251667

**Filing Date**

2012/08/20

**Examining Attorney**

COWARD, KATHRYN

**Print: Jun 18, 2013**

**85707792**

**Attorney of Record**

Alison D. Frey

# INSPERITY REVEAL

**DESIGN MARK**

**Serial Number**

85755325

**Status**

PUBLISHED FOR OPPOSITION

**Word Mark**

METAREVEAL

**Standard Character Mark**

Yes

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Business Equipment Co. DBA BEC Legal Systems CORPORATION OHIO Suite  
120 175 Tri County Parkway Cincinnati OHIO 45246

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Computer software for removal of metadata when sharing computer  
operating software files. First Use: 2008/10/31. First Use In  
Commerce: 2008/10/31.

**Filing Date**

2012/10/16

**Examining Attorney**

FOSDICK, GEOFFREY

**Attorney of Record**

Michelle A. Mullee

**METAREVEAL**

**DESIGN MARK**

**Serial Number**

85794324

**Status**

SUSPENSION LETTER - MAILED

**Word Mark**

REVEAL

**Standard Character Mark**

Yes

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Xsensor Technology Corporation CORPORATION CANADA 133 - 12 Avenue SE  
Calgary, AB CANADA T2G0Z9

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Pressure imaging system comprised of software and sensors to aid in  
mattress recommendation.

**Foreign Country Name**

CANADA

**Foreign Priority**

FOREIGN PRIORITY CLAIMED

**Foreign Application Number**

1,583,618

**Foreign Filing Date**

2012/06/26

**Filing Date**

2012/12/04

**Examining Attorney**

SNAPP, TINA L.

**Attorney of Record**

**Print: Jun 18, 2013**

**85794324**

Kimberley Cunningham

REVEAL

**DESIGN MARK**

**Serial Number**

85799762

**Status**

NON-FINAL ACTION - MAILED

**Word Mark**

NETREVEAL

**Standard Character Mark**

Yes

**Type of Mark**

TRADEMARK; SERVICE MARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

BAE Systems plc public limited company (plc) UNITED KINGDOM 6 Carlton Gardens London UNITED KINGDOM SW1Y5AD

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S:  
Computer software, firmware and hardware for searching, mining, analysing, processing, storing, managing, monitoring, aggregating, manipulating and modeling data; computer software, firmware and hardware for searching for, identifying, analysing, processing, storing, managing, monitoring, aggregating and modeling transactions; computer software, firmware and hardware for searching, exploring, identifying, analysing, processing, storing, managing, monitoring, aggregating, manipulating and modeling patterns and networks in data; computer software, firmware and hardware for detecting suspicious behaviour; computer software, firmware and hardware for analysing and predicting customer behaviour; computer software, firmware and hardware for use in data mining and customer relationship management; computer software, firmware and hardware for information and communications technology security purposes; computer software, firmware and hardware for use in detecting, preventing, combating and defending against fraud, financial fraud, debit and credit card fraud, Internet fraud, financial crime, money laundering, terrorism and smuggling operations; computer software, firmware and hardware for identifying, investigating, reviewing and managing financial crime of all types; computer software, firmware and hardware for the purposes of enabling, improving and monitoring regulatory compliance, operational efficiency, corporate governance, risk management, risk

prevention, and the reduction of monetary losses; computer software, firmware and hardware for the purposes of carrying out due diligence, background checks and vetting of customers and potential customers; computer software, firmware and hardware for use in defence, law enforcement, and business process optimisation; data processing apparatus and instruments; parts and fittings for computer firmware and computer hardware; publications, brochures, reports, certificates, user manuals, user guides, technical manuals, instruction manuals, training manuals, educational, training and instructional materials in electronic form.

**Goods/Services**

Class Status -- ACTIVE. IC 016. US 002 005 022 023 029 037 038 050.  
G & S: Printed matter; printed reports; printed publications; technical manuals; instruction manuals; user manuals; user guides; educational, training and instructional materials; certificates; newsletters; pamphlets; brochures; catalogues; printed advertising materials.

**Goods/Services**

Class Status -- ACTIVE. IC 035. US 100 101 102. G & S: Compilation and systematization of information into computer databases; management of computer databases; computer data processing; providing data searches in computer files for others; data logging, data storage and data retrieval services; data services, namely capturing, searching, exploring, identifying, analysing, processing, storing, managing, monitoring, aggregating and modelling of transactions and data, and of patterns and networks in data; business consulting; technical management consulting; provision of business information; provision of business management information; business analysis services; business data analytics; business operational analysis services; business operational research services, including carrying out studies to provide evidence to support informed decision making; business modelling; business process modelling; business modelling to support operational risk analysis; advice and consultancy relating to business risk management; preparation of business reports, commercial reports and economic reports; information, advice and consultancy relating to all of the aforesaid services.

**Goods/Services**

Class Status -- ACTIVE. IC 036. US 100 101 102. G & S: Information, advice and consultancy relating to detecting, combating and defending against financial crime, including money laundering, financial fraud, debit and credit card fraud and on-line fraud; information, advice and consultancy relating to the monitoring of financial transactions, detecting and preventing suspicious financial behaviour and reducing monetary losses; information, advice and consultancy relating to due diligence, background checks and vetting of customers and potential customers; information, advice and consultancy relating to the identification, investigation, review and management of cases of financial crime of all types; information,

advice and consultancy relating to regulatory compliance, operational efficiency, risk management and corporate governance.

**Goods/Services**

Class Status -- ACTIVE. IC 042. US 100 101. G & S: Information technology consultancy services; communications technology consultancy services; research, design and development of computer software, computer firmware, computer hardware, computer systems and computer architectures; preparation of technical reports; preparation of reports relating to computer data, computer software, computer firmware, computer hardware, computer operating systems, computer networks and communications networks; customisation, installation, integration, implementation, configuration, maintenance, servicing, updating, upgrading, repair and operational support services for computer software; computer software services relating to the searching, mining, collection, gathering, storage, exploration, analysis, processing, management, aggregation, manipulation, modelling, viewing, sharing and monitoring of data and transactions, including patterns and networks in data and transactions; computer software services relating to the detection and prevention of fraud, on-line fraud, financial fraud, financial crime, suspicious behaviour, terrorism operations, smuggling operations, money laundering operations and monetary losses; computer software services relating to identifying, investigating, reviewing and managing cases of financial crime of all types; computer software services relating to predictive modelling, regulatory compliance, operational efficiency, risk management, risk prevention, corporate governance and customer relationship management; computer software services relating to due diligence investigations on customers and potential customers; computer software services relating to the analysis and prediction of customer behaviour; computer system monitoring services; analytical services relating to computers, computer networks and communications networks; forensic analysis of computer operating systems; forensic analysis, storage, recovery, conversion, compression and migration of computer data; computer software services relating to the matching, transforming, sampling, partitioning and analysis of data; artificial intelligence and neural network modelling; project management services; information, advice and consultancy relating to all of the aforesaid services.

**Filing Date**

2012/12/11

**Examining Attorney**

KING, LINDA

**Attorney of Record**

J. Scott Gerien

NETREVEAL

**To:** Itty Bitty Apps Pty Ltd ([mail@remarqueble.com](mailto:mail@remarqueble.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 85867891 - REVEAL - 1aaf14c3a09b  
**Sent:** 6/18/2013 11:51:40 AM  
**Sent As:** ECOM116@USPTO.GOV  
**Attachments:**

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)**

**IMPORTANT NOTICE REGARDING YOUR  
U.S. TRADEMARK APPLICATION**

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED  
ON **6/18/2013** FOR U.S. APPLICATION SERIAL NO. 85867891

Your trademark application has been reviewed. The trademark examining attorney assigned by the USPTO to your application has written an official letter to which you must respond. Please follow these steps:

(1) **READ THE LETTER** by clicking on this [link](#) or going to <http://tsdr.uspto.gov/>, entering your U.S. application serial number, and clicking on "Documents."

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

(2) **RESPOND WITHIN 6 MONTHS** (*or sooner if specified in the Office action*), calculated from **6/18/2013**, using the Trademark Electronic Application System (TEAS) response form located at [http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp).

**Do NOT hit "Reply" to this e-mail notification, or otherwise e-mail your response** because the USPTO does NOT accept e-mails as responses to Office actions.

(3) **QUESTIONS** about the contents of the Office action itself should be directed to the trademark examining attorney who reviewed your application, identified below.

/Ellen Awrich/  
Trademark Examining Attorney  
Law Office 116  
571-272-9123  
[ellen.awrich@uspto.gov](mailto:ellen.awrich@uspto.gov)

## **WARNING**

**Failure to file the required response by the applicable response deadline will result in the ABANDONMENT of your application.** For more information regarding abandonment, see <http://www.uspto.gov/trademarks/basics/abandon.jsp>.

**PRIVATE COMPANY SOLICITATIONS REGARDING YOUR APPLICATION:** Private companies **not** associated with the USPTO are using information provided in trademark applications to mail or e-mail trademark-related solicitations. These companies often use names that closely resemble the USPTO and their solicitations may look like an official government document. Many solicitations require that you pay “fees.”

Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the “United States Patent and Trademark Office” in Alexandria, VA; or sent by e-mail from the domain “@uspto.gov.” For more information on how to handle private company solicitations, see [http://www.uspto.gov/trademarks/solicitation\\_warnings.jsp](http://www.uspto.gov/trademarks/solicitation_warnings.jsp).

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

In the matter of Trademark Application Serial No. **85/867891**  
For the mark: **REVEAL**  
Published in the Official Gazette on **August 27, 2013**.

October 23, 2013

OPIN Systems, Inc.,

Opposer,                      Opposition No. \_\_\_\_\_

v.

Itty Bitty Apps Pty Ltd,

Applicant.

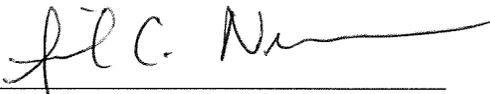
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**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the following documents:

1. Notice of Opposition and Exhibits A-F; and
2. Certificate of Service.

were served upon Sean Woodhouse, Itty Bitty Apps Pty Ltd, Unit  
1, 663 Victoria Street, Abbotsford 3067, AUSTRALIA,  
mail@remarqueble.com, by E-mail and First Class Mail this 23<sup>rd</sup>  
day of October, 2013.

  
\_\_\_\_\_  
April C. Nelson