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

Proceeding	91216624
Party	Defendant Appmachine B.V.
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Date	07/30/2014
Attachments	Motion to Consolidate Oppositions - APPMACHINE and APPMACHINE Design.pdf(24559 bytes)

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

-----)	In the Matter of:
))
Proscape Technologies, Inc.)	Trademark Application Serial No. 85935995
a Pennsylvania corporation,)	Filed May 17, 2014
)	For the mark “APPMACHINE”
Opposer)	Published April 29, 2014
)	Opposition No. 91216623
))
v.)	and
))
Appmachine B.V.,)	Trademark Application Serial No. 85935999
a Dutch limited liability company)	Filed May 18, 2014
)	For the mark  AppMachine
Applicant.)	Published April 29, 2014
)	Opposition No. 91216624

APPLICANT’S MOTION TO CONSOLIDATE PROCEEDINGS

Pursuant to Fed. R. Civ. P. 42(a), Applicant Appmachine B.V. (“Applicant”) moves to consolidate the above-captioned proceedings in the interest of judicial and pecuniary economy, and request that the proceedings in Opposition No. 91216624 be governed by the current scheduling order in Opposition No. 91216623 from and after the date of consolidation.

Opposition No. 91216623 was instituted by order dated May 29, 2014, pursuant to a Notice of Opposition filed by Proscape Technologies, Inc. (“Opposer”) seeking a refusal of registration of the mark that is the subject of U.S. Serial No. 85935995 in Class 9 for “Downloadable computer software for creating and managing computer apps and websites; Data processing apparatus” and Class 42 for “Writing and development of computer software; Computer programming; Installation, maintenance and management of software programs and computer networks, and technical consultancy relating thereto; Providing temporary use of on-line non-downloadable software for creating apps; Assistance and consultancy in the field of designing computer software applications and graphic design; Graphic design; Graphic and

interactive design of software featuring computer apps; Professional consultancy in the field of computer software, computerization and ICT; Counseling in the field of the aforementioned computer software services; Design, development and maintenance of websites, parts of websites and software applications for websites, PDAs, telephones and mobile telephones; Rental of computer software and computers; Upgrading of computer software; Providing temporary use of online non-downloadable software, software applications and software tools, namely, tools in the field of software development; Providing information in the field of software development”.

Opposition No. 91216624 was instituted by order dated May 29, 2014, pursuant to a Notice of Opposition filed by Proscap Technologies, Inc. (“Opposer”) seeking a refusal of registration of the mark that is the subject of U.S. Serial No. 85935999 for identical Class 9 goods and Class 42 services as those identified above. Applicant has filed an answer in each of the pending proceedings.

Because the opposition proceedings involve the same parties, identical goods and services, and common issues of fact and law, it is in the interest of the Parties and the Board to consolidate the two proceedings in order to avoid unnecessary cost and/or delay. See, Ritchie v. Simpson, 41 U.S.P.Q.2D (BNA) 1859, *1 (TTAB 1996) rev’d on other grounds, 170 F.3d 1092, 50 USPQ2d 1023 (Fed. Cir. 1999) (consolidating cases where notices of opposition were virtually identical and presented common questions of law and fact, despite variations in the marks and goods involved); S. Industries Inc. v. Lamb-Weston Inc., 45 USPQ2d 1293, 1997 TTAB LEXIS 50, *13 (TTAB 1997) (granting motion to consolidate where there was found to be “sufficient commonality of factual issues in the proceedings” and where “[c]onsolidation will avoid duplication of effort concerning the factual issues in common and will thereby avoid unnecessary costs and delays.”). Opposer’s grounds for opposing each of Applicant’s

applications to register the APPMACHINE-formative marks are identical, and the issues of law and fact that are common to both proceedings include the relatedness of Applicant's goods and services. As a result of these commonalities, Applicant believes that consolidation of the proceedings is warranted.

Based on the foregoing points and authorities, the Applicant respectfully requests an Order granting consolidation of the above-referenced proceedings.

July 30, 2014

Respectfully Submitted,

Appmachine B.V.

By: /s/ Michele S. Katz/

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Appmachine B.V.

CERTIFICATE OF ELECTRONIC MAILING

I hereby certify that a true and correct copy of the foregoing **APPLICANT'S MOTION TO CONSOLIDATE PROCEEDINGS** is being submitted electronically through the Trademark Trial and Appeal Board's ESTTA System on this 30th day of July 2014.

/s/ Michele S. Katz/
Attorney for Applicant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **APPLICANT'S MOTION TO CONSOLIDATE PROCEEDINGS** is being deposited with UPS on the 30th day of July 2014 to:

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/s/ Michele S. Katz/
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