

TRADEMARK TRIAL AND APPEAL UNITED STATES PATENT AND TRADEMARK OFFICE

02 AUG 21 Trademark Trial and Appeal Board  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

Mailed: July 23, 2002

OPTI-COPY, INC.  
10930 LACKMAN ROAD  
LENEXA, KS 66219

Reg. No. 1464373  
Cancellation No. 92040798

Lori S. Meddings  
Michael Best & Friedrich LLP  
100 East Wisconsin Avenue, Suite 3300  
Milwaukee, WI 53202

Quad/Graphics, Inc

V.

OPTI-COPY, INC.

**Shelley Jamison, Legal Assistant**

A petition, a copy of which is attached, has been filed to cancel the above-identified registration.

Proceedings will be conducted in accordance with the Trademark Rules of Practice.

**ANSWER IS DUE FORTY DAYS** after the mailing date hereof.  
(See Patent and Trademark Rule 1.7 for expiration date falling on Saturday, Sunday or a holiday).

Proceedings will be conducted in accordance with the Trademark Rules of Practice, set forth in Title 37, part 2, of the Code of Federal Regulations. The parties are reminded of the recent amendments to the Trademark Rules that became effective October 9, 1998. See Notice of Final Rulemaking published in the *Official Gazette* on September 29, 1998 at 1214 TMOG 145. Slight corrections to the rules, resulting in a correction notice, were published in the *Official Gazette* on October 20, 1998 at 1215 TMOG 64. A copy of the recent amendments to the Trademark Rules, as

well as the *Trademark Trial and Appeal Board Manual of Procedure* (TBMP), is available at <http://www.uspto.gov>.

**Discovery and testimony periods are set as follows:**

Discovery period to open:	<b>August 12, 2002</b>
Discovery period to close:	<b>February 08, 2003</b>
30-day testimony period for party in position of plaintiff to close:	<b>May 09, 2003</b>
30-day testimony period for party in position of defendant to close:	<b>July 08, 2003</b>
15-day rebuttal testimony period for plaintiff to close:	<b>August 22, 2003</b>

A party must serve on the adverse party a copy of the transcript of any testimony taken during the party's testimony period, together with copies of documentary exhibits, within 30 days after completion of the taking of such testimony. See Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

**NOTE:** The Board allows parties to utilize telephone conferences to discuss or resolve many interlocutory matters that arise in inter partes cases. See the *Official Gazette* notice titled "Permanent Expansion of Telephone Conferencing on Interlocutory Matters in Inter Partes Cases Before the Trademark Trial and Appeal Board," 1235 TMOG 68 (June 20, 2000). A hard copy of the *Official Gazette* containing this notice is available for a fee from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (Telephone (202) 512-1800). The notice is also available at <http://www.uspto.gov>. Interlocutory matters which the Board agrees to discuss or decide by phone conference may be decided adversely to any party which fails to participate.

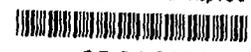
If the parties to this proceeding are also parties to other Board proceedings involving related marks or, during the pendency of this proceeding, they become parties to such proceedings, they should notify the Board immediately, so that the Board can consider consolidation of proceedings.

TTAB

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

In the Matter of Registration No. 1,464,373  
Issued: November 10, 1987  
Mark: IMPOSER

U.S. Patent & TMO/TM Mail Rpt Dt DP 900



05-24-2002

QUAD/GRAPHICS, INC., )  
 )  
 ) Petitioner, )  
 )  
 ) v. ) Cancellation No.  
 )  
 POLYCHROME SYSTEMS, INC., )  
 )  
 ) Respondent. )

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TRADEMARK TRIAL AND  
APPEAL BOARD

PETITION FOR CANCELLATION

Petitioner, Quad/Graphics, Inc. ("Petitioner"), a corporation organized and existing under the laws of the State of Wisconsin and having a principal place of business at N63 W23075 Main Street, Sussex, Wisconsin 53089, believes that it is and will continue to be damaged by Registration 1,464,373, issued November 10, 1987, for the mark IMPOSER (the "Registered Mark"), and hereby petitions to cancel the same.

As grounds for cancellation, Petitioner alleges:

1. Petitioner is currently using and has since at least as early as 1991 used the mark IMPOZE for planning and information management software for the printing and publishing industries offered and sold in interstate commerce in the United States ("Petitioner's Mark").
2. Petitioner is the owner of U.S. Trademark Application Serial No. 78/079,036 ("Petitioner's Application") for the mark IMPOZE for planning and information management software for the printing and publishing industries ("the Goods"). A true copy of Petitioner's Application is attached as Exhibit A hereto.

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1200.00 DP

AM

3. By virtue of its long and extensive use of Petitioner's Mark by Petitioner and its predecessor in interest and their associated advertising programs, Petitioner's Mark is widely known throughout the United States, entitling Petitioner to a broad scope of protection, and to hold itself out to the public and trade as having the exclusive right to use Petitioner's Mark in connection with the Goods.

4. Petitioner and its predecessor in interest have made and continue to make substantial annual sales under Petitioner's Mark and have invested and continue to invest substantial amounts of money and effort in advertising and promoting the Goods under Petitioner's Mark.

5. Petitioner has investigated Respondent's use of the Registered Mark and, after reasonable investigation concludes that neither Respondent nor any other party is using the Registered Mark.

6. Petitioner has been informed by Respondent that Respondent assigned the Registered Mark to Technical Services International. Respondent also informed Petitioner that Technical Services International is located in Pennsylvania but Respondent did not provide an address for this company or any other details regarding the assignment of the Registered Mark. Petitioner was able to locate a Dun & Bradstreet listing for this company from 1993, a copy of which is attached as Exhibit B hereto. Petitioner does not, however, believe that this information is current, and was unable to locate that company. Moreover, it does not appear that any such assignment has been recorded. The address of the last known owner, Polychrome Systems, Inc., is 401 Merritt 7, Norwalk, CT 06851.

7. Petitioner is further injured by the presence of the Registered Mark on the Principal Register because Petitioner's Application has been refused on the basis that Petitioner's Mark is confusingly similar to the Registered Mark under § 2(d) of the Lanham Act.

8. A duplicate copy of this Petition for Cancellation is enclosed herewith.

9. The required fee of \$1200.00 is submitted herewith.

WHEREFORE, for the foregoing reasons, Petitioner respectfully prays that Registration No. 1,464,373 be cancelled.

Respectfully submitted,

By 

Billie Jean Smith  
Judith L. Grubner  
Lori S. Meddings  
MICHAEL BEST & FRIEDRICH LLP  
100 East Wisconsin Avenue, Suite 3300  
Milwaukee, WI 53202  
Telephone: (414) 271-6560

Attorneys for Petitioner  
Quad/Graphics, Inc.

#### CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service on the date indicated and is addressed to the Assistant Commissioner for Trademarks, Box TTAB/FEE, 2900 Crystal Drive, Arlington, VA 22202-3513.

Date: 5-21-02

Signature: Karen Brandt  
Karen Brandt

PTO Form 1478 (Rev 9/98)  
OMB Control #0651-0009 (Exp. 08/31/2002)

~TRADEMARK/SERVICE MARK Application~

\* To the Commissioner for Trademarks \*

<DOCUMENT INFORMATION>  
<TRADEMARK/SERVICEMARK APPLICATION>  
<VERSION 1.23>

<APPLICANT INFORMATION>  
<NAME> Quad/Graphics, Inc.  
<STREET> N63 W23075 Main Street  
<CITY> Sussex  
<STATE> WI  
<COUNTRY> USA  
<ZIP/POSTAL CODE> 53089

<APPLICANT ENTITY INFORMATION>  
<CORPORATION: STATE/COUNTRY OF INCORPORATION> Wisconsin

<TRADEMARK/SERVICEMARK INFORMATION>  
<MARK> IMPOZE  
<TYPED FORM> Yes

~ Applicant requests registration of the above-identified trademark/service mark 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). ~

<BASIS FOR FILING AND GOODS/SERVICES INFORMATION>  
<USE IN COMMERCE: SECTION 1(a)> Yes

~ Applicant is using or is using through a related company the mark in commerce on or in connection with the below-identified goods/services. (15 U.S.C. Section 1051(a), as amended.). Applicant attaches one SPECIMEN for each class showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services. ~

<SPECIMEN> Yes  
<SPECIMEN DESCRIPTION> An instruction manual which is packaged with the product  
<INTERNATIONAL CLASS NUMBER> 009  
<LISTING OF GOODS AND/OR SERVICES> Planning and information management software for the printing and publishing industries  
<FIRST USE ANYWHERE DATE> 01/01/1991  
<FIRST USE IN COMMERCE DATE> 01/01/1991

<ATTORNEY INFORMATION>  
<NAME> Billie Jean Smith  
<STREET> 100 East Wisconsin Avenue  
<CITY> Milwaukee  
<STATE> WI

<COUNTRY> USA  
<ZIP/POSTAL CODE> 53202-4108  
<E-MAIL ADDRESS> bjsmith@mbf-law.com  
<AUTHORIZE E-MAIL COMMUNICATION> Yes  
<FIRM NAME> Michael Best & Friedrich LLP  
<TELEPHONE NUMBER> (414) 271-6560  
<FAX NUMBER> (414) 277-0656  
<ATTORNEY DOCKET NUMBER> 077047/9439  
<OTHER APPOINTED ATTORNEY(S)> Patricia A. Motta, Emily C. Canedo and Lori S. Meddings

<FEE INFORMATION>  
<TOTAL FEES PAID> 325  
<NUMBER OF CLASSES PAID> 1  
<NUMBER OF CLASSES> 1

<DEPOSIT ACCOUNT INFORMATION>

<DEPOSIT ACCOUNT NUMBER> 133080

~ The U.S. Patent and Trademark Office is hereby authorized to charge any fees or credit any overpayments to the deposit account listed above, ~

<NAME OF PERSON AUTHORIZING ACCOUNT ACTIVITY> Billie Jean Smith

<COMPANY/FIRM NAME> Michael Best & Friedrich LLP

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<LAW OFFICE INFORMATION>

~ The USPTO is authorized to communicate with the applicant's attorney at the below e-mail address ~

<E-MAIL ADDRESS FOR CORRESPONDENCE> bjsmith@mbf-law.com

<SIGNATURE AND OTHER INFORMATION>

~ PTO-Application 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 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. ~

<SIGNATURE> /billie jean smith/

<DATE> 08/14/2001

<NAME> Billie Jean Smith

<TITLE> Attorney for Applicant

The information collected on this form allows the USPTO to determine whether a mark may be registered on the Principal or Supplemental register, and provides notice of an applicant's claim of ownership of the mark. Responses to the request for information are required to obtain the benefit of a registration on the Principal or Supplemental register, 15 U.S.C. §§1051 et seq. and 37 C.F.R. Part 2. All information collected will be made public. Gathering and providing the information will require an estimated 12 or 18 minutes (depending if the application is based on an intent to use the

mark in commerce, use of the mark in commerce, or a foreign application or registration). Please direct comments on the time needed to complete this form, and/or suggestions for reducing this burden to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington D.C. 20231. Please note that the PTO may not conduct or sponsor a collection of information using a form that does not display a valid OMB control number.

**Drawing Page:**

**Date/Time Stamp:** Tuesday, 08-14-2001 08:19:28 EDT

**Applicant:**

Quad/Graphics, Inc.  
N63 W23075 Main Street  
Sussex, WI 53089  
USA

**Date of First Use Anywhere:** 01/01/1991

**Date of First Use In Commerce:** 01/01/1991

**Goods and Services:**

Planning and information management software for the printing and publishing industries

**Mark:**

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IMPOZE

**IMPOZE**<sup>TM</sup>

# Magazine Makeup and Producti

