

07/20/2003TAB

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

In the Matter of Registration No. 2,579,470
Dated on June 11, 2002 for VIRGIN LAKE SOFTWARE



07-21-2003

U.S. Patent & TMOfr/TM Mail Rcpt Dt. #22

VIRGIN ENTERPRISES LIMITED,
Petitioner,

v.

Cancellation No. 92041744

MICRO COMPUTER SOLUTIONS, INC., d/b/a
VIRGIN LAKE SOFTWARE,
Registrant.

MOTION TO SET ASIDE
NOTICE OF DEFAULT

Now comes the Registrant and for its Motion to Set Aside Notice of Default states as follows:

1. The Registrant's Answer in this case was due on April 26, 2003.
2. On April 25, 2003, the Registrant sent a copy of its Answer, along with a Cover Letter and Certificate of Express Mailing, to the Assistant Commissioner of Trademarks. Copies of the Cover Letter, Answer and Certificate of Express Mailing are attached hereto as Exhibit A.
3. As indicated in the U.S. Postal Service track and confirm notification attached hereto as Exhibit B, the Express Mail package containing the Registrant's Answer was received by the Assistant Commissioner of Trademarks at 11:32 a.m. on April 26, 2003.
4. The delay in filing the Answer was not the result of willful conduct or gross neglect on the part of the Registrant.
5. The Petitioner will not be substantially prejudiced if Registrant's Motion is

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granted because Petitioner was timely served with a copy of the Answer on April 26, 2003.

WHEREFORE, Registrant requests that Trademark Trial and Appeal Board enter an order setting aside the Notice of Default and allowing this case to proceed accordingly.

MICRO COMPUTER SOLUTIONS, INC.,
d/b/a VIRGIN LAKE SOFTWARE

By: 

Jill Robb Ackerman
Victoria H. Finley

of BAIRD, HOLM, McEACHEN, PEDERSEN,
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1500 Woodmen Tower
Omaha, Nebraska 68102-2068
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Fax: 402-231-8556
Attorneys for Registrant

07/30/003TTAB

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing ANSWER was sent by regular United States express mail, return receipt requested, postage prepaid, this 21st day of July, 2003, to the following:

James W. Dabney
Pennie & Edmonds LLP
1155 Avenue of the Americas
New York, New York 10036-2711
(212) 790-9090



07/20/2003TTAP

CERTIFICATE OF EXPRESS MAILING

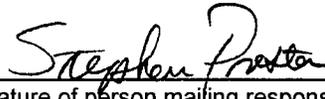
"Express Mail" mailing number EV100183125US

Date of Deposit: July 21, 2003

I hereby certify that this Answer is being deposited with the United States Postal Services "Express Mail Post Office to Addressee" service on the date indicated above and is addressed to the Trademark Trial and Appeal Board, 2900 Crystal Drive, Arlington, VA 22202-3513.

Stephen Preston

(Typed or printed name of person mailing response)



(Signature of person mailing response)

DOCS/561780.1

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April 25, 2003

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VIA EXPRESS MAIL #EV117595814US

Assistant Commissioner for Trademarks
Box Responses / No Fee
2900 Crystal Drive
Arlington, VA 22202-3513

Re: Cancellation No. 92041744
VIRGIN LAKE SOFTWARE
Serial No. 76/285993

Dear Sir or Madam:

We enclose the Answer of Micro Computer Solutions, Inc. to the Petition for Cancellation with respect to the above-referenced trademark.

Thank you.

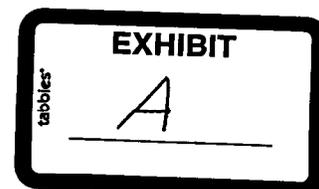
Very truly yours,



Stephen Q. Preston
FOR THE FIRM

SQP
Enclosures

DOCS/550277.1



07/20/2003TTAB

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

In the Matter of Registration No. 2,579,470
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Petitioner,

v.

Cancellation No. 92041744

MICRO COMPUTER SOLUTIONS, INC., d/b/a
VIRGIN LAKE SOFTWARE,
Registrant.

ANSWER

Now comes the Registrant and answers the Petition for Cancellation as follows:

1. Registrant generally denies all allegations within the Petition, with the exception of those expressly admitted or allegations which constitute admissions against the interest of the Petitioner.
2. Registrant is without sufficient information to admit or deny the allegations in Paragraphs 1 through 8 and Registrant therefore denies the same.
3. Registrant admits that is has used the mark VIRGIN LAKE SOFTWARE in connection with its services since September 1999.
4. Registrant admits the allegations of Paragraph 10.
5. Registrant denies the allegations of Paragraphs 11 through 13.

AFFIRMATIVE DEFENSES

6. Petitioner fails to state a claim.
7. The only feature the respective marks have in common is the word VIRGIN, whereby the similarities are insufficient to create any likelihood of confusion,

07/30/2003TTAB

mistake or deception.

8. There are a number of registered trademarks that incorporate the word VIRGIN, so Petitioner's rights in the marks, if any, are of narrow scope.

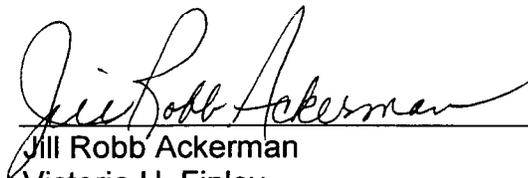
9. The respective goods and services are offered through different channels of trade to different ultimate purchasers and are used for different purposes.

10. There is no likelihood of confusion, mistake or deception of the purchasing public between Registrant's mark and Petitioner's marks when considered in their entireties. Registrant's mark is distinctly different from Petitioner's marks in appearance, sound and meaning.

Wherefore, Registrant requests that the petition be denied in all respects.

MICRO COMPUTER SOLUTIONS, INC.,
d/b/a VIRGIN LAKE SOFTWARE

By:



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Victoria H. Finley

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Omaha, Nebraska 68102-2068
Telephone: 402-344-0500
Fax: 402-231-8556

Attorneys for Registrant

04/25/2003 11:00 AM

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing ANSWER was sent by regular United States express mail, return receipt requested, postage prepaid, this 25th day of April, 2003, to the following:

James W. Dabney
Pennie & Edmonds LLP
1155 Avenue of the Americas
New York, New York 10036-2711
(212) 790-9090



CERTIFICATE OF EXPRESS MAILING

"Express Mail" mailing number EV11759814US

Date of Deposit: April 25, 2003

I hereby certify that this Answer is being deposited with the United States Postal Services "Express Mail Post Office to Addressee" service on the date indicated above and is addressed to the Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513

Stephen Preston

(Typed or printed name of person mailing response)



(Signature of person mailing response)



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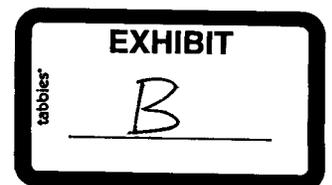
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7/130/2003TTAS

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BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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5. Registrant denies the allegations of Paragraphs 11 through 13.

AFFIRMATIVE DEFENSES

6. Petitioner fails to state a claim.

7. The only feature the respective marks have in common is the word VIRGIN, whereby the similarities are insufficient to create any likelihood of confusion,

07/20/2009 11:40 AM
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8. There are a number of registered trademarks that incorporate the word VIRGIN, so Petitioner's rights in the marks, if any, are of narrow scope.

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Wherefore, Registrant requests that the petition be denied in all respects.

MICRO COMPUTER SOLUTIONS, INC.,
d/b/a VIRGIN LAKE SOFTWARE

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July 21, 2003

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07-21-2003

U.S. Patent & TMO/TM Mail Rcpt Dt. #22

Re: Cancellation No. 92041744
VIRGIN LAKE SOFTWARE
Serial No. 76/285993

Dear Sir or Madam:

We received your Notice of Default mailed June 30, 2003. Please find enclosed a Motion to Set Aside Notice of Default and an additional copy of our Answer.

Very truly yours,

Stephen Q. Preston
FOR THE FIRM

SQP/SMB
DOCS/561805.1
Enclosures

03 JUL 29 PM 9:31
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