

ESTTA Tracking number: **ESTTA318183**

Filing date: **11/23/2009**

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

Proceeding	92051613
Party	Defendant OMNI CORPORATE ASSETS LIMITED
Correspondence Address	OMNI CORPORATE ASSETS LIMITED PALM GROVE HOUSE, P.O. BOX 438 ROAD TOWN, TORTOLA, VIRGIN ISLANDS, BRITISH
Submission	Answer
Filer's Name	Oliver H. Wessling
Filer's e-mail	information@netopsystems.com
Signature	/OLIVER H WESSLING/
Date	11/23/2009
Attachments	Answer to Consolidated Petition to Cancel 091123.pdf (2 pages)(11863 bytes) Specimen Class 9 Software CD Cover.pdf (1 page)(32302 bytes) Specimen Class 38 Website Print-out.pdf (1 page)(101320 bytes) Specimen Class 38 Businesscard_Netopsystems_Ltd.pdf (1 page)(88284 bytes) Specimen Class 42 Customization Proposal Netopsystems.pdf (3 pages)(26113 bytes) Specimen Class 42 Price Information Netopsystems Page 1.pdf (1 page)(19004 bytes) Specimen Class 42 Price Proposal.pdf (1 page)(18880 bytes) CERTIFICATE OF SERVICE.pdf (1 page)(6888 bytes)

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

In the Matter of)
Registration Nos. 3,005,630 and 3,102,908)
)
)
) Cancellation No. 92051613
OMNI CORPORATE ASSETS LIMITED,)
) ANSWER TO CONSOLIDATED
Respondent,) PETITION TO CANCEL
)
v.)
)
NETOP BUSINESS SOLUTIONS A/S,)
)
Petitioner.)

This Answer to the Consolidated Petition to Cancel is submitted by Mr OLIVER H WESSLING on behalf of OMNI CORPORATE ASSETS LIMITED.

OMNI CORPORATE ASSETS LIMITED with a mailing address at Palm Grove House, P.O. Box 438, Road Town, Tortola, British Virgin Islands (Respondent) is owner of the mark NETOPSYSTEMS & Design in connection with “computer software that allows software producers to distribute digital goods in the nature of software, games, mobile applications, and movies, in an efficient and secure way via the Internet and computer networks” in International Class 09, “telecommunication services, namely, electronic transmission of data by means of telephone, cable and computer in International Class 38 and “Computer software development and consultancy in the filed of data volume and download management” in International Class 42 (Registration No. 3,005,630 issued on October 11, 2005) and the mark NETOPSYSTEMS in connection with “development and consulting service in the field of software and hardware technology for optimization of data volume and download management” in International Class 42 (Registration No. 3,102,908 issued on June 13, 2006).

NETOP BUSINESS SOLUTIONS A/S, a Denmark public limited Company with a place of business at Bregnerodvej 127 DK-3460 Birkerod Denmark (Petitioner) on October 14, 2009, has filed a consolidated petition to cancel the above mentioned trademarks owned by Respondent on the grounds that

- 1.) the entire interest to the above-mentioned trademarks has been assigned from original registrant (Netopsystems AG) to Oliver H. Wessling on February 16, 2006 (for Reg No. 3,005,630) and on June 12, 2006 (for Reg No. 3,102,908) respectively.

Mr Oliver H. Wessling is the inventor of the “Netopsystems” name. Oliver H. Wessling was director and CEO of Netopsystems AG which is now trading as Netopsystems Limited. He is director and CEO of Netopsystems

Ltd as well as the OMNI CORPORATE ASSETS LIMITED (“Respondent”).

The “Netopsystems” mark was registered in the Federal Republic of Germany on February 23, 2001 (Registration No: 30104920). Based on the foreign registration and based on use in commerce, the mark “Netopsystems” was registered in International Classes 9, 38 and 42 in the United States on October 11, 2005 (Registration No: 3,005,630) and in International Class 42 on June 13, 2006 (Registration No: 3,102,908).

When the Netopsystems AG was dissolved, the entire interest in the mark was assigned to Mr. Wessling. Mr. Wessling continued to use the mark in connection with the goods & services for the Netopsystems Limited that was founded briefly after the demise of the Netopsystems AG.

Oliver H. Wessling sold the trademarks to the OMNI CORPORATE ASSETS LIMITED. He assigned his entire interest in both trademarks to the OMNI CORPORATE ASSETS LIMITED on August 24, 2006.

Mr. Wessling pays royalties to the OMNI CORPORATE ASSETS LIMITED for the use of the above mentioned marks. Mr Wessling continues to use the marks in connection with the goods and services.

and

- 2.) the Respondent discontinued use of the marks and has not resumed use of the marks for a least the last three years. Petitioner believes that the registered marks have been abandoned.

Respondent continues to use the above-mentioned marks. Evidence for the continued use can be found in the attached specimen of use which consists of a CD container for the software in International Class 9, a screenshot of the Netopsystems website and Mr. Wessling’s business card as evidence of use for International Class 38 and 3 price proposals for evidence of use in International Class 42.

WHEREFORE, Respondent requests that the petition to cancel Registration Nos. 3,005,630 and 3,102,908 be denied.

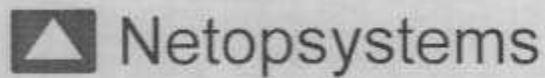
Please address all communications relating to this matter to Oliver H. Wessling, OMNI Corporate Assets Limited, 7181 Encina Lane, Boca Raton, FL 33433.

Respectfully submitted,

Date: November 23rd, 2009

By: /Oliver H. Wessling/
Director and CEO of

OMNI CORPORATE ASSETS
LIMITED



**Version 12.0
as per 02/01/10**

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Netopsystems

Netopsystems Ltd. is a software and consulting company specialized in the areas of electronic software distribution.

Our main expertise is electronic data transfer management solutions (all kinds of electronic data transfers including download, upload, updating and installations) and software compression solutions.

Our self-developed technologies and business expertise assist major software, entertainment and telecommunication companies to increase their software sales and revenue and customer satisfaction.

We offer customized solutions and consulting services in the field of software and hardware technology for the optimization of data volume and download management.

We look forward to hearing from you.

Please do not hesitate to contact us at information@netopsystems.com with any inquiry.

Netopsystems Ltd. - Thank you for checking out our website.
The software and service consulting company.

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Netopsystems



Oliver H. Wessling

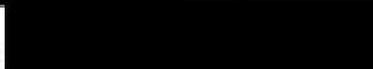


Netopsystems Limited



Square

London,



United Kingdom



[\[redacted\]@Netopsystems \[redacted\]](mailto: [redacted]@Netopsystems [redacted])



phone: +44 208 [redacted]



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Netopsystems Ltd, [REDACTED] Square,
London, [REDACTED], United Kingdom

[REDACTED]
Attn: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]



Netopsystems Limited
[REDACTED] Square
London, [REDACTED]
United Kingdom

Phone: [REDACTED]
[REDACTED]
E-Mail: [REDACTED]@netopsystems.com

Proposal Number HI 08/12	Contract [REDACTED]	Tel. / Ext. [REDACTED]	Date December 12, 2008
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Customization Proposal and Assignment

Additional Functionalities and Customization for Netopsystems' Download and File Transfer Manager

Dear Aaron,

Enclosed please find our Business Proposal / Assignment regarding adding additional functionalities and customization requirements for Netopsystems' download and file transfer manager.

This proposal is in accordance with the Master Agreement concluded between [REDACTED] and Netopsystems on November 27, 2008.

Please see page 2 for a list of new functionalities and customization possibilities.

In order to proceed with this, please use page 3 for your written assignment and send it to me via e-mail or fax.

Yours sincerely,

Oliver H. Wessling
[REDACTED]

Description	Price in EUR
<p>Functionalities and Customization for Netopsystems Download Manager</p> <ul style="list-style-type: none"> ➤ Customization/Adaptation of download progress bar ➤ Customization of the Look & Feel of Download Manager, consistent with [REDACTED]'s software application setup and installation process for [REDACTED] product ➤ Sequential display of Download and File Transfer Manager window and installation dialogue ➤ Message box if download is interrupted (Message text: Your download has been interrupted.). ➤ Message box that asks user whether or not s/he would like to reconnect and resume download if download is interrupted (Message text: A short-cut to resume download from point of interruption has been placed on your desktop.) ➤ Deactivation of security warning / information bar if user resumes download ➤ Language Support ➤ Software development and consultancy: new functionalities and new design of Download and File Transfer Manager skin for [REDACTED]'s medical file transfer requirements. 	
Total Fee	€ [REDACTED]

For your assignment please use page 3

Assignment

– Statement of Acceptance of Business Proposal No. HI 08/ 12–

Customer:



Project(s):

Additional Functionalities and Customization for Download Manager

Project / Proposal No.:

HI 08/12

 herewith accepts Business Proposal No. HI 08/12 extended by Netopsystems on December 12, 2008.

 assigns Netopsystems with the project named above that is described in the proposal.

_____ (Date)

_____ (By)

_____ (Name)

_____ (Title)



Please sign and send to: @netopsystems.com

Netopsystems Ltd., 7-12 Tavistock Square,
London, WC1H 9BQ, United Kingdom



[Redacted]

Attn.: [Redacted]

[Redacted]

[Redacted]

[Redacted], OR [Redacted]

USA

Netopsystems Limited
[Redacted] Square
London, [Redacted]
United Kingdom

Phone: + [Redacted]
E-Mail: [Redacted]@netopsystems.com

Your message ---	Proposal No. [Redacted]	Tel. / Ext. [Redacted]	Date April 7 th , 2008
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Price Information

Worldwide Use of Netopsystems' Complete Solution for Efficient Electronic Software Delivery

Dear Robert,

Please find our Price Information regarding the use of Netopsystems' complete solution including Netopsystems' NOSSO[®] Size Optimizer and getPlus[®] Client Package Manager[®] for the efficient electronic software delivery for all commercial and non-commercial downloads of [Redacted] Developer Products enclosed.

The license proposal is an annual proposal with a minimum license term of 3 years. It covers the license fees for NOSSO[®] and getPlus[®] CPM including your selection of supported Windows operating systems, browsers and functionalities as well as standard customization, maintenance and implementation support. Please see the attached proposal for a complete schedule of features and costs.

This price information is based on the information available to date and is not binding. Errors excepted.

In order to accept the proposal for the project and assign Netopsystems with the described project, please sign and return the Assignment Sheet on page 9.

Yours sincerely,

[Redacted]
Key Account Manager

Netopsystems Ltd., [REDACTED] Square,
London, [REDACTED], United Kingdom



[REDACTED], A division of [REDACTED], Inc.

Netopsystems Limited
[REDACTED] Square
London, [REDACTED]
United Kingdom

Attn.: [REDACTED]

[REDACTED]

[REDACTED], CA 94043

Phone: + [REDACTED]
E-Mail: [REDACTED]@netopsystems.com

USA

Your message ---	Proposal No. [REDACTED]	Tel. / Ext. + [REDACTED]	Date August 31 st , 2009
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Price Information

Increase Software Download Revenues with complete Netopsystems Download Solution

Dear David,

Enclosed please find our price information regarding the use of Netopsystems' data volume compression software iNOSSO[®] and getPlus+[®] Download Manager for all commercial and non-commercial downloads (including unlocked trial versions) of [REDACTED], [REDACTED], [REDACTED], and [REDACTED].

The proposal lists the price for the combined download solution package for the use of iNOSSO[®] and getPlus+[®] for [REDACTED], [REDACTED], [REDACTED], and [REDACTED] including comprehensive customization, maintenance and implementation support.

This price information lists the annual license fees for the use of our technology for a license term of 3 years. The use of the optimized [REDACTED] products created during this period is perpetually.

This price information is based on the information available to date and is not binding. Errors excepted.

Yours sincerely,

[REDACTED]
Key Account Manager

CERTIFICATE OF SERVICE

I, Oliver H. Wessling, Director and CEO of OMNI CORPORATE ASSETS LIMITED, state that, pursuant to 37 CFR §§ 2.114 and 2.119, I caused a copy of the foregoing Answer to the Consolidated Petition to Cancel to be served upon:

James P. Muraff
Neal, Gerber & Eisenberg LLP
Two North LaSalle Street
Chicago, IL 60602-3801
jmuraff@ngelaw.com

Via First Class U.S. Mail, postage pre-paid, on this 23rd day of November 2009.

/Oliver H. Wessling/
Oliver H. Wessling