

ESTTA Tracking number: **ESTTA332981**

Filing date: **02/18/2010**

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

Proceeding	92051613
Party	Plaintiff Netop Business Solutions A/S
Correspondence Address	James P. Muraff Neal, Gerber & Eisenberg LLP 2 N LaSalle St Chicago, IL 60602 UNITED STATES DocketMail@ngelaw.com, jmuraff@ngelaw.com
Submission	Reply in Support of Motion
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Signature	/Hillary I. Schroeder/
Date	02/18/2010
Attachments	ReplytoOppositionNetOp.pdf (9 pages)(144859 bytes)

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

In the Matter of:
Reg Nos. 3,005,630 and 3,102,908

NETOP BUSINESS SOLUTIONS A/S,)	
)	
Opposer,)	Cancellation No. 92051613
)	
v.)	
)	
OMNI COPRPORATE ASSETS LIMITED.)	
)	
Registrant.)	
)	

**REPLY TO REGISTRANT’S OPPOSITION TO MOTION FOR SANCTIONS AND
REQUEST TO WITHDRAW MOTION FOR SANCTIONS IN VIEW OF COUNSEL
FOR REGISTANT FINALLY CONTACTING OPPOSER**

In Reply to Registrant’s Opposition to Petitioner’s Motion for Sanctions, Netop Business Solutions A/S (“Opposer”) responds as follows:

1. Yesterday, on February 17, 2010, Jason R. Lee, Esq. of Lee, Lee & Associates, PC, contacted Opposer via voicemail and email, and communicated that he represents Registrant, and indicated that he is willing to cooperate in holding a discovery conference. However, yesterday, on February 17, 2010, the Board also issued an Order suspending this proceeding. Thus, Opposer requests that the present Motion for Sanctions be withdrawn, in order to have the suspension lifted and move this proceeding toward a resolution. As soon as the suspension is lifted, Opposer will contact Registrant’s counsel to again arrange for a discovery conference.

2. However, to clarify the record, Opposer still replies to Registrant’s Response as follows: Opposer waited over eight weeks and Registrant only yesterday finally contacted Opposer to hold the discovery conference, after Opposer initially contacted Omni Corporate Assets Ltd (“Registrant”) regarding having a discovery conference. (See Exhibit A).

3. While Opposer acknowledges that Registrant is finally taking steps to cooperate in the discovery process, this late action does not excuse Registrant's poor behavior over the past two months. Prior to Mr. Lee's communications, Registrant never contacted Opposer regarding the discovery conference or any other matter. While Opposer recognizes that Registrant may not have been available for certain proposed dates, Registrant's obstinate refusal to propose alternate dates—or to respond to Opposer in any manner—disrupted discovery proceedings and forced Opposer to request sanctions.

4. Furthermore, Registrant inappropriately attempts to excuse the failure to cooperate in these proceedings by falsely blaming Opposer. Registrant alleges that “the Petitioner [the Opposer] failed to properly note the Registrant's addresses; both electronically and via postal service which resulted in never receiving the electronic correspondence and/or further delay for the postal service.” Opposer is unsure what Registrant means when it states that Opposer “failed to properly note” Registrant's address. Opposer sent all correspondence to the mailing address that Opposer listed in the Change of Correspondence Address that Registrant filed on November 23, 2009: 7181 Encina Lane, Boca Raton, Florida 33433. (See Exhibit B). Opposer also sent correspondence to an additional mailing address and to additional email addresses that Opposer had found for Registrant. Such efforts were made to ensure that Registrant received Opposer's correspondence. Opposer has done much more than what the rules require in this proceeding regarding notice and cooperation.

5. Finally, Registrant attempts to explain its total lack of cooperation in the discovery process by disingenuously complaining about Opposer's “wholly unreasonable” attempts to schedule a discovery conference and by complaining that Registrant refused to “timely coordinate the required discovery events.” Registrant's positions blatantly ignore that both parties were ordered to participate in a discovery conference, pursuant to this Board's

October 16, 2009 scheduling order and that both parties have a duty to comply with this order and to schedule and participate in the discovery conference. Opposer clearly fulfilled its duty by reaching out to Registrant on multiple occasions to schedule a discovery conference, through multiple communication lines. Yet, Registrant took no steps toward scheduling or participating in this conference until weeks after Opposer was forced to request sanctions.

6. Nonetheless, Opposer hereby withdraws this Motion for Sanctions, but reserves its right to renew this Motion in combination with a request regarding any additional future bad behavior that should also be considered for sanctions.

WHEREFORE, Opposer withdraws its request that the Board sanction Registrant for the present time.

Dated: February 18, 2010

Respectfully Submitted,

By: /Hillary I. Schroeder/
One of Opposer's Attorneys

Hillary I. Schroeder
James P. Muraff
NEAL, GERBER & EISENBERG LLP
Two North LaSalle Street
Suite 1700
Chicago, IL 60602-3801
(312) 269-8000

CERTIFICATE OF SERVICE

I, Hillary I. Schroeder, state that I served a copy of the foregoing Reply To Registrant's Opposition To Motion For Sanctions And Request To Withdraw Motion For Sanctions In View Of Counsel For Registrant Finally Contacting Opposer:

Mr. Jason R. Lee, Esq.
Lee, Lee & Associates, P.C.
2531 Jackson Road
Suite 234
Ann Arbor, MI 48103

via overnight courier on February 18, 2010.

/Hillary I. Schroeder/
Hillary I. Schroeder, Esq.

NGEDOCs: 1690985.1

Exhibit A

December 22, 2009

VIA EMAIL WESSLING@NOSLTD.COM
CONFIRMATION BY AIRMAIL

Mr. Oliver H. Wessling
Omni Corporate Assets Limited
Palm Grove House, P.O. Box 438
Road Town, Tortola
Virgin Islands, British

Mr. Oliver H. Wessling
7181 Encino Lane
Boca Raton, Florida 33433

Re: **Required Discovery Conference in Cancellation Proceeding No. 92061613**

Dear Mr. Wessling:

We are contacting you at this time to schedule the required discovery conference in Cancellation Proceeding No. 92061613. As you should be aware, this conference must take place by December 25, 2009. Given the upcoming holiday, we would like to hold this conference over the telephone on December 23, 2009 at 3:00 p.m.

As you should also be aware, this proceeding needs to be conducted in accordance with the Trademark Rules of Practice set forth in Title 37, part 2, of the Code of Federal Regulations ("Trademark Rules") which are accessible at: <http://uspto.gov/main/trademarks.htm>. As such, you must be prepared to engage in talks with us regarding all three topics that the Trademark Rules require the parties to discuss: (1) the nature and basis of our claims (or in your case, any possible defenses); (2) the possibility of settlement or narrowing of the claims in issue; and (3) arrangements relating to disclosures, discovery and introduction of evidence at trial. See Trademark Rule 2.120(a)(2).

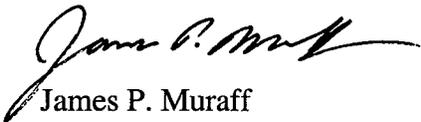
Furthermore, we would like to discuss the terms of a proposed protective order with you. To that end, we are currently reviewing the Standard Protective Order furnished by the USPTO for these proceedings to see if we will require any amendment for use in this matter. We welcome any comments you have in this regard. The Standard Protective Order is available for viewing at: <http://www.uspto.gov/web/offices/dcom/ttab/tbmp/stndagmnt.htm>.

NEAL, GERBER & EISENBERG LLP

Mr. Oliver H Wessling
Omni Corporate Assets Limited
December 22, 2009
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Please contact us to confirm this time is okay for you to attend this telephonic discovery conference, or please inform us as soon as possible to schedule the required discovery conference.

Very truly yours,



James P. Muraff

JPM:hs

NGEDOCS: 1678954.1

Exhibit B

ESTTA Tracking number: **ESTTA318428**

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

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

Change of Correspondence Address

Proceeding.	92051613
Defendant	Defendant OMNI CORPORATE ASSETS LIMITED

Please change the correspondence address for the above party here as follows:

Old Correspondence Address	OMNI CORPORATE ASSETS LIMITED PALM GROVE HOUSE, P.O. BOX 438 ROAD TOWN, TORTOLA, VIRGIN ISLANDS, BRITISH
New Correspondence Address	OLIVER H WESSLING OMNI CORPORATE ASSETS LIMITED 7181 Encina Lane Boca Raton, FL 33433 UNITED STATES information@netopsystems.com

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.

Respectfully submitted,
/OLIVER H WESSLING/
Oliver H. Wessling
information@netopsystems.com
11/23/2009