

ESTTA Tracking number: **ESTTA775832**

Filing date: **10/11/2016**

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

## Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

### Petitioner Information

Name	Information Builders, Inc.		
Entity	Corporation	Citizenship	New York
Address	2 Penn Plaza New York, NY 10121 UNITED STATES		

Attorney information	Howard F. Mandelbaum Levine Mandelbaum PLLC 222 Bloomingdale Road, Suite 203 White Plains, NY 10605 UNITED STATES mail@levman.com Phone:(914) 421-0500		
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### Registration Subject to Cancellation

Registration No	4889996	Registration date	01/19/2016
Registrant	Exact Software North America, LLC 5455 Rings Road, Suite 100 Dublin, OH 43017 UNITED STATES		

### Goods/Services Subject to Cancellation

<p>Class 009. First Use: 2015/07/21 First Use In Commerce: 2015/07/21 All goods and services in the class are cancelled, namely: Computer software and computer programs, namely, registered computer programs for use in database management and portal management; integrated software application suites for use in financial accounting, distribution, manufacturing, sales automation and payroll, enterprise resource planning, document management, security control, conducting electronic business transactions via a global computer network, and automation of business processes and functions; software for business and manufacturing management, namely, computer programs for accounting, billing, payroll, accounts receivable, inventory control, electronic data interchange, order entry, purchasing, scheduling, product work flow, materials tracking, materials planning, product costing, performance tracking, scheduling, capacity tracking, and shop management in the nature of quoting, job scheduling, production control, inventory management, accounting and quality control, manufacturing operations management, executive information management, integrated financial management, distribution management, and manufacturing management</p>
<p>Class 042. First Use: 2015/07/21 First Use In Commerce: 2015/07/21 Cancelled goods and services in the class: Providing on-line non-downloadable software, through public or private networks for the processing, saving and retrieval of information; computer programming; computer programming for electronic data processing; developing and updating of software and index database systems</p>

### Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act Sections 14(1) and 2(d)
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Dilution by blurring	Trademark Act Sections 14(1) and 43(c)
Dilution by tarnishment	Trademark Act Sections 14(1) and 43(c)

### Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	1652265	Application Date	08/23/1990
Registration Date	07/30/1991	Foreign Priority Date	NONE
Word Mark	FOCUS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1975/03/00 First Use In Commerce: 1975/03/00 computer programs for data base management		

U.S. Registration No.	2821942	Application Date	06/30/2000
Registration Date	03/16/2004	Foreign Priority Date	NONE
Word Mark	FOCUS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 1975/03/00 First Use In Commerce: 1975/03/00</p> <p>COMPUTER SOFTWARE FOR DATABASE MANAGEMENT; COMPUTER SOFTWARE FOR USE IN DECISION SUPPORT SYSTEMS; COMPUTER SOFTWARE FOR USE IN ENTERPRISE REPORTING AND ANALYSIS SYSTEMS AND FOR BUILDING APPLICATIONS FOR THE MANAGEMENT AND TRACKING OF DATA FOR ENTERPRISE REPORTING SYSTEMS; COMPUTER DATABASE PROGRAMS FOR USE IN CONNECTION WITH DECISION SUPPORT, ANALYSIS, AND REPORTING PROGRAMS; COMPUTER SOFTWARE DEVELOPMENT TOOLS FOR USE IN DEVELOPING DECISION SUPPORT, ANALYSIS, AND REPORTING SYSTEMS AND APPLICATIONS; COMPUTER SOFTWARE, NAMELY, CLIENT/SERVER REPORTING, ANALYSIS AND DECISION SUPPORT TOOLS; COMPUTERIZED DATABASE, REPORTING, AND ANALYSIS SOFTWARE FOR USE ON CORPORATE INTRANETWEB SITES; ENTERPRISE SERVER SOFTWARE FOR USE IN WEB BASED DATA PUBLISHING, REPORTING, AND ANALYSIS SOLUTIONS; COMPUTER SOFTWARE FOR ACCESSING DATABASES BY MEANS OF GLOBAL COMPUTER NETWORKS TO GENERATE REPORTS; SOFTWARE DEVELOPMENT TOOLS FOR MAKING REPORTING AND ANALYSIS AVAILABLE THROUGH GLOBAL COMPUTER NETWORK WORLDWIDE WEBSITES</p>		

	AND FOR EXTENDING THE FUNCTIONALITY OF ENTERPRISE REPORTING AND ANALYSIS SYSTEMS ON TO GLOBAL COMPUTER NETWORKS; AND COMPUTER SOFTWARE FOR ACCESSING AND UPDATING DATA-BASES THROUGH GLOBALCOMPUTER NETWORKS
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Attachments	76083549#TMSN.png( bytes ) IBI 9680US_PetitionToCancel.pdf(130267 bytes )
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### **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.

Signature	/Howard F. Mandelbaum/
Name	Howard F. Mandelbaum
Date	10/11/2016

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE COMMISSIONER OF PATENTS AND TRADEMARKS**

In re Registration of:  
Exact Software North America, LLC  
U.S. Trademark Registration No. 4,889,996  
Issued: January 19, 2016  
Trademark and Service Mark: FOCUS ON WHAT'S NEXT

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Information Builders, Inc. :  
  
                                  Plaintiff, :  
  
                                  v. :  
  
Exact Software North America, LLC :  
  
                                  Defendant. :  
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**PETITION TO CANCEL**

Plaintiff, Information Builders, Inc., a corporation of the State of New York, having a principal place of business at 2 Penn Plaza, New York, New York 10121-2898, believes that it is damaged by registration of the mark identified above, and hereby petitions to cancel this registration.

The grounds for the petition are as follows:

1. Plaintiff produces, markets and/or licenses computer software for database management, for use in decision support systems, and for information control, reporting, and networking, including designing, building, and maintaining databases, recording, processing, analyzing and displaying data and information in a wide variety of industries and other fields, and

provides to its customers support services including education in the use of software, and technical support and consultation in connection with implementation and installation of the software.

2. Since 1975, Plaintiff has been marketing its software under the trademark FOCUS to computer users in a wide variety of industries and providing consulting services in connection with its FOCUS software for use in the management of business, and Plaintiff has registered its FOCUS trademark in the Patent and Trademark Office under Nos. 1,652,265 and 2,821,942.

3. In the early 1980's, Plaintiff began marketing its software under various additional trademarks which include the word FOCUS. Plaintiff is also the owner of the following Patent and Trademark Office registrations:

<u>Registration No.</u>	<u>Trademark</u>
2,223,450	FOCUS FORECASTING
2,223,457	FOCUS FORECASTING
2,248,562	WEBFOCUS
2,685,249	WEBFOCUS
3,755,093	OMNIFOCUS
3,831,741	WEBFOCUS MAGNIFY

4. Plaintiff sells computer software under its family of FOCUS trademarks, for managing data over a computer network and for displaying the data and reports based on the data.

5. Plaintiff sells computerized instruction and training courses, accompanied by related printed materials, for teaching the use of FOCUS software.

6. Plaintiff renders consulting services in connection with its FOCUS software for use in the management of business.

7. Plaintiff has published a magazine entitled FOCUS SYSTEMS JOURNAL, and newsletters entitled FOCUS NEWS and FOCUS FLASH, as well as an online magazine entitled "The FOCUS Quarterly", and currently publishes WEBFOCUS Journal.

8. Plaintiff established "The Focus Users Group" (FUUSE) for its customers, and now holds annual conferences at which representatives of those who use FOCUS software attend educational workshops, see product demonstrations, and otherwise exchange information about FOCUS software.

9. Defendant, Exact Software North America, LLC's Registration No. 4,889,996 covers the trademark and service mark FOCUS ON WHAT'S NEXT for use on "Computer software and computer programs, namely, registered computer programs for use in database management and portal management; integrated software application suites for use in financial accounting, distribution, manufacturing, sales automation and payroll, enterprise resource planning, document management, security control, conducting electronic business transactions via a global computer network, and automation of business processes and functions; software for

business and manufacturing management, namely, computer programs for accounting, billing, payroll, accounts receivable, inventory control, electronic data interchange, order entry, purchasing, scheduling, product work flow, materials tracking, materials planning, product costing, performance tracking, scheduling, capacity tracking, and shop management in the nature of quoting, job scheduling, production control, inventory management, accounting and quality control, manufacturing operations management, executive information management, integrated financial management, distribution management, and manufacturing management" in Class 9, and "Providing on-line non-downloadable software, through public or private networks for the processing, saving and retrieval of information; computer programming; computer programming for electronic data processing;. . .developing and updating of software and index database systems" in Class 42.

10. Upon information and belief, Defendant's software is so closely related to Plaintiff's software and the printed and online materials distributed by Plaintiff, that use of similar marks on the respective goods of the parties is likely to cause confusion or mistake, or to deceive purchasers as to the origin or sponsorship of the goods and services.

11. Upon information and belief, the registration by Defendant of FOCUS ON WHAT'S NEXT for goods and services closely related to Plaintiff's goods and services threatens to impair

Plaintiff's free use of its trademark, and to result in injury to the good will Plaintiff has acquired with respect to its trademark, all to Plaintiff's damage.

WHEREFORE, Plaintiff prays that this petition for cancellation be sustained, and that U.S. Trademark Registration No. 4,889,996 be cancelled.

/Howard F. Mandelbaum/  
Howard F. Mandelbaum  
Attorney for Plaintiff  
Levine Mandelbaum PLLC  
222 Bloomingdale Road, Suite 203  
White Plains, NY 10605  
(914) 421-0500