

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

PC Club	)	
	)	
Opposer,	)	Opposition No. 117,612
	)	
v.	)	
	)	
EASTERN SOFTWARE CORPORATION	)	
	)	
Applicant.	)	
_____	)	

BOX TTAB  
Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

**OPPOSITION OF OPPOSER'S REQUEST TO REOPEN PROCEEDING**

In a request to reopen proceeding, dated April 5, 2002, the Opposer requested that the Board reopen proceeding and order that the discovery period be set to close 120 days after a resolution of Applicant's motion to recognize a settlement. The Applicant respectfully opposes this request at the present time. The Applicant opposes the Opposer's request as being (1) untimely, and (2) detrimental to the Applicant. Further, a denial of the Opposer's request would not prejudice the Opposer's ability to preserve its position in this proceeding through resubmission of the request, in a more timely manner, following resolution of the pending motion to recognize the settlement between the parties.

The Applicant need not address the chronology set forth in the Opposer's request, other than to acknowledge that the Applicant does believe that a valid, enforceable settlement has been reached between the parties and that recognition of this

settlement agreement by the Board as requested in the pending motion by the Applicant will make the Opposer's present request moot.

The Opposer's request is believed to be untimely for two reasons:

1. Opposer has recognized that the outstanding motion is dispositive of this case and reopening proceeding prior to disposition of this motion is inappropriate. Additionally, Opposer has presented no significant reason why proceeding should be reopened at this time and why such a decision in reopening the proceeding could not be delayed following disposition of the pending motion to recognize the existing settlement between the parties. The Opposer simply will not be prejudiced in any manner by delaying a request to reopen proceeding until the resolution of the outstanding motion.

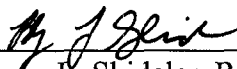
2. Opposer has entered into an agreement to settle this issue as set forth in the Applicant's pending motion mentioned above. The Opposer is attempting to sidestep this issue by proceeding as if no agreement were reached.

Regardless, turning to the merits of the Opposer to reopen proceeding, even assuming the Opposer's position regarding the proposed settlement is correct and that no settlement has been reached, there is no significant basis for reopening the proceeding at this point. The Opposer has undertaken whatever discovery desired during the requisite period and Applicant will certainly supplement the outstanding discovery requests following the filing of the protective order which the parties agreed to. However, other than supplementing the existing discovery, there is no basis for reopening proceeding in this matter.

As a final note, Opposer's lack of discovery is somewhat indicative of an agreement being reached between the parties. Regardless, there is still no basis for granting the Opposer's request for reopening proceeding at this time. It is respectfully requested that the Opposer's request be denied for all of the reasons discussed above.

Respectfully Submitted,

Dated: April 22, 2002

  
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Attorneys for Applicant

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing *Opposition of Opposer's Request To Reopen Proceeding* was served this 22<sup>th</sup> day of April 2002, by first class mail, postage prepaid upon the following counsel for Opposer:

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\_\_\_\_\_  
Attorney for Applicant



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04-25-2002

U.S. Patent & TMO/TM Mail Rpt Dt. #26

Opposition No. 117,612  
Attorney Docket No.: 1925-000791

Date April 22, 2002  
Case Docket No. 1925-000791

BOX TTAB  
COMMISSIONER FOR TRADEMARKS  
2900 CRYSTAL DRIVE  
ARLINGTON, VA 22202-3513

Sir:

Office is: Transmitted herewith for filing with the United States Patent and Trademark

APPLICANT: Eastern Software Corporation

FOR: **Opposition: PC CLUB v. EASTERN SOFTWARE CORPORATION**

INCLUDING: Transmittal Form in Triplicate; Opposition of Opposer's Request To Reopen Proceeding

TRADEMARK TRIAL AND APPEAL BOARD  
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The Commissioner of Patents and Trademarks is hereby authorized to charge any additional payment of the fees associated with this communication to Deposit Account No. 23-0650. Please refund any overpayment to Deposit Account No. 23-0650.

The original and two copies of this transmittal sheet are enclosed.

Respectfully submitted,  
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I hereby certify that this correspondence is being deposited with the United States Postal Service as Express mail in an envelope addressed to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513 on April 22, 2002.

Susan E. Vresh  
(Name of person mailing paper)  
*Susan E. Vresh* 4/22/02  
Signature Date

2