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PETER M. DE JONGE
THORPE NORTH & WESTERN, L.L.P.
8180 South 700 East Suite 200
Sandy, Utah 84070
Telephone: (801) 566-6633
Facsimile: (801) 566-0750

Attorneys for Sarcos L.C.
Opposed Mark: WAYPORT
U.S. Service Mark Application Serial Number 75/807,563

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

)	
Sarcos L.C.)	
)	
	Opposer,)	
)	
	v.)	Opposition No. _____
)	
Wayport, Inc.)	
)	
	Applicant.)	
)	

NOTICE OF OPPOSITION

Sarcos L.C. (hereinafter referred to as "Opposer"), a limited liability company existing under the laws of the State of Utah, having a principal place of business at 360 Wakara Way, Salt Lake City, Utah 84108, believes it will be damaged by the registration of the mark WAYPORT in Application Serial No. 75/807,563, and opposes and alleges the following:

CERTIFICATE OF DEPOSIT

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Service", on the date indicated below in an envelope addressed to: Assistant Commissioner for Trademarks Box TTAB-Fee, 2900 Crystal Drive, Arlington, VA 22202-3513.

Date of Deposit 12-19-01

Mandy Siegrist

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1. Wayport, Inc. (hereinafter referred to as "Applicant"), a Delaware Corporation, having a business address of 1609 Shoal Creek, Suite 301, Austin, Texas 78701, seeks to register the mark WAYPORT as a trademark/service mark for "computer software for facilitating connectivity to a global computer information network," in International Class 9, "installation of computer hardware and peripherals to facilitate multiple-user access to a global computer information network and wireless single or multiple-user access to the internet, to intranets, or to a global computer information network," in International Class 37, "computer services, namely, providing multiple-user access to a global computer information network; providing wireless single or multiple-user access to the internet, to intranets, or to a global computer information network; computer services, namely, providing for the transmission of data, voice, video and audio in buildings having single or multiple users, via a global computer information network," in International Class 38, and "installation of computer software to facilitate multiple-user access to a global computer information network and for wireless single or multiple-user access to the internet, to intranets, or to a global computer information network; computer consultation services, namely for connectivity and network monitoring, and for users and employees in connectivity and networking related to the internet, to intranets, or to a global computer information network," in International Class 42.

2. Opposer is the owner by assignment from Sarcos, Inc. of U.S. Trademark Registration No. 2,055,820, for the mark I PORT, for use in connection with "computers and computer peripherals for presenting virtual reality by simulating a visual, auditory and/or tactile environment to a human being."

3. Opposer is currently using and has continuously used the mark I PORT in Registration No. 2,055,820 in interstate commerce since at least as early as February 17, 1994.

4. Opposer is the owner of Application Serial No. 76/283,527, for the mark I PORT, for use in connection with “computer hardware, computer software, computer peripherals and sensors for detecting and/or monitoring physical condition and/or medical condition of medical patient, for detecting and/or monitoring location of medical patient, for detecting, monitoring and measuring variables in medical patient’s environment and for communicating physical condition, medical condition, environment and location information and other patient health information to healthcare professionals, family members and other interested third parties; computer hardware, computer software, computer peripherals, sensors and other mechanical and electrical devices for creating virtual environment, for interacting with virtual environment, for detecting, measuring and responding to forces and position changes by user, for causing forces applied to user and causing position changes to user for use in training military personnel and civilian personnel; computer hardware, computer software, computer peripherals, sensors and other mechanical and electrical devices used as an interface between individual user and global or local computer network.”

5. Opposer has built up substantial goodwill in its mark I PORT.

6. Registration of Applicant’s mark WAYPORT is likely to damage Opposer in that Applicant’s mark, when used on or in connection with the identified goods, so resembles the Opposer’s mark I PORT, as to be likely to cause confusion, to cause mistake or to deceive. Such confusion is likely to falsely suggest a connection between Applicant and Opposer.

7. Additionally, the goods and services identified in Application Serial No. 75/807,563 are sufficiently similar to those in Registration No. 2,055,820 and Application Serial No. 76/283,527

to cause a likelihood of confusion, mistake or to deceive.

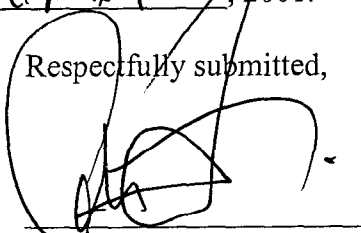
8. Upon information and belief, Applicant selected its mark with full knowledge of Opposer's mark.

WHEREFORE, Opposer requests that Application Serial No. 75/807,563 be refused registration, that no registration be issued to Applicant for the mark WAYPORT and that this Opposition be sustained in favor of Opposer.

That statutory Opposition Filing Fee of \$1200.00 is included herewith. Please charge any additional fees and credit any overpayment to Deposit Account No. 20-0100. A duplicate copy of this Notice is enclosed as required by 37 CFR 2.11(a).

DATED this 18th day of December, 2001.

Respectfully submitted,


Peter M. de Jonge
Attorney for Opposer

THORPE NORTH & WESTERN, L.L.P.
P.O. Box 1219
Sandy, Utah 84091-1219
Telephone (801) 566-6633
Facsimile (801) 56-0750