

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

BEST SOFTWARE, INC.,)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
JOSIPOVICH, DOROTHY, <i>et al.</i>)	
)	
Applicants.)	

NOTICE OF OPPOSITION

In the matter of an application to register a trademark under the Trademark Act of 1946, Serial No. 76/196,777, filed January 19, 2001, in the name of Dorothy Josipovich, Daniel E. Josipovich, Daniel T. Josipovich, Mark Josipovich, and Michela Josipovich, published for opposition in the Trademark Official Gazette of August 28, 2001, Vol. 1249, No. 4, at page TM 448, for the mark B.E.S.T., the Opposer, Best Software, Inc., believes it will be damaged by registration of said alleged trademark and hereby opposes same. The grounds for opposition are as follows:

1. The Opposer, Best Software, Inc. [hereinafter "Best"], is a corporation duly organized and existing under the laws of the state of Virginia and having its place of business at 11413 Isaac Newton Square, Reston, Virginia 22090. Opposer produces, provides and markets computer software, and business management solutions, and related products and services.

2. Since prior to the filing date of the application opposed herein and/or prior to the date of first use claimed therein, Opposer Best has, and is now, engaged in the creation, advertisement, marketing, licensing and distribution of its goods and services, in commerce under and in connection with the trade name and trademark **BEST**, including the mark(s) and name(s) **BEST!**, **BEST**

PROGRAMS, BESTSOFTWARE.COM and/or BEST SOFTWARE (hereafter, collectively, Opposer's **BEST** mark(s)). Opposer Best continuously has used said Opposer's **BEST** mark(s) and name(s), in commerce in connection with its products and services advertised, offered, marketed, distributed, licensed and sold by Best, and to identify and designate same, and to distinguish those goods, services, and Opposer Best's business, from those of others.

3. Opposer Best is the owner of, and will rely on herein, the following U.S. trademark and service mark registrations:

REGISTRATION NO.	ISSUE DATE
2,229,346	March 2, 1999
1,911,151	August 15, 1995
1,374,606	December 10, 1985

Opposer also is the owner of trademark application serial no. 75/193,059, filed November 1, 1996; a Notice of allowance has issued in said application, and when a registration issues thereon, Opposer will rely herein on that registration, as well.

4. Since Opposer's initial use of Opposer's **BEST** mark(s) and name(s), Best has used, and advertised, produced and offered for licensing and sale its goods and services under and in connection with its **BEST** mark(s), to the public, through various channels of trade, and in commerce, with the result that Opposer's customers and the public in general have come to know and recognize said name(s) and mark(s) of Opposer and associate same with Opposer and/or the goods and services advertised, marketed, distributed, and sold by Opposer Best.

5. On January 19, 2001, Applicants filed an application to register the mark B.E.S.T. Said application was accorded serial no. 76/196,777 and was published for opposition in the Official Gazette of August 28, 2001, at TM 448, identifying the goods as "computer software for generating cost estimate guides for the insurance, disaster, restoration, cleaning, repair, reconstruction and remodeling industries."

6. The B.E.S.T. mark sought to be registered by Applicants is virtually identical to, a colorable imitation of, and is confusingly similar to, Opposer's prior and aforesaid **BEST** mark(s) and name(s).

7. On information and belief, the goods identified in the application opposed herein are the same, and/or are similar and/or related, to the goods and services in connection with which Best uses Opposer's **BEST** mark(s) and name(s), and are and/or will be sold through the same and/or similar channels of trade, and/or to the same general class of purchasers, in and to which Best's products, goods and services are marketed and/or sold.

8. The registration and/or use of the B.E.S.T. mark, as set forth in the opposed application, is likely to cause confusion, mistake, and/or to deceive as to origin, sponsorship, and/or association of Applicants' goods sold under the B.E.S.T. mark sought to be registered by Applicants vis-a-vis Opposer and/or Opposer's **BEST** mark(s) and name(s), and/or to mislead purchasers of Applicants' and/or Opposer's goods and services, and/or the public in general, into believing that Applicants' goods are sold by, emanate from, and/or in some way, directly or indirectly, are associated with Best, and/or Opposer's **BEST** mark(s) and name(s) and/or Opposer's products, goods, services or business, or vice versa, to the damage and detriment of Best.

9. By virtue of the foregoing, Best believes it will be damaged by the registration by Applicants of the B.E.S.T. mark, as set forth in application serial no. 76/196,777.

10. If Applicants are granted the registration opposed herein, and Applicants obtain such rights as conferred under the Principal Register of the Trademark Act of 1946, Applicants will obtain unlawful gain and advantage to which they are not entitled under the Trademark Act of 1946, to the detriment and harm of Opposer.

WHEREFORE, this Opposer, Bcst Software, Inc., believes and alleges that it will be damaged by registration of the B.E.S.T. mark of application serial no. 76/196,777, as aforesaid, and prays that:

- A. judgment in the present opposition be entered in favor of Opposer;
- B. the present opposition be sustained; and
- C. registration of application serial no. 76/196,777 be rejected and refused.

Respectfully submitted,

BEST SOFTWARE, INC.

By: 

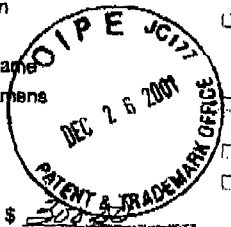
Marsha G. Gentner
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Date: December 26, 2001

JH Ref I-4536 Today's Date 12/26/01
 Serial/Reg. No. New Application
 Applicant, Registrant, Opposer, Petitioner Best Software v. Jorgensen
 Mark or Matter B.E.S.T.

The following has been received in the U.S. Patent & Trademark Office on the date stamped hereon:

- Appl'n for Registration, Declaration, Dwg. Specimens, Power of Attorney
- Appointment of Dom. Representative
- Certified Copy of Foreign Registration Translation thereof
- Response to Office Action
- Drawing
- Assignment/Change of Name
- Decl. for Substitute Specimens
- Extension of Time
- Statement of Use
- Decl. Under §2(f)
- Notice of Opposition of to S.N. 7/6/96, 977
- Petition for Cancellation of Reg. No. _____
- Request for Extension of Time to oppose S.N. _____
- Paper(s) in Op., Can., Conc. Use, Int. No. _____
- Affidavit §8, §15, §88 & 15
- Renewal Reg. No. _____
- Other _____



(JH 5/01) Person filling Jacobson Holman
 Check for \$ 300.00 Due Date 12/26/01

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IMPORTANT!
FACSIMILE COVER LETTER

FROM:	Marsha G. Gentner
TO:	James Scott
COMPANY:	Trademark Trial and Appeal Board
OUR REFERENCE:	7171/I-4556
YOUR REFERENCE:	Best Software v. Dorothy Josepovich, et al. (B.E.S.T. - Serial No. 76/196,777)
FAX NO.:	(703) 746-7096
DATE:	June 28, 2002

No. of pages, including cover sheet: 6

Originals: By Courier By Hand By Mail Not Sent

In response to your telephone conversation with my secretary with respect to the above matter, attached please find the Notice of opposition, which we filed on December 26, 2001, along with the date stamped PTO post card.

THIS COMMUNICATION IS INTENDED ONLY FOR THE USE OF THE ADDRESSEE AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED AND CONFIDENTIAL. IF YOU ARE NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THIS COMMUNICATION TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, COPYING, OR OTHER USE OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE. THANK YOU.