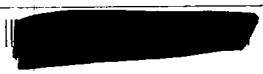


TTAB

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



In the matter of
Trademark Application Serial No. 76/141,682
Filed: October 6, 2000
Published: June 12, 2001
Mark: NETRASPECT

12-03-2002

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #72

Sun Microsystems, Inc.,

Opposer,

v.

Netraspect, Inc.,

Applicant.

Opposition No. 153003

ANSWER

Box TTAB / NO FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA. 22202-3513

CERTIFICATE OF EXPRESS MAIL
37 C.F.R. Sec.1.10

I hereby certify that this document is being deposited with the United States Postal Service, "EXPRESS MAIL to the addressee" service under 37 C.F.R. Sec. 1.10 on the date set forth below.

To: Office of the Assistant Commissioner for Trademarks
2900 Crystal Drive
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Express mailing number: EI988770840US

Date of Deposit: 12/3/2002

Name of person certifying mailing: William S. Wyler, Esq.

Signature:

20152v1

CEP

ANSWER OF APPLICANT

Applicant herein, Netraspect, Inc., an Ohio Corporation, located at PO Box 778 Batavia, Ohio 45103 and the applicant in the Application for Registration of a Trademark on the Principal Register Serial Number 76141682, filed October 6, 2000 answers the Notice of Opposition filed by Sun Microsystems, Inc. as follows:

First Defense

1. Applicant admits the allegations set forth in paragraph 1 of Opposer's Opposition complaint.
2. Applicant admits the allegations set forth in paragraph 2, sentences 1, 2, 3, and 4 of Opposer's Opposition complaint.
3. Applicant admits the allegations set forth in paragraph 2, sentence 5 of Opposer's Opposition complaint as to the mark NETRA, but not as to the mark NETRASPECT.
4. Applicant is without knowledge to admit or deny the allegations set forth in paragraph 2, sentence 6 of Opposer's Opposition complaint.
5. Applicant denies the allegations set forth in paragraph 2, sentence 7 of Opposer's Opposition complaint.
6. Applicant is without knowledge to admit or deny the allegations set forth in paragraph 3, sentences 1, 2, and 3 of Opposer's Opposition complaint.
7. Applicant denies the allegations set forth in paragraph 3, sentences 4 and 5 of Opposer's Opposition complaint.

First Affirmative Defense

8. Applicant restates each allegation and defense set forth above, as if set forth herein.
9. Applicant offers system consulting and monitoring services to end-user companies.

10. Opposer's registered mark, NETRA, is registered for the goods set forth in Opposer's Notice of Opposition, which goods are limited to hardware and software pertaining to system operations, rather than end-user consulting and monitoring services, such as those offered by Applicant.
11. Opposer does not claim to offer any services under the NETRA mark which are similar to Applicant's services.
12. Those services which Opposer does offer and which Opposer claims are similar to the services offered by Netraspect, are not offered under the NETRA mark.
13. Therefore, Opposer's NETRA mark is not applied to or used for those services of Opposer, for which there could have been a likelihood of confusion or mistake or deception or dilution in value.
14. The Notice of Opposition fails to state a claim for which relief may be granted.

Second Affirmative Defense

15. Applicant restates each allegation and defense set forth above, as if set forth herein.
16. Applicant's use of the mark NETRASPECT does not cause likelihood of confusion or mistake or deception or dilution in value in Opposer's mark NETRA, which is applied to system software and computer hardware.

Third Affirmative Defense

17. Applicant restates each allegation and defense set forth above, as if set forth herein.
18. Opposer has acquiesced in Applicant's use of the mark NETRASPECT.
19. Opposer is estopped from alleging likelihood of confusion or mistake or deception or dilution in value.

Wherefore, having fully answered Opposer's Notice of Opposition, Applicant asks that said Opposition be found to be without merit and that it be dismissed at Opposer's costs.

Respectfully submitted,

Date:

12/3/2002

OF COUNSEL:

Schwartz, Manes & Ruby



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Attorney for Applicant

CERTIFICATE OF SERVICE

The forgoing pleading, motion or document, filed with the TTAB, has been sent to counsel for Opposer, Tandra L. Neundorf, Esq., Fenwick & West, LLP, Two Palo Alto Square, Suit 800, Palo Alto, California, by regular U.S. Mail, on this 12th day of December, 2002.



William S. Wyler



Schwartz, Manes & Ruby
A LEGAL PROFESSIONAL ASSOCIATION

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Cincinnati, Ohio 45202
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December 3, 2002

Box TTAB / NO FEE

Assistant Commissioner for Trademarks
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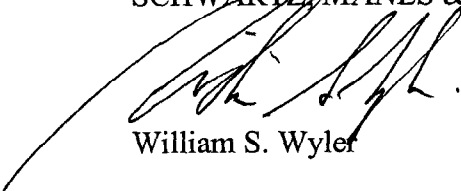
Re: Sun Microsystems, Inc. v Netraspect, Inc.
Serial No.: 76141682
Opposition No.: 91153003

Ladies and Gentlemen:

Enclosed please find Applicant's Answer in the above captioned matter. Please process in the usual manner.

Very truly yours,

SCHWARTZ, MANES & RUBY



William S. Wyle

WSW:cr