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In The Matter Of Application Serial No. ~~76/138,499~~ 3TWO.COM and Design

Published in the *Official Gazette* of April 23, 2002, Page TM 575 578 in Int'l Class 35

3COM CORPORATION )

Opposer, )

v. )

3TWO.COM, LLC )

Applicant. )

76136960

Opposition No. \_\_\_\_\_

NOTICE OF OPPOSITION

3Com Corporation, a Delaware corporation having a principal place of business at 5400 Bayfront Plaza, Santa Clara, California, believes it will be damaged by registration of the mark 3TWO.COM and Design, Application Serial No. 76/138,499, and opposes the same. As grounds for opposition, opposer alleges:

1. Since long prior to the filing date of the opposed application, opposer has continuously used 3COM in commerce as a trademark, and as part of its company name, in connection with the sale, advertising and promotion of various computer hardware and software products and related services.

2. Opposer has sold substantial quantities of these goods and services under its 3COM trademark and name, and has spent substantial sums to advertise and promote its 3COM trademark and name throughout the United States. As a result, opposer has built up and now owns a valuable goodwill which is symbolized by its 3COM trademark and name.

CERTIFICATE OF EXPRESS MAIL UNDER 37 CFR 1.110  
"Express Mail" Mailing Label No: EL393132415US Date of Deposit: November 19, 2002

I hereby certify that Trademark Application Under 15 U.S.C. § 1051(b) is being deposited with the United States Postal Service as "Express Mail" service under 37 CFR 1.110 on the date indicated above and is addressed to BOX TTAB FEE, Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513.

*Michelle R...*

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3. Opposer owns the following federal registrations for the mark 3COM:

| Mark          | Goods & Services   | Registration Number |
|---------------|--|---------------------|
| 3COM          | Computer peripheral equipment, namely, plug-in boards for placement in existing computers; and computer operating programs prerecorded on magnetic media in the form of disks and cassettes and user's manuals and instructions sold as a unit   | 1,320,456           |
| 3COM (Design) | Computers and computer peripherals, computer programs for use in network applications, computer network components; namely adapters, concentrators, bridges, hubs, cabling connectors, fiber optic digital communication cables and apparatus, network testers, and parts therefor, all for use in local, enterprise, metropolitan, and global area computer network environments.   | 1,792,438           |
| 3COM          | Educational services, namely, conducting classes and workshops in the fields of computers, computer software, computer networks, computer networking peripherals, data communications and related technologies; and providing educational information via a global computer network in the fields of computers, computer software, computer networks, computer networking peripherals, data communication and related technologies | 2,228,064           |
| 3COM (Design) | Computer consultation; computer network design for others; and providing information via a global computer network in the fields of computers, computer software, computer networks, computer networking, peripherals, data communications and related technologies  | 2,249,136           |
| 3COM          | Computer consultation; computer network design for others; and providing information via a global computer network in the fields of computers, computer software, computer networks, computer networking, peripherals, data communications and related technologies  | 2,249,139           |
| 3COM          | Installation, maintenance and repair of computer networking peripheral and related hardware  | 2,316,227           |

| Mark          | Goods & Services  | Registration Number |
|---------------|---|---------------------|
| 3COM          | Electronic personal organizers; telephone apparatus, namely, telephone apparatus, namely, telephones and speakerphones, facsimile transmission and receiving machines, telephone answering machines, voice mail machines, and video phones; computer network hardware and peripherals, including network interface cards, modems, modem cards, wireless modems, terminal adapters, hubs, local area network switches, wide area network switches, routers, servers, concentrators, power systems, consisting of uninterruptible and redundant power units and DC voltage converters; electrical connectors, computer cable and fiber optic cables; and computer software for use in managing, monitoring and diagnosing computer networks | 2,364,947           |
| 3COM (Design) | Electronic personal organizers; telephone apparatus, namely, telephone apparatus, namely, telephones and speakerphones, facsimile transmission and receiving machines, telephone answering machines, voice mail machines, and video phones; computer network hardware and peripherals, including network interface cards, modems, modem cards, wireless modems, terminal adapters, hubs, local area network switches, wide area network switches, routers, servers, concentrators, power systems, consisting of uninterruptible and redundant power units and DC voltage converters; electrical connectors, computer cable and fiber optic cables; and computer software for use in managing, monitoring and diagnosing computer networks | 2,364,948           |

These registrations are valid and subsisting and owned by opposer, and Reg. Nos. 1,320,456 and 1,792,438 are incontestable in accordance with 15 U.S.C. §§ 1065 and 1115(b).

4. Use and registration by applicant of the mark 3TWO.COM and Design for "providing analyses of sellers' goods and services, the value and pricing of sellers' goods, buyers' and sellers' performance, delivery and overall trading experience with respect to the sale of

goods by others via a global computer network and providing statistical, quantitative and qualitative information regarding the sale, trading and resale of items via a global computer network" is likely to result in confusion, mistake, or deception with opposer, or its products and services sold under its 3COM trademark and company name, or in the belief that applicant or its 3TWO.COM and Design services are in some way legitimately connected with, or licensed or approved by, opposer.

5. Upon information and belief, neither applicant nor any predecessor or related company of applicant has any claim of use of the mark 3TWO.COM and Design for the above stated services prior to October 2, 2000, applicant's filing date for Application Serial No. 76/138,499.

6. The proposed use by applicant of 3TWO.COM and Design is without opposer's consent or permission.

7. If applicant were granted registration of 3TWO.COM and Design for the services listed in Application Serial No. 76/138,499, applicant would obtain certain statutory rights, including prima facie rights to the exclusive use of that mark, which would damage opposer.

8. Enclosed is a check for the requisite filing fee in the amount of \$300.00. Please charge any deficiency or any additional fees to Account No. 16-0650.

WHEREFORE, registration by applicant of 3TWO.COM and Design for the goods listed in Application Serial No. 76/138,499 would be damaging to opposer.

Please address all correspondence to Raymond I. Geraldson, Pattishall,  
McAuliffe, Newbury, Hilliard & Geraldson, 311 South Wacker Drive, Suite 5000, Chicago,  
Illinois 60606.

Respectfully submitted,

PATTISHALL, McAULIFFE, NEWBURY,  
HILLIARD & GERALDSON

By: 

Raymond I. Geraldson, Jr.  
Thad Chalomentiarana  
311 South Wacker Drive, Suite 5000  
Chicago, Illinois 60606  
(312) 554-8000

Attorneys for Opposer