

MAB

Opposition No. 91156208

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

SOURCE TRANSLATION )  
& OPTIMIZATION, a sole proprietorship, )  
Opposer )  
v. )  
EMARKMONITOR INC., )  
a Delaware corporation, )  
Applicant. )

In re:  
Opposition No.: 91156208  
Serial No.: 75/895,205



06-18-2003

U.S. Patent & TMO/TM Mail Rcpt Dt. #22

ANSWER TO OPPOSITION

Respondent, eMarkMonitor Inc, responds to Opposer, Source Translation & Optimization's Notice of Opposition as follows:

INTRODUCTION

Applicant is without knowledge or information sufficient to form a belief regarding the truth of the allegations of the first paragraph of the Notice of Opposition, and on that basis denies the same. Applicant denies the allegations of the second paragraph of the Notice of Opposition. Applicant denies the allegations of the third paragraph of the Notice of Opposition.

COUNT I - Likelihood of Confusion

1. Applicant is without knowledge or information sufficient to form a belief regarding the truth of the allegations of Paragraph 1 of Count I of the Notice of Opposition, and on that basis denies the same.
2. Applicant is without knowledge or information sufficient to form a belief regarding the truth of the allegations of Paragraph 2 of Count I of the Notice of Opposition, and on that basis denies the same.

3. Applicant denies the allegations of Paragraph 3 of Count I of the Notice of Opposition.
4. Applicant is without knowledge or information sufficient to form a belief regarding the truth of the allegations of Paragraph 4 of Count I of the Notice of Opposition, and on that basis denies the same.
5. Applicant is without knowledge or information sufficient to form a belief regarding the truth of the allegations of Paragraph 5 of Count I of the Notice of Opposition, and on that basis denies the same.
6. Applicant admits the allegations of Paragraph 6 of Count I of the Notice of Opposition that relate to Class 42. Applicant denies the allegations of Paragraph 6 of Count I of the Notice of Opposition that relate to Class 9.
7. To the extent that the allegations of Paragraph 7 of Count I of the Notice of Opposition plead conclusions of law rather than facts, no response is required. To the extent that any response is required, Applicant lacks sufficient knowledge or information to form a belief as to the truth of the allegations therein, and on such basis denies the same.
8. Applicant denies the allegations of Paragraph 8 of Count I of the Notice of Opposition.
9. Applicant denies the allegations of Paragraph 9 of Count I of the Notice of Opposition.

10. Applicant denies the allegations of Paragraph 10 of Count I of the Notice of Opposition.
11. Applicant denies the allegations of Paragraph 11 of Count I of the Notice of Opposition.
12. Applicant denies the allegations of Paragraph 12 of Count I of the Notice of Opposition.
13. To the extent that the allegations of Paragraph 13 of Count I of the Notice of Opposition plead conclusions of law rather than facts, no response is required. To the extent that any response is required, Applicant lacks sufficient knowledge or information to form a belief as to the truth of the allegations therein, and on such basis denies the same.

Count II – Descriptiveness

14. Applicant is without knowledge or information sufficient to form a belief regarding the truth of the allegations of Paragraph 14 of Count II of the Notice of Opposition, and on that basis denies the same.
15. Applicant is without knowledge or information sufficient to form a belief regarding the truth of the allegations of Paragraph 15 of Count II of the Notice of Opposition, and on that basis denies the same.
16. Applicant is without knowledge or information sufficient to form a belief regarding the truth of the allegations of Paragraph 16 of Count II of the Notice of Opposition, and on that basis denies the same.

17. Applicant admits the specific allegations of Paragraph 17 of Count II of the Notice of Opposition that relate to Class 42. However, Applicant denies the allegations of Paragraph 17 of Count II of the Notice of Opposition that relate to Class 9.
18. Applicant denies the allegations of Paragraph 18 of Count II of the Notice of Opposition.
19. Applicant denies the allegations of Paragraph 19 of Count II of the Notice of Opposition.
20. Applicant denies the allegations of Paragraph 20 of Count II of the Notice of Opposition.
21. To the extent that the allegations of Paragraph 21 of Count II of the Notice of Opposition plead conclusions of law rather than facts, no response is required. To the extent that any response is required, Applicant lacks sufficient knowledge or information to form a belief as to the truth of the allegations therein, and on such basis denies the same.
22. Applicant is without knowledge or information sufficient to form a belief regarding the truth of the allegations of Paragraph 22 of Count II of the Notice of Opposition.
23. To the extent that the allegations of Paragraph 23 of Count II of the Notice of Opposition plead conclusions of law rather than facts, no response is required. To the extent that any response is required, Applicant lacks sufficient knowledge or

information to form a belief as to the truth of the allegations therein, and on such basis denies the same.

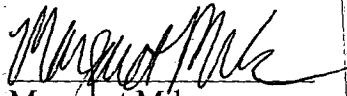
AFFIRMATIVE DEFENSES

24. As a separate and affirmative defense, Applicant alleges that Opposer failed to state facts sufficient to oppose the registration sought by Applicant.
25. As a further separate and affirmative defense, Applicant alleges that there is no confusion or likelihood of confusion either as to source, sponsorship or affiliation between products that would bear the Applicant's mark and the Opposer's marks.
26. As a further separate and affirmative defense, Applicant alleges that Opposer's purported claims are barred by the privilege of fair competition.
27. As a further separate and affirmative defense, Applicant alleges that Opposer's purported claims are erroneous due to mistake of fact.
28. As a further separate and affirmative defense, Applicant alleges that Opposer's purported claims are erroneous due to mistake of law.
29. As a further separate and affirmative defense, Applicant alleges that Opposer's purported claims are barred by the applicable statute of limitations.
30. As a further separate and affirmative defense, Applicant alleges that Opposer lacks standing to oppose the application based upon the alleged trademarks.
31. As a further separate and affirmative defense, Applicant alleges that Opposer's purported claims are barred by the doctrine of waiver.

32. As a further separate and affirmative defense, Applicant alleges that Opposer's purported claims are barred by the doctrine of estoppel.
33. As a further separate and affirmative defense, Applicant alleges that Opposer's purported claims are barred by the doctrine of laches.
34. As a further separate and affirmative defense, Applicant alleges that Opposer's purported claims are barred by the doctrine of ratification.
35. As a further separate and affirmative defense, Applicant alleges that Opposer's purported claims are barred by the doctrine of acquiescence.

WHEREAS, Applicant prays that the Opposition be denied and that the application for registration of PATENT BUSTER be granted.

Respectfully submitted,



Margaret Milam  
General Counsel

Telephone No.: (208) 389-5750

**CERTIFICATE OF MAILING UNDER 37 CFR §1.8**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Box TTAB No Fee  
Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

on 6/16/03  
(Date)

Diana M. Hanson  
(Signature)  
Diana M. Hanson

**PROOF OF SERVICE**

Delivery by Express Mail

I declare that I am over the age of eighteen years and not a party to this action.

My business address is 12438 W. Bridger Street, Suite 100, Boise, Idaho 83713.

I hereby certify that I served the attached ANSWER TO OPPOSITION on the following

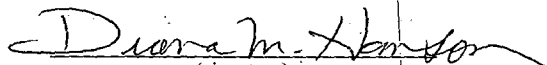
Recipient(s):

GREGORY AHARONIAN  
SOURCE TRANSLATION & OPTIMIZATION  
P.O. BOX 475847  
SAN FRANCISCO, CA 94147

by depositing a true copy thereof enclosed in a sealed envelope, properly addressed to the Recipient(s) as indicated above, with postage fully prepaid, with the United States Postal Service as Express Mail on June 16, 2003,

Declaration

I declare under penalty of perjury that the foregoing is true and correct and that this Declaration was executed on June 16, 2003, at Boise, Idaho.

  
(signature)

\_\_\_\_\_  
Diana M. Hanson  
(type or print name)