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



MASSACHUSETTS INSTITUTE OF  
TECHNOLOGY,  
  
Opposer,  
  
v.  
  
MORTGAGEIT, INC.,  
  
Applicant.

05-07-2003  
U.S. Patent & TMOtc/TM Mail Rcpt Dt. #22

Opposition No. \_\_\_\_\_  
Serial No. 76/404579  
Date of Publication: April 15, 2003

**NOTICE OF OPPOSITION**

To the Honorable Commissioner of Patents and Trademarks:

Trademark Trial and Appeal Board  
BOX: TTAB FEE  
2900 Crystal Drive  
Arlington, VA 22202-3513

Massachusetts Institute of Technology, a Massachusetts non-profit corporation with a principal place of business in Cambridge, Massachusetts ("Opposer"), hereby opposes the application of MortgageIT, Inc. ("MortgageIT") for registration of the service mark MIT LENDING, Serial No. 76/404579, for mortgage banking and brokerage services, published for opposition on April 15, 2003.

Opposer believes it will be damaged by registration of the mark shown in Serial No. 76/404579, and opposes it on the following grounds:

1. Opposer is widely considered to be one of the most prestigious universities in the world. In addition to offering a variety of educational goods and services under the MIT mark, Opposer engages in various lending and banking services in connection with the MIT Federal Credit Union, which was founded in 1940.

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2. Applicant is a nationwide wholesale mortgage bank that offers, among other things, mortgage banking and brokerage services.

3. Opposer has used the mark MIT in connection with its goods and services since at least 1861, and it has actively used the mark on a nationwide and international basis since the mid-19th century.

4. Opposer obtained and owns Registration No. 1562643 for the mark MIT for educational services (International Class 41), dated October 24, 1989, and it has used the mark MIT in commerce continuously since 1861. Opposer also obtained and owns a number of registrations for related marks, such as Registration No. 1516743, dated December 13, 1988, for the mark MASSACHUSETTS INSTITUTE OF TECHNOLOGY.

5. Due to Opposer's extensive use and promotion, the MIT mark has acquired secondary meaning in that an appreciable number of consumers and others associate the MIT mark with Opposer and/or Opposer's goods and services.

6. Due to Opposer's extensive use and promotion, the MIT mark has become a "famous mark" within the meaning of 15 U.S.C. § 1125(c), and it is closely and uniquely associated with Opposer and the various goods and services it offers.

7. By virtue of Opposer's diligent efforts, and the expenditure of considerable funds for promotional activities, and by virtue of the quality of the various goods and services Opposer offers under its MIT mark, Opposer has acquired an extremely valuable reputation for, and has developed considerable goodwill in, its MIT mark.

8. On or about May 6, 2002, Applicant filed an application to register the mark MIT LENDING for mortgage banking and brokerage services. The United States Patent and Trademark Office issued an office action on August 22, 2002, and the Applicant responded on November 12, 2002. Applicant's mark was published for opposition on April 15, 2003.

9. Applicant's asserted mark "so resembles . . . a mark . . . previously used in the United States and not abandoned, as to be likely, when applied to the goods of the Applicant, to cause confusion, or to cause mistake, or to deceive." See 15 U.S.C. §§ 1052(d) and 1125(a).

10. The mark proposed for registration by Applicant, MIT LENDING, is substantially similar, and fully incorporates, Opposer's MIT mark in sound, appearance, and connotation.

11. Applicant's goods and services are highly related to Opposer's goods and services, and thus will cause confusion between the two marks. Indeed, MIT engages in various lending and banking services in connection with the MIT Federal Credit Union, and Applicant proposes to use the MIT LENDING mark in connection with similar goods and services – banking and brokerage services.

12. If Applicant is permitted to use and register its mark, confusion will likely result by reason of the substantial similarity between Applicant's MIT LENDING mark and Opposer's MIT mark.

13. Further, Applicant's use of the asserted mark began after Opposer's mark became famous, and thus would cause "dilution of the distinctive quality of [Opposer's] famous mark." See 15 U.S.C. § 1125(c). Any defect, objection, or fault found with Applicant's goods or services rendered under its mark would necessarily reflect poorly on and seriously injure the reputation Opposer has cultivated through its use of the MIT mark.

14. Thus, if Applicant is permitted to use and register its mark, dilution by blurring and/or tarnishment will likely occur by reason of the substantial similarity between Applicant's MIT LENDING mark and Opposer's famous MIT mark.

15. For the reasons set forth in the preceding paragraphs, Applicant is not entitled to register its mark, and the application should be denied in accordance with §§ 2(d) and 13(a) of the Lanham Act, 15 U.S.C. §§ 1052(d) and 1063(a).

**WHEREFORE**, Opposer believes that it will be seriously damaged by said registration and respectfully requests that the Board sustain this Opposition to Application No. 76/404579 and deny registration of the mark MIT LENDING.

- A duplicate Notice of Opposition and a check for \$300.00 are enclosed herewith.
- Please direct all correspondence to the attention of:

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**CERTIFICATE OF MAILING BY EXPRESS MAIL**

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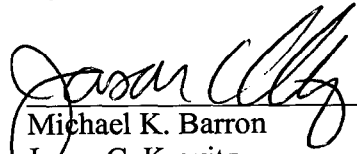
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Jason C. Kravitz  
(Typed name of person mailing paper)

  
(Signature of person mailing paper)

MASSACHUSETTS INSTITUTE OF  
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Dated: May 7, 2003