

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

MASSACHUSETTS INSTITUTE OF
TECHNOLOGY,

Opposer,

v.

MORTGAGEIT, INC.,

Applicant.

Opposition No. 91156381
Serial No. 76/404,579

ANSWER TO NOTICE OF
OPPOSITION

06-30-2003
U.S. Patent & TMO/TM Mail Rcpt Dt. #22

CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS CERTIFIED MAIL IN AN ENVELOPE ADDRESSED TO: COMMISSIONER OF PATENTS AND TRADEMARKS, ATTN: TRADEMARK TRIAL AND APPEAL BOARD, 2900 CRYSTAL DRIVE, BOX 117AB, ARLINGTON, VA 22202-3513 ON JUNE 27, 2003.

PATTON BOGGS LLP

Dated: June 27, 2003

By:

George M. Borababy
George M. Borababy

JUN 27 2003
1500 1000

Applicant MortgageIT, Inc. ("Applicant"), through its undersigned counsel, for its Answer to the Notice of Opposition ("Opposition") of Opposer Massachusetts Institute of Technology ("Opposer"), hereby avers as follows:

1. With respect to the matters alleged in the unnumbered Preamble to the Opposition, admits that United States Trademark Application Serial No. 76/404,579 was filed by Applicant for mortgage banking and brokerage services and was published for opposition on April 15, 2003; denies that Opposer will be damaged by registration of the mark shown in Application Serial No.

76/404,579; and lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of such Preamble.

2. Lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 1 of the Opposition.

3. With respect to the allegations of Paragraph 2 of the Opposition, avers that Applicant is a nationwide wholesale mortgage banker that makes and funds mortgage loans only as an aggregator for and on behalf of select pre-approved business-to-business entity customers who routinely engage in the retail mortgage brokerage or banking loan origination business and that Applicant does not solicit business from the general public, and denies the remaining allegations of Paragraph 2.

4. Lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 3 of the Opposition.

5. Lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 4 of the Opposition:

6. Lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 5 of the Opposition.

7. Lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 6 of the Opposition.

8. Lacks knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 7 of the Opposition.

9. Admits the allegations of Paragraph 8 of the Opposition.

10. Denies the allegations of Paragraph 9 of the Opposition.

11. Denies the allegations of Paragraph 10 of the Opposition.

12. With respect to the allegations of Paragraph 11 of the Opposition, avers that Applicant intends to use the mark MIT LENDING in connection with the making and funding of mortgage loans only as an aggregator for and on behalf of select pre-approved business-to-business entity customers who routinely engage in the retail mortgage brokerage or banking loan origination business and that Applicant does not solicit business from the public at large; lacks knowledge or information sufficient to form a belief as to whether Opposer engages in various lending and banking services in connection with the MIT Federal Credit Union; and denies the remaining allegations of Paragraph 11.

13. Denies the allegations of Paragraph 12 of the Opposition.

14. Denies the allegations of Paragraph 13 of the Opposition.

15. Denies the allegations of Paragraph 14 of the Opposition.

16. Denies the allegations of Paragraph 15 of the Opposition.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The Opposition fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Opposer's claims are barred under the doctrine of laches.

THIRD AFFIRMATIVE DEFENSE

Opposer's claims are barred because Opposer has acquiesced in Applicant's conduct, in that the actions complained of by Opposer have been occurring for a number of years without objection by Opposer.

FOURTH AFFIRMATIVE DEFENSE

Opposer has waived any claims that it may have against Applicant, in that the actions complained of by Opposer have been occurring for a number of years without objection by Opposer.

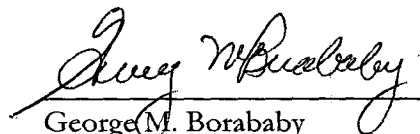
FIFTH AFFIRMATIVE DEFENSE

Opposer is estopped from asserting its claims against Applicant, in that the actions complained of by Opposer have been occurring for a number of years without objection by Opposer.

WHEREFORE, Applicant MortgageIT, Inc. respectfully requests that the Opposition be dismissed.

Dated: June 27, 2003

Respectfully submitted,



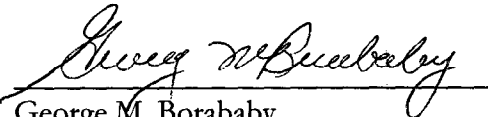
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Attorneys For Applicant

CERTIFICATE OF SERVICE

The undersigned attorney for Applicant hereby certifies that a true copy of the foregoing ANSWER TO NOTICE OF OPPOSITION in this matter was mailed, by first class mail, postage prepaid, on June 27, 2003 to Jason C. Kravitz, of the firm Nixon Peabody LLP, 101 Federal Street, Boston, MA 02110, Attorneys for Opposer herein.

Dated: June 27, 2003


George M. Borababy