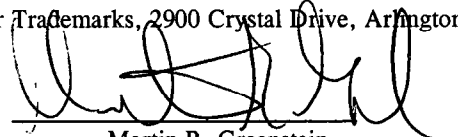


TTAB

TRADEMARK

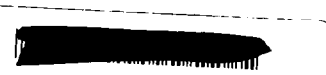
CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3514, on September 26, 2003.


Martin R. Greenstein

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

BOSE CORPORATION	: Opposition No. 157,381
	: Appln. Ser. No. 76/698,824
Opposer	:
v.	: Filed: May 6, 1999
	:
LIGHTSURF TECHNOLOGIES, INC	: Published: March 18, 2003
	:
Applicant	: Mark: WAVEFORCE



09-29-2003
U.S. Patent & TMOfo/TM Mail RcptDt. #66

ANSWER TO NOTICE OF OPPOSITION

Applicant, LightSurf Technologies, Inc. ("Applicant" or "LightSurf"), for its answer to the Notice of Opposition states:

1. Applicant is without sufficient knowledge to form a belief as to the truth or falsity of the allegations of paragraph 1 of the Notice of Opposition and consequently DENIES the same, leaving Opposer to strict proof thereof. Further answering, Applicant specifically DENIES that certified copies of any registrations were attached to materials received by Applicant, and that even the document which purports to be a photocopy of a certified copy of Reg. No. 1,633,789 bears a certification date of March 9, 1993 and is, at best, a stale certification.

SA

2. The Notice of Opposition contains no paragraph 2, so no response is necessary or possible. If and to the extent paragraph 2 was inadvertently incorporated into paragraph 1, it is responded to above.

3. Applicant is without sufficient knowledge to form a belief as to the truth or falsity of the allegations of paragraph 3 of the Notice of Opposition and consequently DENIES the same, leaving Opposer to strict proof thereof.

4. Applicant ADMITS that if filed Application No. 75/698,824 for the mark WAVEFORCE on May 6, 1999, that during prosecution the goods were amended to those set forth in paragraph 4 of the Notice of Opposition, and that said application was published for opposition in the Official Gazette of March 18, 2003, but DENIES the remaining allegations of paragraph 4.

5. Applicant DENIES the allegations of the allegations of paragraph 5 of the Notice of Opposition, leaving Opposer to strict proof thereof..

6. Applicant DENIES the allegations of the allegations of paragraph 5 of the Notice of Opposition, leaving Opposer to strict proof thereof..

AFFIRMATIVE DEFENSES

1. There is no likelihood of confusion, mistake or deception because, inter alia, Applicant's mark and the pleaded alleged marks of Opposer are or would be used on different goods and/or services and sold through different trade channels, and simultaneous by both is not likely to cause confusion, mistake or deception.

2. The Notice of Opposition, in whole or as to specific allegations, fails to state a claim upon which relief can be granted.

3. There is no likelihood of confusion, mistake or deception because the scope of protection, if any, afforded Opposer with respect to its claimed marks "WAVE", "ACOUSTIC WAVE", "PROFESSIONAL WAVE" and "WAVESYNC" marks is very narrow as a result of the doctrines of laches, estoppel and acquiescence, and also because said terms are, in whole or in part, common descriptive or generic terms having direct and immediate reference to the goods set forth in the pleaded registrations, and on which use by Opposer is alleged.

4. The rights of Opposer are limited because marks which consist of or include the common term "wave", alone and in combination with other words, symbols and/or designs have previously been used and/or registered by numerous other third party users for various goods and/or services of the type set forth in Applicant's application, for goods and/or services of the type set forth in Opposer's alleged registrations, or for closely related goods and services, many of which are the same or similar to goods or services of Opposer.. As such Opposer's rights are limited to at most a specific form of the mark, and also to specific goods or services in specific trade channels, by virtue of any valid common law rights which Opposer may be able to successfully establish.

5. Upon information and belief, the trademark(s) in one or more of the alleged registrations and the common law rights pleaded by Opposer are no longer in use on or in connection with some or all of the goods set forth in the Notice of Opposition.

6. Upon information and belief, one or more of the alleged marks pleaded by Opposer were not assigned, were not properly assigned, were not assigned with the goodwill of the business with which they were associated and in use, and/or were not validly assigned, and consequently are no longer valid, in whole or in part, and/or are not owned by Opposer.

WHEREFORE, Applicant respectfully requests that Opposition No. 157,381 be denied and that Application Serial Number 75/698,824 be allowed to proceed to registration.

Dated: September 26, 2003

LIGHTSURF TECHNOLOGIES, INC

By 

Martin R. Greenstein

TechMark

55 South Market Street

Sixteenth Floor

San Jose, CA 95113

(408) 280-2233

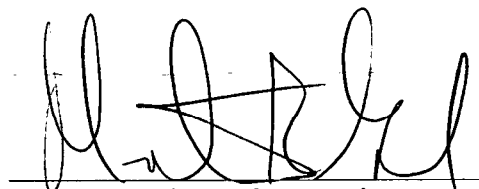
MRG@TechMark.com

Attorneys for Applicant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing ANSWER TO NOTICE OF OPPOSITION is being served this 26th of September, 2003 upon counsel of record for Opposer by deposit of same in the United States mail, first class postage prepaid, in an envelope addressed to:

Charlies Hieken, Esq.
Amy L. Brosius, Esq.
FISH & RICHARDSON, P.C.
225 Franklin Street
Boston, MA 02110-2804
Tel: 617-542-5070; Fax: 617-542-8906
Attorneys for Opposer


Martin R. Greenstein