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08-06-2003
U.S. Patent & TMO/TM Mail Rcpt Dt. #71

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

In re Trademark Application Serial

No.: 78/170,319

Filed: October 2, 2002

Published: May 6, 2003

_____)
 CYBEX COMPUTER PRODUCTS CORP.)
)
 Opposer,)
)
 vs.)
)
 NETWORK TECHNOLOGIES, INC.)
)
 Applicant.)
 _____)

Opposition No.: _____

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NOTICE OF OPPOSITION

Cybox Computer Products Corporation, an Alabama corporation having a principal place of business at 4912 Research Drive, Huntsville, Alabama, 35805, (hereinafter referred to as "Opposer"), believes that it will be damaged by registration of the mark XTENDEX shown in Application Serial No. 78/170,319 filed on an "intent to use" basis for use in connection with "computer keyboard-video-mouse switches, computer terminal switches, audio-video switches, video switches and extenders, expansion modules and splitters therefore" in International Class 9 by Network Technologies, Inc. (hereinafter "Applicant"), and hereby opposes same. Said mark was published in the Official Gazette on May 6, 2003, with Opposer filing an initial request

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for a 60 day extension of time to file a Notice of Opposition, filed by hand at the United States Patent and Trademark Office on June 5, 2003, giving Opposer until August 6, 2003, in which to file a Notice of Opposition.

As grounds for this opposition, it is alleged that:

1. Opposer has acquired extensive common law rights in the trademark EXTENDER throughout the United States and is the owner of said mark. Opposer has continuously used the EXTENDER mark on its own behalf in the United States since at least **January 13, 1987** through the present in connection with computer peripherals, namely, transmitters, receivers and cable for linking a personal computer unit to a remote keyboard and remote monitor. Opposer's use of the mark extends to all fifty states and beyond.

2. Based on information and belief, Applicant has no common law rights in its mark. Applicant's application for the word mark XTENDEX was submitted under 15 U.S.C.A. § 1051(b) on an "intent to use" basis, with no Amendment to Allege Use or Statement of Use filed to date to the best of Opposer's knowledge. Opposer is aware, however, of Applicant's use of the XTENDEX mark in connection with its goods on Applicant's Website. Examples of Applicant's use of the XTENDEX mark on Applicant's Website are submitted herewith as Exhibit "A" and by this reference incorporated herein.

3. Opposer has acquired registration rights with the United States Patent and Trademark Office in its EXTENDER mark throughout the United States. Opposer's mark is registered in the form of a typed drawing on the Principal Register in International Class No. 9 in connection with "computer peripherals, namely, transmitters,

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receivers and cable for linking a personal computer unit to a remote keyboard and remote monitor.” The registration, identified as No. 2,516,094, was initially granted on December 11, 2001 to Cybex Computer Products Corporation. A copy of the Certificate of Registration for the EXTENDER mark is attached herewith as Exhibit “B” and by this reference is incorporated herein.

4. Based on information and belief, Applicant has no registration rights for the XTENDEX mark with the United States Patent and Trademark Office. Its only application for said mark is the subject of the current opposition proceeding.

5. There is no issue as to priority, with Opposer’s first use of its EXTENDER mark substantially predating Applicant’s use of its XTENDEX mark. Opposer first used its EXTENDER mark in commerce and interstate commerce on January 13, 1987 as set forth in its registration certificate.

6. Opposer, through its own activities, has expended significant money, effort and personnel resources over a period exceeding sixteen (16) years advertising and promoting its EXTENDER mark, and advertising, promoting and selling goods bearing the mark. Opposer has built up a large and profitable national business in connection therewith. The general public and Opposer’s customers throughout the United States, and others, have come to know, rely upon and recognize Opposer’s goods by its marks. By virtue of such expenditures of money, effort and other resources, and by virtue of the excellence of its goods, Opposer has developed substantial goodwill and a most valuable reputation in its goods as identified by its EXTENDER mark and other marks.

7. The Applicant proposes to register its mark, which is nearly identical to Opposer’s registered EXTENDER mark. Applicant seeks registration of the word

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XTENDEX in typed drawing form thereby seeking a broad scope of registration protection. Opposer's registration is for the word EXTENDER, also in typed drawing form, according it a broad scope of registration protection. Applicant's proposed XTENDEX mark is identical to Opposer's EXTENDER mark with the exception of two letters.

8. The goods Applicant proposes to register its mark with are a subset of, and are identical to, goods which Opposer's registration covers. Applicant seeks registration of the XTENDEX mark for use in connection with "computer keyboard-video-mouse switches, computer terminal switches, audio-video switches, video switches and extenders, expansion modules and splitters therefore" in International Class No. 9. Opposer's EXTENDER registration protects use of its mark with "computer peripherals, namely, transmitters, receivers and cable for linking a personal computer unit to a remote keyboard and remote monitor" in International Class No. 9. Keyboard-video-mouse switches, computer terminal switches, audio-video switches, video switches and extenders are all several different types of "computer peripherals" already fully covered by Opposer's registration. Applicant's proposed goods bearing the XTENDEX mark would be in direct competition with, and operate in the same channels of trade with Opposer's goods bearing the EXTENDER mark.

9. Applicant's proposed XTENDEX mark so resembles Opposer's registered EXTENDER mark, as previously used, registered and protected throughout the United States, as to be likely, when applied to the goods of the Applicant, to cause confusion, or to cause mistake, or to deceive. Confusion, mistake and/or deception as to the source of the goods, the origin and ownership of goods, businesses and other matters are likely to

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result among the general public, the business community, customers and potential customers throughout the United States. Many familiar with Opposer's mark will be likely to buy Applicant's goods under the assumption that they are provided by Opposer. Adverse conditions, business failures, defects or defaults on the part of Applicant's goods or business will reflect upon and seriously injure the reputation which Opposer has established for its goods and business. Even if such persons should notice a difference between Opposer's mark and Applicant's mark, they will nevertheless be likely to believe that Applicant's mark and Opposer's mark are companion marks or part of Opposer's family of marks, originating from the same source or origin. The confusion, mistake and/or deception will greatly increase as Applicant expands the use of its goods and mark in interstate commerce throughout the United States. The resulting confusion, mistake and/or deception will be to the detriment of Opposer as the prior user and registrant of its EXTENDER mark and other marks, who has expended tremendous sums of money and effort over many years in promoting its marks throughout the United States.

10. If Applicant is granted the registration herein opposed, it will obtain a *prima facie* exclusive right to use its proposed mark in commerce with its goods, its mark will likely be deemed incontestable five (5) years from the date of registration, and Applicant will thereby obtain an incontestable right to use the mark in commerce. As a consequence, Opposer's common law and registration rights will be greatly impaired, Applicant will be able to trade on Opposer's good will, substantial confusion, deception and mistake will result, and great damage and injury will result to Opposer as the prior user and registrant of the EXTENDER mark.

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11. Based on the foregoing, issuance of a federal registration with the United States Patent and Trademark Office for the XTENDEX mar to Applicant would be in violation of Opposer's rights to the EXTENDER mark, causing Opposer substantial damage and injury.

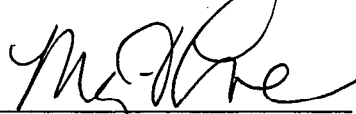
WHEREFORE, Opposer prays that the present opposition be sustained and that the registration sought by Applicant identified as Serial No. 78/170,319 be refused.

Three (3) copies of this Notice of Opposition and the filing fee in the amount of \$300.00, as required by the Rules of Practice in Trademark Cases at 37 C.F.R. § 2.6, are submitted herewith.

Please recognize Mary Fran Love, Esq., member of the Bar of the District of Columbia, and the law firm of Davidson, Berquist, Klima & Jackson, LLP, whose mailing address is 4501 N. Fairfax Drive, Suite 920, Arlington, Virginia, 22203, with telephone number (703) 248-0333, attorneys for Opposer in the above-captioned opposition. Please address all correspondence to them.

DATED this 6th day of August, 2003

Respectfully submitted,
CYBEX COMPUTER PRODUCTS CORP.



Mary Fran Love, Esq.
Davidson, Berquist, Klima & Jackson, LLP

Attorneys for the Opposer

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NETWORK TECHNOLOGIES INC. **INNOVATORS IN KVM SOLUTIONS**
 Better Dependability • Compatible with More Platforms • High Video R

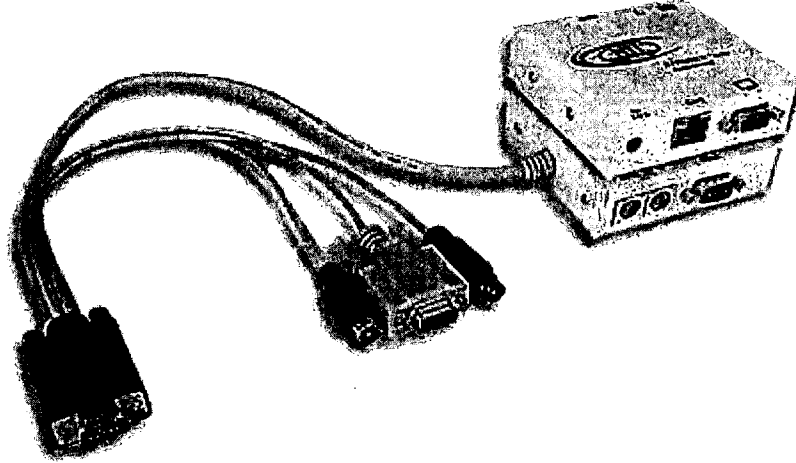
KVM SWITCHES **KVM SPLITTER** **VIDEO SWITCHES** **VIDEO SPLITTER** **EXTENDERS via CAT5** **KVM DRAWERS** **CABLES & ADAPTERS** **VIDEO SWI**

KVM EXTENDER / VGA EXTENDER

Extend KVM or VGA Video via CAT5

EXTEND CONTROL UP TO 600 FEET AWAY FROM PC OR NTI KVM SWITCH WITH NO LOSS OF SIGNAL

Also known as: KVM extender, kvm extension, pc extender, video extender, keyboard monitor mouse extend.



Instant call back
(8am-6pmEST)

[Click here to zoom in on image](#)

XTENDEX™ ST-C5KVM-600 LOCAL & REMOTE UNIT

Features & Applications

KVM EXTENDER

The XTENDEX™ **KVM Extender** is the affordable way you can extend a keyboard, monitor and mouse up to 600 feet away from a PC or NTI KVM switch. The XTENDEX™ ST-C5KVMxx-600 can be used to provide both local and remote access to networked servers. It is ideal for situations where a control station is located in an unsecured area or where equipment damage can occur, such as shop floors and loading docks. The ST-C5KVMxx-600 has improved options available such as **RS232** or **stereo audio** support (*See options detail below). Each KVM extender consists of a local unit connected to a server or the outputs of an NTI switch, and a remote unit connected to a keyboard, monitor and mouse or the inputs of an NTI switch. The local and remote units are connected via CAT5 cable.

- Built-in surge protection.
- Allows local and remote access to network servers (local and remote keyboards and mice must be identical).
- Use in-house CAT5 phone wiring to locate a keyboard, monitor and mouse remotely.
- Automatic video quality adjustment.
- Small, durable form factor increases desk and floor space.
- Easy to install and use.
- Computers remain protected from moisture,

Features & Applications

VGA EXTENDER

The XTENDEX™ **VGA Extender** extends the distance between two VGA video devices using CAT5 cable. You can use ST-C5Vxx-600 units in applications where the monitor needs to be located remotely from the CPU. Each video extender consists of a local unit connected to a computer or the output of an NTI switch, and a remote unit connected to a monitor the input of an NTI switch. The local and remote units are connected via CAT5 cable. **NEW local access** and optional features including **stereo audio** for both the local and remote user, or **RS232 which is perfect for touch screen monitor applications** (*See options detail below). XTENDEX™ video extenders are the economical choice to increase the distance between VGA video devices, thus improving the flexibility of your systems.

- Built-in surge protection.
- Access information from network servers.
- Use in-house CAT5 phone wiring to locate a monitor remotely.
- Supports any VGA monitor.
- Extend the reach of touch screen monitors 600 feet with RS232 option (*See options detail below).
- Broadcast both video and audio to a monitor and speakers located up to 600 feet from your computer.

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vibration, temperature extremes, electro-magnetic fields, and theft.

- Useful for loading docks and warehouses where access to information on back-office computers is required and physical security is a concern.
- Excellent for factories where heat and dust could damage expensive computers.
- Construction sites can distribute information appropriately without exposing computers to the harsh elements.

Specifications

ST-C5KVMxx-600 (KVM Extender)

Distance

- 600 feet.

Input

- Any PC or KEEMUX Switch.
- Pigtail with Male 15 pin HD & PS/2 Keyboard and Mouse connectors from the local unit.
- Optional serial connection - RS232. (*See options detail below)
- Optional 3.5mm unbalanced stereo audio connection.

Output

- Crisp and clear 1280x1024 resolution @ 600 feet (CAT5 or CAT6).
 - CAT6 - Some degradation may be experienced, depending on the quality of the cable.
- Female 15 pin HD connector on the remote unit.
- Female 15 pin HD connector on the local unit.
- Female PS/2 keyboard and mouse connectors on the remote unit.
- Female PS/2 keyboard and mouse connectors on local unit.
- Unbalanced stereo audio. (optional) (*See options detail below)
- Male 9-pin D connector on the remote and local unit. (optional)

Video Quality Adjustment

- Automatically adjusts the video quality to compensate for varying lengths of CAT5 cable.

Power

- Local unit - a 5v, 2A power supply is provided.
- Remote unit - a 5v, 2A power supply is provided.

ESD Protection

- Complies with EN61000-4-2 Specification.

Options

***Note: Extenders can have either RS232 option or a stereo audio option added but NOT both.**

- Stereo audio - can be heard both locally and remotely.
- RS232 - Serial Connection (Support for a touch screen monitor).

- Continuous manual adjustment of video sig quality.
- Keep computers in a safe and cool environment.
- Small, durable form factor increases space.
- Excellent for waiting rooms, kiosks and simulators.
- A complete video extension solution that is easy to install and use.

Specifications

ST-C5Vx-600 (Video Extender)

Distance

- 600 feet.

Input

- Any PC or KEEMUX Switch.
- Pigtail with Male 15 pin HD connectors from the local unit.
- Optional serial connection - RS232. (*See options detail below)
- Optional 3.5mm unbalanced stereo audio connection.

Output

- Crisp and clear 1280x1024 resolution @ 600 feet (CAT5 or CAT6).
 - CAT6 - Some degradation may be experienced dependent on the quality of the cable.
- Female 15 pin HD connector on the remote unit.
- Female 15 pin HD connector on the local unit.
- Unbalanced stereo audio. (optional) (*See options detail below)
- Male 9-pin D connector on the remote and local unit. (optional)

Video Quality Adjustment

- Push buttons on the side.
- Video quality adjustment for different lengths of CAT5 cable is done manually. Holding in the "+" or "-" buttons the adjustment will be continuously modified until released.
- The setting is automatically saved to the unit. The next time the unit is powered the adjustment will be recalled.

Power

- Local unit - 5v, 2A power supply provided (A power supply for the local unit is not needed with the video only VGA Extender)
- Remote unit - 5v, 2A power supply provided.

ESD Protection

- Complies with EN61000-4-2 Specification

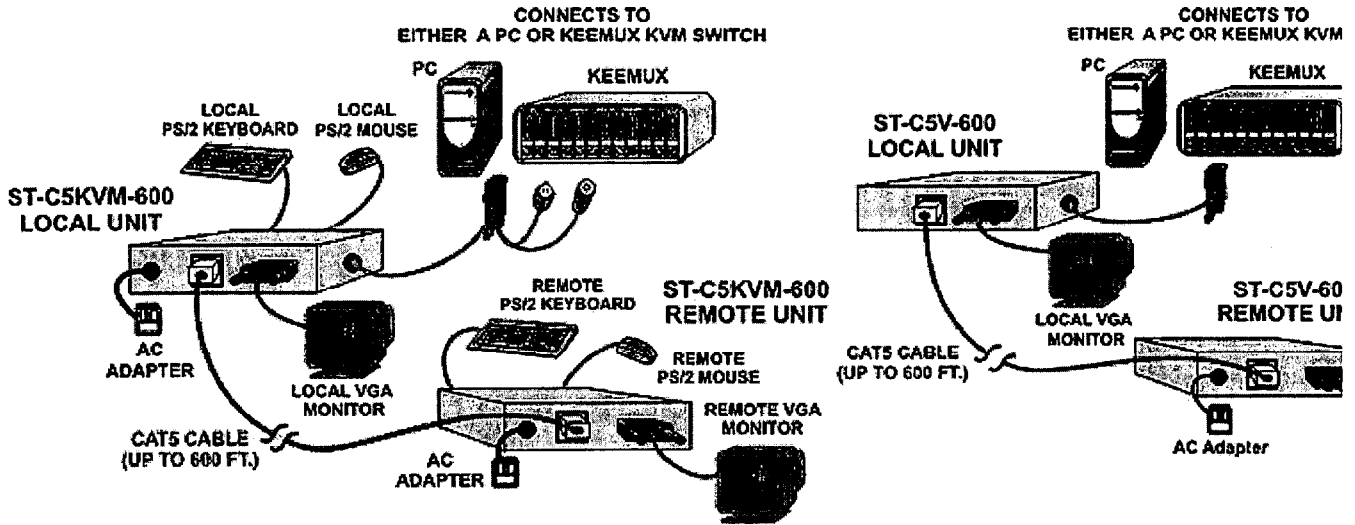
Options

***Note: Extenders can have either RS232 option or a stereo audio option added but NOT both.**

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both.

- Stereo audio - can be heard both locally & remotely.
- RS232 - Serial Connection (Support for a touch screen monitor).



KVM EXTENDER / VGA EXTENDER SIZES							
Supported Devices	Supported Features	NTI Part #	Local Unit Size (In.) WxDxH	Remote Unit Size WxDxH (In.)	Download a PDF Manual	Price Each \$	Num to B
VGA Monitor, PS/2 Keyboard & Mouse	KVM	ST-C5KVM-600	3.25x3.4x1.0	3.25x3.4x1.0	PDF Manual	375	0
VGA Monitor, PS/2 Keyboard, Mouse & Speakers	KVM + audio	ST-C5KVMA-600	3.25x3.4x1.0	3.25x3.4x1.0	PDF Manual	420	0
Touch Screen Monitor, PS/2 Keyboard & Mouse	KVM + RS232	ST-C5KVMRS-600	3.25x3.4x1.0	3.25x3.4x1.0	PDF Manual	420	0
VGA Monitor	VGA only	ST-C5V-600	3.25x3.4x1.0	3.25x3.4x1.0	PDF Manual	275	0
VGA Monitor & Speakers	VGA + audio	ST-C5VA-600	3.25x3.4x1.0	3.25x3.4x1.0	PDF Manual	395	0
Touch Screen	VGA + RS232	ST-C5VRS-600	3.25x3.4x1.0	3.25x3.4x1.0	PDF Manual	385	0

BUY LIST

Extend control up to 1000 feet away with the XTENDEX-ST-C5KVM & XTENDEX-ST-C5V



Prices & Sizes



International Distributors



Cat 5e Patch Cables

Search



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800-742-8324

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Aurora, OH 44202
Tel: 330-562-7070
Fax: 330-562-1999



FREE CATALOG

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Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36 and 38

Reg. No. 2,516,094

United States Patent and Trademark Office

Registered Dec. 11, 2001

**TRADEMARK
PRINCIPAL REGISTER**

EXTENDER

CYBEX COMPUTER PRODUCTS CORPORA-
TION (ALABAMA CORPORATION)
4912 RESEARCH DRIVE
HUNTSVILLE, AL 35805

FIRST USE 1-13-1987; IN COMMERCE 1-13-1987.

SEC. 2(F).

FOR: COMPUTER PERIPHERALS, NAMELY,
TRANSMITTERS, RECEIVERS AND CABLE FOR
LINKING A PERSONAL COMPUTER UNIT TO A
REMOTE KEYBOARD AND REMOTE MONITOR,
IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

SER. NO. 75-552,987, FILED 9-14-1998.

MICHELE SWAIN, EXAMINING ATTORNEY