TTHB

Opp. No.: 91157685
Atty. Ref. No.: 3947

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

In the matter of trademark application Serial No.:	76/383,219
Filed:	March 12, 2002
For the mark:	**CELERA**
Published in the Official Gazette on:	April 15, 2003

Applera Corporation

Opposer,

vs.

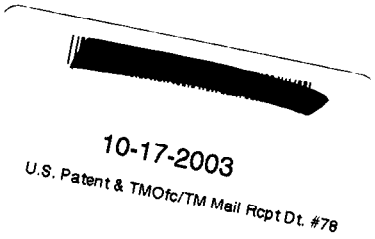
RedtagBiz, Inc.

Applicant.

Opposition No.: 91157685

Applicant's File No.: 3947

BOX TTAB
Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202



ANSWER TO NOTICE OF OPPOSITION

Dear Commissioner:

RedtagBiz, Inc., Applicant in this proceeding, for its answer to the Notice of Opposition ("the Notice") states:

Express Mail No.: EV 040151220 US
Date of Deposit October 17, 2003

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513

Catherine M. Wood
Name

Signature

1. Applicant is without knowledge or information sufficient to form an opinion as to the truth of the averments of Paragraph 1 of the Notice and therefore denies same.

2. Applicant is without knowledge or information sufficient to form an opinion as to the truth of the averments of Paragraph 2 of the Notice and therefore denies same.

3. Applicant is without knowledge or information sufficient to form an opinion as to the truth of the averments of Paragraph 3 of the Notice and therefore denies same.

4. Applicant admits the averments of Paragraph 4 of the Notice.

5. Applicant admits the averments of Paragraph 5 of the Notice.

6. Applicant denies the averments of Paragraph 6 of the Notice.

7. Applicant denies the averments of Paragraph 7 of the Notice.

8. Applicant admits that its CELERA mark consists of the same letters as Opposer's CELERA mark, but otherwise denies the remaining averments of Paragraph 8 of the Notice.

9. Applicant is without knowledge or information sufficient to form an opinion as to the truth of the averments of Paragraph 9 of the Notice and therefore denies same.

10. Applicant admits that its CELERA mark is used in commerce or intended to be used in commerce, and is without knowledge or information sufficient to form an opinion as to the truth of the remaining averments of Paragraph 10 of the Notice and therefore denies same.

11. Applicant denies the averments of Paragraph 11 of the Notice.

12. Applicant denies the averments of Paragraph 12 of the Notice.

13. Applicant is without knowledge or information sufficient to form an opinion as to the truth of the averments of Paragraph 13 of the Notice and therefore denies same.

14. Applicant is without knowledge or information sufficient to form an opinion as to the truth of the averments of Paragraph 14 of the Notice and therefore denies same.

15. Applicant is without knowledge or information sufficient to form an opinion as to the truth of the averments of Paragraph 15 of the Notice and therefore denies same.

16. Applicant is without knowledge or information sufficient to form an opinion as to the truth of the averments of Paragraph 16 of the Notice and therefore denies same.

17. Applicant is without knowledge or information sufficient to form an opinion as to the truth of the averments of Paragraph 17 of the Notice and therefore denies same.

18. Applicant denies the averments of Paragraph 18 of the Notice.

19. Applicant denies the averments of Paragraph 19 of the Notice.

20. Applicant denies the averments of Paragraph 20 of the Notice.

21. Applicant is without knowledge or information sufficient to form an opinion as to the truth of the averments of Paragraph 21 of the Notice and therefore denies same.

22. Applicant is without knowledge or information sufficient to form an opinion as to the truth of the averments of Paragraph 22 of the Notice and therefore denies same.

FIRST AFFIRMATIVE DEFENSE

23. Opposer's rights in the mark CELERA are narrow in view of third party use of the exact mark and similar marks, including federal registrations for similar marks.

SECOND AFFIRMATIVE DEFENSE

24. Opposer is not the owner of a famous mark and therefore is not entitled to plead dilution as a ground for opposition.

WHEREFORE, Applicant requests that the Notice of Opposition be dismissed with prejudice, that Applicant's application be allowed, and that Applicant's mark be registered on the Principal Register.

Respectfully submitted,

RedtagBiz, Inc.

Date: October 17, 2003

By: Elizabeth C. Buckingham

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ATTORNEYS FOR APPLICANT

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document has been served via first-class mail, postage prepaid, to R.J. Heher, Fenwick & West, 801 California Street, Mountain View, California 94041 this 17th day of October, 2003.

Elizabeth C. Buckingham, Esq.