

TIAB

09/09/2003TTAB

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

In re Application No. 78/164113 for the mark QUANTO filed on September 13, 2002, and published on April 22, 2003

QUANTUM CORPORATION	:	
	:	
Opposer	:	
	:	
v.	:	Opp. No. _____
	:	
MAGIC MOTION, LTD.	:	
	:	
Applicant	:	

NOTICE OF OPPOSITION

Quantum Corporation believes that it will be damaged by the registration of the above identified mark and hereby opposes the same under the provisions of Section 13 of the Trademark Act of 1946, 15 U.S.C. §1063.

As grounds for the opposition, it is alleged that:

1. Opposer is the owner of all right, title and interest in and to the mark QUANTUM for a wide variety of goods and services including computer software.
2. Opposer has obtained Registration Nos. 2075239, 1089619, 926161, 1749927, and 2386775 from the U.S. Patent and Trademark Office.
3. Opposer's registrations are valid and subsisting and provide prima facie evidence of Opposer's ownership of the QUANTUM mark and of its exclusive right to use the mark in commerce.
4. Since long prior to the filing date of Application No. 78/164113, Opposer has made substantial expenditures in the advertising and promotion of the QUANTUM mark. As a result, the mark has become well known and famous as a distinctive indicator of the origin of Opposer's goods and services, and it symbolizes Opposer's valuable goodwill.

09/04/2003 WANDERSO 00000067 78164113
01 FC:6402 300.00 OP



08-21-2003
U.S. Patent & TMO/TM Mail Rpt Dt. #74

5. Opposer's QUANTUM mark has become particularly well known in the relevant trade through extensive advertising and promotion in commerce in connection with the sale of its goods and services, which have been distributed and sold throughout the United States.

6. The QUANTUM mark is displayed prominently on software and on computer screens whenever customers or prospective customers access Opposer's website.

7. Notwithstanding Opposer's prior rights in its mark, Applicant filed the above referenced application for registration of the mark QUANTO for "computer software for time and attendance, access control."

8. Upon information and belief, Applicant knew or had reason to know of Opposer's QUANTUM mark when Applicant filed their application.

9. Opposer has used its QUANTUM mark continuously on or in connection with its goods and services in interstate commerce since long prior to the filing date of Application No. 78/164113.

10. Applicant's alleged mark so closely resembles Opposer's mark that the use and registration thereof is likely to cause confusion, mistake and/or deception as to the source or origin of Applicant's goods in violation of Section 2(d) of the Trademark Act, and will injure and damage Opposer and the goodwill and reputation symbolized by Opposer's mark.

11. The goods of Applicant are so closely related to the goods of Opposer that the public is likely to be confused, to be deceived and to assume erroneously that Applicant's goods are the goods of Opposer or that Applicant is in some way connected with or sponsored by or affiliated with Opposer, all to Opposer's irreparable damage.

12. Applicant is not affiliated or connected with or endorsed or sponsored by Oppose, nor has Opposer approved any of the goods offered or sold or intended to be sold by Applicant

09/09/2003 TAB

under his alleged mark.

13. Likelihood of confusion in this case is enhanced by the fame of Opposer's mark, and the fact that consumers associate them with goods sold, approved or endorsed by Opposer.

14. Applicant's mark so closely resembles Opposer's mark that Applicant's mark is likely to cause deception in violation of Section 2(a) of the Trademark Act and to materially alter purchasers' decision to acquire Applicant's goods.

15. Applicant's mark so closely resembles Opposer's mark that it falsely suggests a connection with Opposer in violation of Section 2(a) of the Trademark Act, since Applicant's alleged mark points uniquely to Opposer, and purchasers will assume that goods offered under Applicant's alleged mark are connected with Opposer.

16. Use and registration of the mark QUANTO by Applicant will deprive Opposer of the ability to protect its reputation, persona and goodwill.

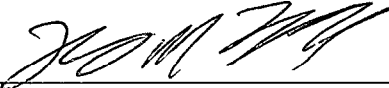
17. By reason of the foregoing, Opposer will be damaged by the registration of Applicant's mark and registration should be refused.

09/09/2003TAB

WHEREFORE, Opposer prays that this opposition be sustained and that registration be denied.

August 20, 2003

QUANTUM CORPORATION

By  _____


Mark H. Tidman
Leo M. Loughlin
Arent Fox Kintner Plotkin & Kahn, PLLC
1050 Connecticut Avenue, NW
Washington, D.C. 20036
(202) 857-6000

Attorney for Opposer

09/09/2003TTAB

CERTIFICATE OF MAILING

It is hereby certified that the attached Notice of Opposition and check (re S/N 78/164113) are being deposited with the U.S. Postal Service addressed to the Hon. Commissioner Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3514 this 20th day of August 2003 marked first class mail, postage prepaid.



Leo M. Loughlin

09/09/2003TTAB

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Mark: QUANTO

Serial No.: 78/164,113

TRANSMITTAL LETTER

Commissioner for Trademarks
Arlington, Virginia 22202-3513

August 20, 2003

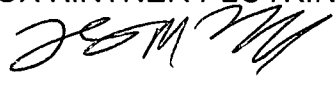
Sir:

Transmitted herewith for filing are two copies of Opposer Quantum Corporation's Notice of Opposition.

A check in the amount of Three Hundred Dollars (\$300.00) for payment of the required filing fee is attached. In the event that the attached check is found to be insufficient, or if any additional filing fees are due with respect to this paper, please charge our Deposit Account No. 01-2300.

Respectfully submitted,

ARENT FOX KINTNER PLOTKIN & KAHN, PLLC



Leo M. Loughlin
Attorney for Applicant

03 SEP -8 AM 9:53

Atty. Docket No.: 025455-00122

1050 Connecticut Avenue, N.W.
Suite 400
Washington, D. C. 20036-5339
Tel (202) 857-6000
Fax (202) 638-4810

Enclosures: Check #364451
Notice of Opposition (2 copies)
Return Receipt Postcard



08-21-2003

