


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

-----X
Z-Tel Technologies, Inc. :
 :
 :
 Opposer, :
 :
 :
 v. :
 :
 BIZzLine Corporation, :
 :
 :
 Applicant. :
-----X


11-26-2003
U.S. Patent & TMO/c/TM Mail Rcpt Dt. #39

Opposition No. _____

Ser. No. 76/502574

NOTICE OF OPPOSITION

Opposer, Z-Tel Technologies, Inc, a corporation of Delaware, having an address of 601 South Harbour Island Blvd., Suite 220 Tampa, Florida 33602, believes that it will be damaged by the registration of BIZZLINE and Design, (Ser. No. 76/502574) for "telecommunication services, namely, long and long distance transmission of voice, data, graphics by means of telephone, telegraphic, cable, and satellite transmissions." This application was published for opposition on November 11, 2003 and the owner of record is Applicant, BIZzLine Corporation, a corporation of Georgia, with an address of 6830 Walling Lane, Dallas, TX 75231. Opposer hereby requests that Ser. No. 76/502574 be refused registration for the reasons set forth herein.

Opposer alleges as follows:

Opposer has adopted and, at all times pertinent hereto, has used and/or has intended to use the following marks:

1. Z-LINE, Reg. No. 2,652,132, for telecommunication services, namely, providing local and long distance telephone services; providing electronic voice, voice mail, facsimile and data transmission, and electronic mail; providing telephonic routing services, namely activating call

forwarding from telephone to telephone; providing communication connections for the transmission of voice, electronic mail and data by linking users via facsimiles and telephones and a global computer network; providing electronic data interchange services. Opposer has used the mark Z-LINE in interstate commerce since July 1, 1998. Upon information and belief, this date predates any use of the BIZZLINE and Design mark by Applicant.

2. Z-LINEBUSINESS, Reg. No. 2,655,094, for telecommunication services, namely, providing local and long distance telephone services; providing electronic voice, voice mail, facsimile and data transmission, and electronic mail; providing telephonic routing services, namely activating call forwarding from telephone to telephone; providing communication connections for the transmission of voice, electronic mail and data by linking users via facsimiles and telephones and a global computer network; providing electronic data interchange services. Opposer has used the mark Z-LINEBUSINESS in interstate commerce since October 1, 2001. Upon information and belief, this date predates any use of the BIZZLINE and Design mark by Applicant.

3. Z-LINE ANYWHERE, Reg. No. 2,654,744, for telecommunication services, namely, providing local and long distance telephone services; providing voice, voice mail, facsimile and data transmission, and electronic mail; providing telephonic routing services, namely activating call forwarding from telephone to telephone; providing communication connections for the transmission of voice, electronic mail and data by linking users via facsimiles and telephones and

a global computer network; providing electronic data interchange services. Opposer has used the mark Z-LINE ANYWHERE in interstate commerce since January 2000. Upon information and belief, this date predates any use of the BIZZLINE and Design mark by Applicant.

4. Z-LINE HOME EDITION, Reg. No. 2,539,190, for telecommunication services, namely, providing local and long distance telephone services; providing electronic voice, voice mail, facsimile and data transmission, and electronic mail; providing telephonic routing services, namely activating call forwarding from telephone to telephone; providing communication connections for the transmission of voice, electronic mail and data by linking users via facsimiles and telephones and a global computer network; providing electronic data interchange services; Opposer has used the mark Z-LINE HOME EDITION in interstate commerce since June 1999. Upon information and belief, this date predates any use of the BIZZLINE and Design mark by Applicant.

Each of these registrations was issued by the U.S. Patent and Trademark Office and is in full force and effect. These registrations constitute prima facie evidence of Z-Tel's exclusive rights to use these marks.

These registrations are prima facie evidence of Opposer's ownership of the service marks shown in the registrations and are prima facie evidence of Opposer's exclusive right to use the service marks shown in these registrations in commerce in connection with the goods/services listed in these registrations.

Opposer's Z-LINE and related marks are of significant value to Opposer as an identification of source in connection with the promotion and offering of its services under the mark. Further, Opposer's service marks operate to distinguish Opposer's services from the goods and/or services of others.

Z-LINE and the related service marks, particularly Z-LINEBUSINESS, used by Opposer for its services, and the designation BIZZLINE and Design as filed by Applicant for its services, are very similar in wording, pronunciation, sound and spelling, and appearance. Applicant's mark BIZZLINE incorporates the Opposer's mark in its entirety and is an approximation of Z-LINEBUSINESS, in that BIZ is a common term for BUSINESS. Thus, it is clear that the subject mark so resembles Opposer's marks as to be likely to cause confusion, or to cause mistake, or to deceive.

On information and belief, the services of the type recited in Applicant's BIZZLINE and Design application are closely related to the services offered by Opposer. Further, Applicant's and Opposer's services are likely to be offered to the same classes of purchasers through the same channels of trade. Specifically, Opposer's and Applicant's services are sold to consumers in need of telecommunications services.

Purchasers and prospective purchasers familiar with Opposer's services identified by its Z-LINE marks, including the Z-LINEBUSINESS mark, are likely to be misled into believing, contrary to fact, that Applicant's services sold under the very similar mark emanate from or are in

Opposition to Ser. No. 76/502574

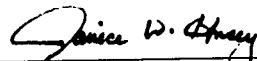
some way sponsored by Opposer, all to Opposer's irreparable damage through loss of its goodwill as symbolized by Opposer's trademark.

Opposer will be damaged by the registration of Ser. No. 76/502574 in light of Opposer's current and future intentions to use the designation, Z-LINE, Z-LINE BUSINESS and other Z-LINE marks in connection with a wide variety of telecommunication services. Moreover, such registration would inhibit Opposer in its free use of, and natural expansion of, its Z-LINE marks in identifying and promoting its services, which would work damage upon Opposer.

A check in the amount of \$300.00 to cover the official filing fee and a duplicate copy of this petition is attached hereto.

WHEREFORE OPPOSER PRAYS that this opposition be sustained and that U. S. Ser. No. 76/502574 for the mark BIZZLINE and Design be refused registration.

Date: November 25, 2003



Janice W. Housey
Michael J. Mlotkowski

Counsel for Opposer

Roberts, Mlotkowski & Hobbes, P.C.
8270 Greensboro Dr
Suite 850
McLean VA 22102
703-584-3277
703-852-7189

TTAB

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Trademark Application of:

BIZzLine

Serial No.: 76502574

Mark: BIZZLINE and Design

Filed: March 31, 2003

Published: November 11, 2003

COVER SHEET

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

TRADEMARK FEE PROCESS
RECEIVED
2003 NOV 26 A 8:22
US PATENT &
TRADEMARK OFFICE

Madam:

Enclosed for filing in connection with the above-referenced application, please find the following:

- (1) Notice of Opposition (in triplicate);
- (2) Our check no. 1513 in the amount of \$300.00.

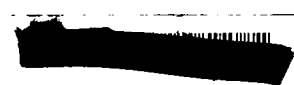
Respectfully submitted,

Janice W Housey

Janice W. Housey
Counsel for Applicant

Date: November 26, 2003

Roberts, Mlotkowski & Hobbes
8270 Greensboro Drive
Suite 850
McLean, VA 22102



11-26-2003