

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

QUICK TECHNOLOGIES, INC.,

Opposer,

v.

SAGEMAKER, INC.

Applicant.

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Opposition No. _____

Serial No. 75/551,234

Filed: September 11, 1998

MARK: SAGESERVER

Published: August 24, 2004

EV 31552 7825

EXPRESS MAIL NO.:

DATE OF DEPOSIT:

09/10/04

I hereby certify that this correspondence 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: Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3514.

Name of Depositor

SHAWN SUTHERLAND

Signature

Date of Signature:

[Handwritten Signature]

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NOTICE OF OPPOSITION

TO THE HONORABLE TRIAL AND APPEAL BOARD:

QUICK TECHNOLOGIES INC., a Texas corporation having its principal place of business at 1850 Empire Central, Dallas, Texas 75235 (hereinafter referred to as "Opposer"), believes that it will be damaged by registration of a trademark shown in Serial No. 75/551,234 filed September 11, 1998 and hereby opposes the same.



As grounds of opposition, it is alleged that:

- (1) Opposer has used its trademarks SAGE and SAGE INFORMATION SYTEM in connection with the distribution and sale in the United States of computer software for use in accessing and controlling business databases, providing, managing, viewing and retrieving business information and contacts, providing business forms, performing business and accounting functions, performing electronic business transactions via a global computer network, business management services, and computer consulting services, including customized software and design and implementation of web pages and e-commerce payment services from a date beginning at least as early as January 1992 and continuing to the present time.
- (2) Opposer is the owner of trademark Registration No. 2,240,550 for the mark SAGE and trademark Registration No. 2,143,828 for the mark SAGE INFORMATION SYSTEM, and trademark Applications No. 75/590,576 and 76/412,073, both for the mark SAGE.
- (3) Opposer's marks SAGE and SAGE INFORMATION SYSTEM have been so used and advertised by Opposer that the marks have come to indicate to the purchasing public products having their source of origin in or being connected with Opposer.
- (4) Opposer's marks SAGE and SAGE INFORMATION SYSTEM are not now nor have they ever been abandoned.
- (5) The goods and services Applicant seeks to register associated with its mark are described in its application as "computer server software for use in the field of business inquiries, business research and business investigations accessed by customer clients within a local area network or intranet." Such goods and services are related to the products previously offered by Opposer under its trademarks SAGE and SAGE INFORMATION SYSTEM.
- (6) In the application opposed, Applicant claims no right in the mark in the U.S. predating July 27, 1998, nor any use in commerce prior to July 27, 1998.
- (7) Applicant's mark is confusingly similar to Opposer's trademarks and is likely, when applied to the goods of the Applicant, to cause confusion, or to cause mistake or to deceive. (15 U.S.C. 1052(3)).

(8) Applicant's SAGESERVER mark makes a highly similar commercial impression to Opposer's SAGE mark due to the marks being similar and being used for similar products, business software. The overall commercial impression of applicant's mark, when applied to the same or similar goods, would cause confusion or be likely to cause confusion, mistake, or deception.

(9) Applicant's SAGESERVER mark makes a highly similar commercial impression to Opposer's SAGE INFORMATION SYSTEM mark. Additionally, the overall commercial impression of Applicant's mark, when applied to the same or similar goods and services, would cause confusion or be likely to cause confusion, mistake or deception.

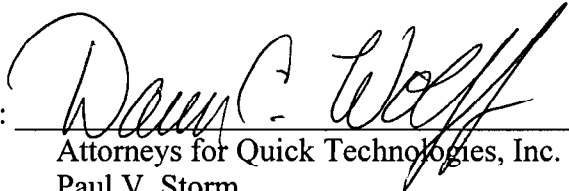
(10) On information and belief, Applicant uses its confusingly similar mark with respect to the goods outlined in Application Serial No. 75/551,234, which would be likely to cause confusion.

(11) Applicant's mark SAGESERVER so resembles Opposer's previously used and not abandoned SAGE and SAGE INFORMATION SYSTEM trademarks as to be likely to cause confusion, or to cause mistake or to deceive.

WHEREFORE, Opposer requests that registration of Applicant's "SAGESERVER" application Serial No. 75/551,234, be refused, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer. A duplicate copy of this Notice of Opposition is enclosed herewith.

DATED: September 9, 2004

QUICK TECHNOLOGIES, INC.

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