

ESTTA Tracking number: **ESTTA16986**

Filing date: **10/13/2004**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Best Software, Inc.
Granted to Date of previous extension	10/13/2004
Address	Best Software, Inc. 56 Technology Drive Irvine, CA 92618 UNITED STATES

Attorney information	Susan Daly Stearns Greenberg Traurig LLP 2375 E. Camelback Rd Suite 700 Phoenix, AZ 85016 UNITED STATES stearnss@gtlaw.com Phone:602 445 8382
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Applicant Information

Application No	78169019	Publication date	06/15/2004
Opposition Filing Date	10/13/2004	Opposition Period Ends	10/13/2004
Applicant	DuraLogic, Inc.		

Goods/Services Affected by Opposition

Class 042. First Use: 20020925 First Use In Commerce: 20020925
All goods and services in the class are opposed, namely: Computer related consultation specializing in creating and maintaining computer networks

Attachments	Duralogic Opposition Statement.doc.pdf (3 pages)
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Signature	/Susan Daly Stearns/
Name	Susan Daly Stearns
Date	10/13/2004

Opposer Best Software, Inc. (“Opposer”) organized and existing under the laws of the State of Virginia believes that it would be damaged by registration of the above-referenced mark, and hereby opposes same. As grounds for this Opposition, Best respectfully alleges as follows:

1. Opposer is a corporation duly organized and existing under the laws of the state of Virginia and having a place of business at 56 Technology Drive, Irvine, California 92618.

2. Opposer produces, provides and markets computer software and business and organizational management solutions, and related products and services in the fields of accounting, tax, payroll and book keeping, business management, human resource and personnel management, financial asset management and planning. (“Best Products”).

3. Opposer has, and is now, engaged in the creation, advertisement, marketing, licensing, distribution, offering for sale, and sale of the Best Products in commerce under and in connection with the trademark(s) INSIGHTS FOR THE LIFE OF YOUR BUSINESS and BEST SOFTWARE INSIGHTS FOR THE LIFE OF YOUR BUSINESS (hereafter, collectively, “Best Marks”).

4. Opposer is the owner of common law rights in the Best Marks for the Best Products, and will rely herein on such common law rights.

5. Opposer also is the owner of the following U.S. trademark applications; (i) BEST SOFTWARE INSIGHTS FOR THE LIFE OF YOUR BUSINESS, (serial no. 76480973), and (ii) INSIGHTS FOR THE LIFE OF YOUR BUSINESS (serial no. 76454658). Opposer will rely herein on the registrations which issue on these

applications.

6. The mark subject to this Opposition is “FOR THE LIFE OF YOUR BUSINESS” for the following goods and services:

“Computer related consultation specializing in creating and maintaining computer networks in International class 42.”

7. As a result of Opposer’s extensive and continuous use and promotion of the Best Marks in connection with the Best Products the relevant public has come to know and associate the Best Marks with Opposer and/or the Best Products.

8. The services identified in the Application opposed herein are commercially related to the Best Products marketed and sold by Opposer under the Best Marks.

9. Applicant’s mark “FOR THE LIFE OF YOUR BUSINESS” is confusingly similar to Opposer’s INSIGHTS FOR THE LIFE OF YOUR BUSINESS and BEST SOFTWARE INSIGHTS FOR THE LIFE OF YOUR BUSINESS marks. Both Applicant’s and Opposer’s marks are used for commercially related goods and services and the Best Marks incorporate Applicant’s mark in its entirety. Because the Best Marks are recognized by consumers for computer software products and services, it is likely that consumers will mistakenly believe that the Applicant’s marks is connected to or otherwise associated with Opposer.

10. The registration of Applicant's mark for the services identified would be inconsistent with Best's rights in its Best Marks and will cause damage to Opposer.

WHEREFORE, Opposer respectfully prays that the present opposition be sustained and judgment be entered in favor of Opposer refusing registration of application serial no. 78/169,019.