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April 6, 2005

Via Federal Express

Attn: Trademark Trial and Appeal Board
Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3514

Re: 3-D VISIBLE ENTERPRISE, Serial No. 78395259

Dear Sir or Madam:

Enclosed please find two duplicate originals of a Notice of Opposition for the above-referenced trademark. Enclosed is a check for the required fee in the amount of \$300.

Sincerely,



Stephen H. Galebach

Enclosures



04-07-2005

TTRB

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

In the Matter of Application Serial No. 78395259
Filed: April 2, 2004
Mark: 3-D Visible Enterprise
Published in the Official Gazette on March 8, 2005

Visible Systems Corporation,)	
)	
Opposer,)	
v.)	
)	
Unisys Corporation,)	Opposition No. _____
)	
Applicant.)	

Notice of Opposition

In the matter of the application by Unisys Corporation ("Applicant") for registration of the mark "3-D VISIBLE ENTERPRISE" in International Class 35, Serial Number 78395259, filed on April 2, 2004, published for opposition in the Official Gazette on March 8, 2005, Opposer Visible Systems Corporation ("Visible") believes it would be damaged by the registration of such mark and hereby opposes the registration of Applicant's mark, by and through Visible's undersigned attorneys, on the following grounds:

1. Visible Systems Corporation is a Massachusetts corporation with its principal place of business at 201 Spring Street, Lexington, MA 02421.

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2. Upon information and belief, Unisys Corporation is a Delaware corporation with its principal place of business at E8-114 Township Line and Union Meeting Roads, Blue Bell, PA 19424.

3. Since 1984, Visible has been a leader in the information technology, consulting, modeling and enterprise architecture industry, building its core business around the delivery of software and consulting services aiding in the creation of computer models of an entity's business process and information technology architecture, along with products related to such services.

4. Beginning long before Unisys applied for the mark "3-D VISIBLE ENTERPRISE," Visible has used and continues to use the name Visible and a family of marks and names incorporating the name "Visible" in connection with Visible's distribution and marketing of its above-described services and products.

5. Visible's registered marks include:

Year of Registration	Registration No.	Mark
1985	1,344,068	THE VISIBLE ANALYST
1985	1,371,049	VISIBLE SYSTEMS CORPORATION (and Design)
1985	1,371,050	VISIBLE SYSTEMS
2001	2,517,235	VISIBLE
2002	2,546,919	VISIBLE

6. Visible has used, and continues to use, the above-identified marks in commerce in connection with its above-described services and products, beginning in 1985 and continuing to the present.

7. Visible has exercised great care, skill, and diligence in providing its above-described services and products in connection with its Visible family of marks and names.

8. By distributing, marketing, selling and otherwise promoting its above-described services and products bearing the Visible family of marks and names over a period spanning three decades, Visible has developed consumer recognition and valuable goodwill in its Visible family of marks and names.

9. Visible's extensive use and promotion of its Visible family of marks and names has resulted in recognition of "Visible" as a common unifying theme of the Visible family of marks and names, thereby acquiring distinctiveness as an indicator of products and services from Visible as well as widespread recognition and popularity in both the world of commerce and in the world of academia that feeds trained professionals and ideas into the world of commerce.

10. Applicant filed its trademark application to register the mark "3-D VISIBLE ENTERPRISE" on April 2, 2004, seeking to register the mark in International Class 35 for: Business consultation, namely collecting and analyzing data about a company's strategies, operations, and applications and information technology (IT) infrastructures, and using that information to prepare visual models or representations of the company's business processes, systems, and infrastructure, and their interrelationship, in order to allow the company to identify, preview and trace the impact and cost that a proposed business or technology decision will have throughout the company; developing and assisting companies with implementation of business and technology solutions.

11. Applicant is offering services and products in connection with the “3-D VISIBLE ENTERPRISE” that are similar to the services and products that Visible has long offered in connection with its Visible family of marks and names.

12. Applicant is offering services and products in connection with the “3-D VISIBLE ENTERPRISE” mark in channels of commerce and to customers that are similar to the government and commercial channels and customers to which Visible has offered goods and services through the years in connection with its Visible family of marks and names and in areas where Visible is operating and marketing its business.

13. Applicant’s mark “3-D VISIBLE ENTERPRISE” constitutes a mark so closely resembling Opposer’s Visible family of marks and names as to be likely, when used on or in connection with the services and products of Applicant, to cause confusion, mistake, and deceiving of customers.

14. Applicant’s mark “3-D VISIBLE ENTERPRISE” further resembles and is likely to cause confusion, mistake, and deception in relation to Visible’s usage through the years, and common law rights related to, the following terms: Visible Enterprise, Visible Enterprise Workbench, Visible Enterprise Engineering, Visible Enterprise Framework, and Visible Analyst Enterprise Framework; as well as Visible’s ownership and use of the domain names visible.com and visibleenterprise.com, and the telephone number 1-800-6VISIBLE.

15. Because of the similarity of the marks and the similarity of services and products offered by Applicant and Visible, Applicant’s use of “3-D VISIBLE ENTERPRISE” in connection with the aforementioned services and products likely will result in consumer confusion as to source, affiliation, connection or association with

Visible. Therefore, Applicant's mark is not entitled to registration pursuant to 15 U.S.C. § 1052(d).

16. Opposer believes it will be damaged by the registration of Applicant's proposed mark within the meaning of 15 U.S.C. § 1063(a).

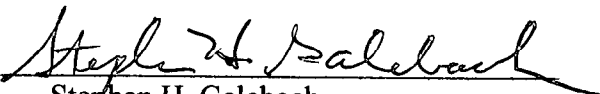
WHEREFORE, Opposer requests that the registration sought by Applicant be refused, that the Notice of Opposition be sustained, and that the Trademark Trial and Appeal Board grant such other relief as it deems just and proper.

This Notice of Opposition, including exhibits, is being filed in duplicate, along with a filing fee of \$300.00.

Dated: April 7, 2005

Respectfully submitted,

GALEBACH LAW FIRM

By: 

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