

**UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451**

dmd

Mailed: April 3, 2006

Opposition No. 91165072

NVIDIA Corporation

v.

INNOVIDIA, INC.

**Elizabeth A. Dunn, Attorney:**

On March 6, 2006, applicant filed a proposed amendment to its application Serial No. 78379001, with opposer's consent.

By the proposed amendment applicant seeks to change the identification of services in International Class 42

**from:**

"Application service provider (ASP) services, namely, hosting computer software applications for use in connection with marketing campaign management, tracking, analyzing, monitoring, measuring, reporting, and automating the execution, measurement, placement and optimization of media content including marketing variables such as images, pricing, placement, promotion, and inventory levels; application service provider (ASP) services, namely, hosting computer software applications for use in connection with digital media advertising campaigns; application service provider (ASP) services, namely, hosting computer software applications for the delivery of content over digital media devices and computers, and for the analysis of consumer

purchasing patterns and optimization and targeting of content delivered over digital media devices and computers; Computer software consulting services."

to the following:

Application service provider services (ASP), namely, hosting computer software applications in connection with the following: analysis of consumer purchasing patterns; marketing campaign management; tracking, analyzing, monitoring, measuring, reporting, and automating the execution, measurement, placement and optimization of media content including marketing variables such as images, pricing, placement, promotion, and inventory levels; optimization and targeting of advertising and promotional content delivered over digital media devices and computers; all of the foregoing excluding services relating to graphics and digital media processors, such as graphics processing units, media and communications processors, and wireless media processors.

The services described as "analysis of consumer purchasing patterns" and "optimization and targeting of advertising and promotional content delivered over digital media devices and computers", underlined above, form no part of the published recitation of Int. Cl. 42 services. Accordingly, the proposed Int. Cl. 42 amendment is unacceptable insofar as it exceeds the scope of the published recitation of services. See Trademark Rule 2.71(a) ("The applicant may amend the application to clarify or limit, but not to broaden, the identification of goods and/or services.").

An acceptable amendment would clarify or limit the published services using the desired new language as a modifier of existing language. For example, an acceptable amendment would read:

Application service provider services (ASP), namely, hosting computer software applications in connection with the following: marketing campaign management, including analysis of consumer purchasing patterns; tracking, analyzing, monitoring, measuring, reporting, and automating the execution, measurement, placement and optimization of media content including marketing variables such as images, pricing, placement, promotion, and inventory levels and optimization and targeting of advertising and promotional content delivered over digital media devices and computers; all of the foregoing excluding services relating to graphics and digital media processors, such as graphics processing units, media and communications processors, and wireless media processors.

Applicant is allowed until thirty days from the mailing date of this order to file a modified proposed amendment, failing which discovery and trial dates will be reset.

Proceedings otherwise remain suspended.

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