

ESTTA Tracking number: **ESTTA33447**

Filing date: **05/19/2005**

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

<b>Name</b>	Enterasys Networks Inc.		
<b>Entity</b>	Corporation	<b>Citizenship</b>	Delaware
<b>Address</b>	50 Minuteman Road Andover, MA 01810 UNITED STATES		

<b>Attorney information</b>	Paul Coryea Enterasys Networks Inc. 50 Minuteman Road Andover, MA 01810 UNITED STATES pcoryea@enterasys.com Phone:(978) 684-1410		
-----------------------------	---	--	--

#### Applicant Information

<b>Application No</b>	78340626	<b>Publication date</b>	04/19/2005
<b>Opposition Filing Date</b>	05/19/2005	<b>Opposition Period Ends</b>	05/19/2005
<b>Applicant</b>	AboCom Systems, Inc. 1F, No. 21, R&D 2nd Road Science-Based Industrial Park HsinChu, 300 TAIWAN		

#### Goods/Services Affected by Opposition

**Class 009.**

All goods and services in the class are opposed, namely: computer chips, namely, ethernet and fast ethernet local-area network controller chips; magnetically encoded cards for use in credit card transactions; computer local-area network cards, namely, encoded electronic chip cards for identifying particular users of computers; modems, namely, personal computer facsimile modem cards, universal serial bus modems and external modems; electronic switches for use in analyzing and testing equipment for computer networks, electric switches, and electronic motion sensitive switches; computer network hubs; computer network routers; network gateways; network bridges; personal computers; network transmission multiplexers; network transmission concentrators; wireless local area network cards and access points that use high-frequency radio waves, namely, 802.11, GPRS, GSM, CDMA, bluetooth, WLAN and VOICE/IP; memory card reader; portable storage device used to store data and images, compactflash card; portable web pad

**Class 035.**

All goods and services in the class are opposed, namely: import-export agencies; auctioneering; sales promotion for others; purchasing of goods; commercial information agencies; product demonstration, organization of trade fairs for commercial or advertising purposes

<b>Attachments</b>	Statement of Claim for XTERASYS Opposition.pdf ( 5 pages )
<b>Signature</b>	/Paul Coryea/
<b>Name</b>	Paul Coryea
<b>Date</b>	05/19/2005

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

In the Matter of Application Serial No. 78/340,626  
Published in the Official Gazette on April 19, 2005  
Mark: XTERASYS

_____ )	
Enterasys Networks Inc., )	
(a Delaware Corporation) )	
Opposer, )	
v. )	
AboCom Systems Inc., )	
(a Taiwan Corporation) )	
Applicant. )	
_____ )	

**NOTICE OF OPPOSITION**

Enterasys Networks Inc., a corporation duly organized and existing under the laws of the State of Delaware, having headquarters located at 50 Minuteman Road in Andover, Massachusetts 01810, believes that it will be damaged by registration of the mark shown in Application Serial No. 78/340626, and hereby opposes the same.

As grounds of opposition, Opposer alleges:

1. Opposer's filing of this Notice of Opposition is timely. Applicant's Intent-to-Use Trademark Application Serial No. 78/340,626 for "XTERASYS" published for opposition in the April 19, 2005, Trademark Official Gazette. Opposer has properly and timely electronically filed this Notice of Opposition on May 19, 2005.

2. Opposer is the owner of, inter alia, the following U.S. trademarks (collectively, the "ENTERASYS Marks"):

<u>Mark</u>	<u>Serial/Reg. No.</u>	<u>Date Registered</u>
ENTERASYS NETWORKS	2,601,957	7/30/2002
ENTERASYS	2,924,928	2/8/2005
ENTERASYS DRAGON	2,774,963	10/21/2003
ENTERASYS XSR	2,933,986	3/15/2005
E ENTERASYS NETWORKS THAT KNOW (and design)	78/355,922	Allowed

3. Opposer's rights in the ENTERASYS Marks have priority dating back as early as 2/11/2000, more than 3.5 years prior to the (12/15/2003) filing date of the subject intent-to-use application. Enterasys continuously has used and currently is using the ENTERASYS Marks in the United States on or in connection with a wide variety of computer hardware, software and other products.

4. Opposer has used ENTERASYS as a trade name, trademark, and service mark in connection with operating Enterasys Networks for a substantial period of time. The extensive use and promotion of the ENTERASYS Marks by Enterasys has resulted in the ENTERASYS Marks achieving secondary meaning, fame, and popularity with the public.

5. Enterasys and its affiliates have exercised great care, skill and diligence in providing computer products and services in connection with Enterasys Networks famous ENTERASYS Marks.

6. Enterasys Networks and its affiliates have marketed and otherwise promoted its products bearing the ENTERASYS Marks in the United States for more than five years. As a result, the ENTERASYS Marks have come to represent and embody Enterasys' valuable goodwill and outstanding reputation for quality, and are strong and famous marks.

7. Enterasys' ENTERASYS Marks have been famous since prior to the December 15, 2003 filing date of the intent-to-use Application Serial No. 78/340,626 (the "Application"), seeking to register the mark XTERASYS in Class 09 and Class 35.

8. On information and belief, Applicant is Abocom Systems Inc, a corporation based in Taiwan.

9. The Opposed mark so closely resembles Enterasys Networks ENTERASYS Marks as to be likely, when applied to Applicant's goods, to result in consumer confusion as to source, affiliation, connection or association with, or permission by, Enterasys, and will likely cause mistake, or to deceive. The applicants mark sounds confusingly similar to ENTERASYS. ENTERASYS is a coined term that was created to act only as a trade name, trademark, and service mark. There are no other similar marks to the

ENTERASYS Marks being used in the computer products field. In addition, both companies operate and sell their products in the same channels of trade, for example using their websites. Therefore, there is a high likelihood of confusion. As such, the Opposed Mark is not entitled to registration pursuant to 15 U.S.C. § 1052 (a) and (d).

10. The Applicant and Enterasys sell the same goods and services. Enterasys manufactures and sells computer hardware and software for use in interconnecting, managing and operating networks. Enterasys also provides installation, maintenance and repair services for computer networks and networking hardware. Enterasys also provides telecommunication services, educational services, conferences, training courses, testing, workshops, and also sells others products with and/or separately from Enterasys products. The applicant's website ([www.xterasys.com](http://www.xterasys.com)) "about us" section states "Xterasys Corporation is the leader in reliable networking and computing products." As such, the Opposed Mark is not entitled to registration pursuant to 15 U.S.C. § 1052 (a) and (d).

11. That Opposed Mark is likely to dilute the distinctive quality of Enterasys Networks famous ENTERASYS Marks, in violation of 15 U.S.C. § 1125 (c).

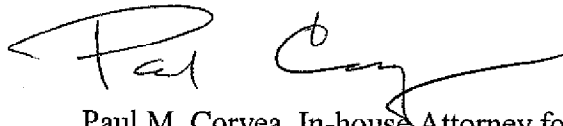
12. Enterasys Networks believes it will be damaged by the registration sought herein by Applicant's proposed mark with the meaning of 15 U.S.C. § 1063(a).

Please deduct the filing fee from the deposit account of Enterasys Networks - account No. 501127.

Wherefore, Enterasys Networks 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 relief as it deems just and proper.

Dated: May 19, 2005

Respectfully submitted by:

A handwritten signature in black ink, appearing to read "Paul Coryea", with a long horizontal flourish extending to the right.

Paul M. Coryea, In-house Attorney for

Enterasys Networks

50 Minuteman Road

Andover, Massachusetts 01810

(978) 684-1410