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

Proceeding	91166621
Party	Defendant Technorati, Incorporated Technorati, Incorporated 512A Simonds Loop San Francisco, CA 94129
Correspondence Address	Julia Spoor Gard Barnes & Thornburg 11 South Meridian Indianapolis, IN 46207
Submission	Answer and Counterclaim
Filer's Name	Julia Spoor Gard
Filer's e-mail	jgard@btlaw.com
Signature	/jgard/
Date	10/18/2005
Attachments	Oppositi.pdf (7 pages)

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

GOOD TECHNOLOGY, INC.)	
)	
Opposer,)	
)	
v.)	Opposition No. 91166621
)	Serial No. 78/300,086
TECHNORATI, INCORPORATED)	
)	
Applicant.)	

ANSWER TO NOTICE OF OPPOSITION

Assistant Commissioner for Trademarks
P.O. Box 1450
Alexandria, Virginia 22313-1450

Attn: BOX TTAB FEE

Applicant TECHNORATI, INCORPORATED hereby answers the Notice of Opposition as follows:

1. Admitted.
2. Applicant is without knowledge or information sufficient to form a belief as to the averments of paragraph 2, and therefore denies the same.
3. To the extent that Opposer avers that either the respective marks or the respective goods and services are so similar as to be likely to cause confusion mistake or deception or dilution, Applicant denies the averments of paragraph 3. Applicant is without knowledge or information sufficient to form a belief as to the remainder of the averments of paragraph 3, and therefore denies the same.

4. To the extent that Opposer avers that either the respective marks or the respective goods and services are so similar as to be likely to cause confusion, mistake or deception or dilution, Applicant denies the averments of paragraph 4. Applicant is without knowledge or information sufficient to form a belief as to the remainder of the averments of paragraph 4, and therefore denies the same.

5. To the extent that Opposer avers that either the respective marks or the respective goods are so similar as to be likely to cause confusion, mistake or deception or dilution, Applicant denies the averments of paragraph 5. Applicant is without knowledge or information sufficient to form a belief as to the remainder of the averments of paragraph 5, and therefore denies the same.

6. To the extent that Opposer avers that either the respective marks or the respective goods are so similar as to be likely to cause confusion, mistake or deception or dilution, Applicant denies the averments of paragraph 6. Applicant is without knowledge or information sufficient to form a belief as to the remainder of the averments of paragraph 6, and therefore denies the same.

AFFIRMATIVE DEFENSES

1. Opposer's marks are descriptive.
2. Opposer's marks are generic.
3. Opposer's marks are incapable of acquiring distinctiveness.
4. Opposer's prayer for relief is barred by the doctrines of waiver and estoppel.
5. Applicant reserves the right to assert any additional defenses which it may learn through discovery.

WHEREFORE, Applicant prays that the Opposition be denied.

Counterclaim

Consolidated Petitions to Cancel

Applicant believes it is now and will in the future continue to be damaged by Opposer's registrations of the trademarks GOOD TECHNOLOGY, as shown in Registration No. **2641263**, registered on October 11, 2002 and GOOD DESKTOP as shown in Registration No. **2641261**, registered on October 22, 2002 (hereinafter the "Registered Marks"), and hereby petitions to cancel said registrations.

The grounds for this petition are as follows:

1. Opposer is the owner of U.S. Registration No. 2641263 of the mark GOOD TECHNOLOGY for computer hardware, computer peripherals and computer software.
2. Opposer is the owner of U.S. Registration No. 2641261 of the mark GOOD DESKTOP for computer software used on or for desktop computers.
3. The Registered Marks issued less than 5 years from the filing date of this Petition.
4. The Registered Marks issued on the Supplemental Register.
5. Upon information and belief, Opposer's hardware, software, and peripherals are of high quality.
6. Purchasers of computer hardware, software, and peripherals commonly use the word "good" to describe computer hardware, software, and peripherals that are of high quality.

7. Competitors who sell computer hardware, software, and peripherals commonly use the word “good” to describe computer hardware, software, and peripherals that are of high quality.
8. The term “good” is descriptive of computer hardware, software, and peripherals that are of high quality, within the meaning of Section 2(e) of the Lanham Act.
9. The term “good” is incapable of acquiring distinctiveness in connection with computer hardware, software, and peripherals that are of high quality.
10. The term “good” is generic for computer hardware, software, and peripherals that are of high quality.
11. Purchasers of computer hardware, software, and peripherals commonly use the word “technology” to identify computer hardware or software.
12. Competitors who sell computer hardware, software, and peripherals commonly use the word “technology” to identify computer hardware or software.
13. The term “technology” is descriptive of computer hardware and software, or of a function, feature, purpose or use of the hardware or software, within the meaning of Section 2(e) of the Lanham Act.
14. The term “technology” is incapable of acquiring distinctiveness in connection with computer hardware and software.
15. The term “technology” is generic for computer hardware and software.
16. Purchasers of computer software used on or for desktop computers commonly use the term “desktop” to identify a function, feature, purpose or use of the software.

17. Competitors who sell computer software used on or for desktop computers commonly use the term “desktop” to identify a function, feature, purpose or use of the software.
18. The term “desktop” is descriptive of a function, feature, purpose or use of computer software used on or for desktop computers, within the meaning of Section 2(e) of the Lanham Act.
19. The term “desktop” is incapable of acquiring distinctiveness in connection with computer software used on or for desktop computers.
20. The term “desktop” is generic for computer software used on or for desktop computers.
21. Opposer has attempted to assert exclusive rights in the words “good technology” for computer hardware, software, and peripherals of high quality.
22. Opposer has attempted to assert exclusive rights in the words “good desktop” for computer software of high quality which is used on or for desktop computers.
23. Opposer’s opposition to registration of Applicant’s mark GOODPOINT is based in part on Opposer’s prior rights in and registrations of “good technology” and “good desktop.”
24. Continued registration of the Registered Marks by Opposer would provide Opposer with a basis to object to the use of the words “good,” “good technology,” and “good desktop” in connection with computer hardware, software, peripherals and related goods and services, and would harm Applicant

by interfering with Applicant's right to use the word "good" in connection with its goods and services and to secure registration of the mark GOODPOINT.

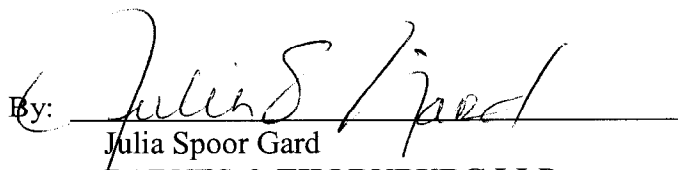
25. Continued registration of the Registered Marks by Opposer would provide Opposer with a basis to object to the use of "good" in connection with computer hardware, software, peripherals and related goods and services, and would harm the public by interfering with competitors' right to use the word "good" in connection with competing goods and services of high quality.

WHEREFORE, Technorati Incorporated believes that it is and will continue to be damaged by the registration of GOOD TECHNOLOGY and GOOD DESKTOP on the Supplemental Register by Opposer, and prays that said registrations be cancelled. Please charge the filing fee to Deposit Acct. 100435 (36718-78732).

Date: October 18, 2005

Respectfully submitted,

Technorati, Incorporated

By: 

Julia Spoor Gard
BARNES & THORNBURG LLP
11 South Meridian Street
Indianapolis, Indiana 46204
Attorney for Applicant
317-231-7439
317-231-7433
jgard@btlaw.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the Answer to Notice of Opposition has been served October 18, 2005, by depositing a copy of the same in the United States mail, first class postage prepaid and properly addressed to the following counsel of record:

Tanda L. Neundorf, Esq.
Fenwick & West LLP
275 Battery Street Suite 1600
San Francisco, CA 94111



Wendy Basfin