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

Proceeding	91176107
Party	Defendant ISYS AUTOMATION, INC. ISYS AUTOMATION, INC. 8705 Covina Circle San Diego, CA 92126
Correspondence Address	ISYS AUTOMATION INC 8705 COVINA CIR SAN DIEGO, CA 92126 janeross@isysautomation.com
Submission	Answer
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Date	04/04/2007
Attachments	91176107 - Applicant's Answer to Opposer's Opposition.pdf (4 pages) (2221369 bytes)

I hereby certify that a true and complete copy of the foregoing Applicant's Answer to Opposer's Opposition has been served on Jennifer D. Arkowitz, Esq. of Townsend and Townsend and Crew LLP by mailing said copy on April 4, 2007, via FEDEX next day to: Townsend and Townsend and Crew LLP, Two Embarcadero Center, 8th Floor, San Francisco, California 94111-3834.

DAVID B. ROSS

(TYPED OR PRINTED NAME OF PERSON MAILING PAPER)

David B. Ross

(SIGNATURE OF PERSON MAILING PAPER)

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

In re: Serial No. 78/727,860
In re: Serial No. 78/873,569
In re: Serial No. 78/866,801
In re: Serial No. 78/867,126

APPLE INC.,)	Opposition No. 91176107
)	
Opposer,)	
)	
vs.)	Applicant's Answer to Opposer's Opposition
)	
ISYS AUTOMATION, INC.)	
)	
Applicant,)	
)	

Commissioner for Trademarks
P.O.Box 1451
Alexandria, Virginia 22313-1451

Applicant ISYS AUTOMATION, INC. (hereinafter "Applicant"), has applied for registration of the trademarks, LONPOD Serial No. 78/727,860, CONTROLPOD Serial No. 78/866,801, BACPOD Serial No. 78/867,126, and ISYS LONPOD Serial No. 78/873,569.

Applicant received notice that its application to register its trademarks has been opposed by APPLE INC. (hereinafter "Opposer").

Applicant denies that Opposer will be damaged by Applicant's registrations being added to the list of over 4 dozen currently registered trademarks using the term "POD" in an almost identical manner.

Applicant's responses to allegations in the Notice of Opposition are as follows:

1. Applicant admits Opposer owns the mark IPOD and denies Applicant is using the mark IPOD.

2. Applicant admits Opposer owns the mark IPOD and denies Applicant is using the mark IPOD.

3. Applicant admits Opposer owns the mark IPOD and denies Applicant is using the mark IPOD.

4. Applicant admits Opposer's submitting an application for "POD". Applicant is confused by the fact that the mark is already owned by a company in the digital audio industry.

5. Applicant is without sufficient information to admit or deny any allegations as to what Opposer's customers have nicknamed Opposer's products.

6. Opposer states "Apple's marks referred to hereinabove will be collectively referred to as "Apple's Marks".

7. Applicant is without sufficient information to admit or deny any allegations within this paragraph of Opposer's Notice of Opposition.

8. Applicant is without sufficient information to admit or deny any allegations within this paragraph of Opposer's Notice of Opposition.

9. Applicant admits applying for the trademark LONPOD.

10. Applicant admits applying for the trademark CONTROLPOD.

11. Applicant admits applying for the trademark BACPOD.
12. Applicant admits applying for the trademark ISYS LONPOD.
13. Applicant does not have a response to this paragraph.
14. Applicant denies that Applicant's goods are highly related to the goods and services of Opposer.
15. Applicant is without sufficient information to admit or deny the allegations within this paragraph of Opposer's Notice of Opposition.
16. Applicant admits that both Applicant, Opposer and over 5 dozen USPTO assigned marks use the term "POD" in their respective marks.
17. Applicant denies that there will be any confusion, mistake or deception in the general public or in any trade caused by the registering of the Applicant's marks. Applicant's products are not used to download audio, video or PODCASTS which can be downloaded by millions of devices which are capable of playing POD ready data and have no association to Opposer's products.
18. Applicant denies that registration of Applicant's marks will dilute any of Opposer's marks.
19. Applicant denies that registration of Applicant's marks will damage Opposer.
20. Applicant intends to pursue registration of its marks. Applicant denies that there will be confusion among consumers as to the separate and distinct sources of goods and services offered by the separate and distinct sources Applicant and Opposer. Applicant denies that Opposer's goodwill in marks will be damaged. Applicant denies that the registration of its marks will dilute Opposer's marks. Applicant denies that Opposer will suffer irreparable harm to Opposer's business and reputation. Applicant is without sufficient information to admit or deny Opposer's statement "all to the detriment of Apple who has expended considerable sums and effort in promoting Apple's marks".

WHEREFORE, Applicant prays that registration of its trademarks be issued.

Respectfully submitted,
ISYS AUTOMATION, INC.,

(Applicant)

By: 

Roland D. Ross

Title: Secretary – Treasurer

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Date: April 4, 2007