

ESTTA Tracking number: **ESTTA259963**

Filing date: **01/12/2009**

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

Name	Interactive Supercomputing, Inc.
Granted to Date of previous extension	01/14/2009
Address	135 Beaver Street Waltham, MA 02452 UNITED STATES
Attorney information	Samuel B. Hudson, Esq. Foley Hoag LLP Seaport World Trade Center West 155 Seaport Boulevard Boston, MA 02210 UNITED STATES ustrademark@foleyhoag.com, shudson@foleyhoag.com, jmaerker@foleyhoag.com

Applicant Information

Application No	77451881	Publication date	09/16/2008
Opposition Filing Date	01/12/2009	Opposition Period Ends	01/14/2009
Applicant	Starpound Technologies, Inc. Suite 400 2100 Powers Ferry Road Atlanta, GA 30339 UNITED STATES		

Goods/Services Affected by Opposition


Class 009. First Use: 2007/02/07 First Use In Commerce: 2007/02/07 Opposed goods and services in the class: software for business process modeling; computer software development tools
Class 042. First Use: 2007/02/07 First Use In Commerce: 2007/02/07 Opposed goods and services in the class: Design, development and implementation of software; technical support services, namely, troubleshooting of computer software problems


Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3134002	Application Date	08/11/2004
Registration Date	08/22/2006	Foreign Priority	NONE

		Date	
Word Mark	STAR-P		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2005/07/31 First Use In Commerce: 2005/07/31 Computer software, namely, computer software platforms for parallel, distributed or high performance computers, clusters or processors		

U.S. Registration No.	3237990	Application Date	08/11/2004
Registration Date	05/01/2007	Foreign Priority Date	NONE
Word Mark	STAR P		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2006/08/31 First Use In Commerce: 2006/08/31 Computer software, namely, computer software platforms for parallel, distributed or high performance computers, clusters or processors		

U.S. Registration No.	3240401	Application Date	08/11/2004
Registration Date	05/08/2007	Foreign Priority Date	NONE
Word Mark	*P		

Design Mark	*P
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2006/08/31 First Use In Commerce: 2006/08/31 Computer software, namely programming software for parallel, distributed or high performance computers, clusters or processors

Attachments	78465722#TMSN.jpeg (1 page)(bytes) 78465719#TMSN.jpeg (1 page)(bytes) 78465729#TMSN.jpeg (1 page)(bytes) Notice_of_Opposition.pdf (21 pages)(606543 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/jenevieve maerker/
Name	Jenevieve J. Maerker, Esq.
Date	01/12/2009

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

_____)	
INTERACTIVE SUPERCOMPUTING,)	
INC.)	
)	
Opposer,)	
)	Opposition No. _____
v.)	
)	
STARPOUND TECHNOLOGIES, INC.)	Application S.N. 77/451,881
)	
Applicant.)	
_____)	

NOTICE OF OPPOSITION

INTERACTIVE SUPERCOMPUTING, INC., a Delaware corporation whose address is 135 Beaver Street, Waltham, Massachusetts 02452 (hereinafter, "Opposer"), believes that it will be damaged by registration of the mark STARPOUND, which is the subject of Application Serial No. 77/451,881, owned by STARPOUND TECHNOLOGIES, INC. (hereinafter, "Applicant"). The application was published for Opposition in the *Official Gazette* of September 16, 2008.

The grounds for this opposition are as follows:

1. Applicant seeks to register the mark STARPOUND for, *inter alia*:
 - a. "Downloadable open source computer software platform for transporting and aggregating voice, video and data communications from multiple distributed systems onto one IP network; software for business process modeling; computer software development tools" in International Class 9;
 - b. "Design, development and implementation of software; technical support services, namely, troubleshooting of computer software problems; hosting an on-

line community website featuring information about a software platform for transporting and aggregating voice, video and data communications from multiple distributed systems onto one IP network” in International Class 42.

2. The opposed Application was filed on April 18, 2008, based upon use of the mark in commerce, with a specified first use in commerce date of February 7, 2007.

3. Opposer is the owner of United States Trademark Registration No. 3,134,002, issued on August 22, 2006, and specifying a date of first use in commerce of July 31, 2005, for the mark STAR-P for “Computer software, namely, computer software platforms for parallel, distributed or high performance computers, clusters or processors” in International Class 9.

4. Opposer is also the owner of United States Trademark Registration No. 3,237,990, issued on May 1, 2007, and specifying a date of first use in commerce of August 31, 2006, for the mark STAR P for “Computer software, namely, computer software platforms for parallel, distributed or high performance computers, clusters or processors” in International Class 9.

5. Opposer is also the owner of United States Trademark Registration No. 3,240,401, issued on May 8, 2007, and specifying a date of first use in commerce of August 31, 2006, for the mark *P for “Computer software, namely, programming software for parallel, distributed or high performance computers, clusters or processors” in International Class 9.

6. Pursuant to Trademark Rule 2.122(d), print-outs from the USPTO TARR and Assignment databases for Applicant’s aforesaid registrations are attached to this Notice of Opposition as Exhibit A.

7. Beginning at least as early as 2005, long before Applicant's filing date and specified date of first use in commerce, and continuing without interruption, Opposer has used the aforesaid marks (collectively, the "ISC Marks") in connection with computer software, computer software development tools, software platforms, and related services.

8. Opposer has invested significant time, money, and effort in the promotion and use of its ISC Marks and, as a result, Opposer has built up goodwill and an extensive reputation in the ISC Marks in relation to Opposer's goods and services.

9. The mark Applicant seeks to register, STARPOUND, is confusingly similar to Opposer's ISC Marks. For example, if Applicant is granted a registration in the word mark STARPOUND, it would have the *prima facie* exclusive right to use of the mark in any order of capital and non-capital letters, including in "StarPound," which is how Applicant stylizes its trade name. Such use would be confusingly similar to Opposer's highly distinctive "Star P" and "Star-P" registered marks.

10. In addition, certain of the goods and services set forth in International Classes 9 and 42 of Applicant's Application Serial No. 77/451,881 — namely, "software for business process modeling" and "computer software development tools" in Class 9 and "design, development and implementation of software" and "technical support services, namely troubleshooting of computer software problems" in Class 42 (collectively, the "Opposed Goods and Services") — are similar and/or related to the goods and services with which Opposer has used and is using its ISC Marks.

11. Applicant's use of the mark STARPOUND for the Opposed Goods and Services is likely to cause confusion, mistake, or deception as to the source of Applicant's goods and services, all to Opposer's damage. Furthermore, customers or potential customers are likely to believe that Applicant's goods and services are sponsored or approved by or affiliated with Opposer's goods and services when that is not the case. Any dissatisfaction with Applicant's goods and services will reflect upon and damage the goodwill and reputation embodied in Opposer's ISC Marks.

12. If Applicant is granted the registration herein opposed, it would thereby obtain a *prima facie* exclusive right to use of the mark STARPOUND, which would be a further source of damage to Opposer.


* * * * *

WHEREFORE, Opposer believes that it will be damaged by registration of said mark, and prays that this Opposition be sustained, that Application Serial No. 77/451,881 for International Classes 9 and 42 be rejected with respect to the Opposed Goods and Services, and that the mark applied for therein be refused registration.

The filing fee for this Opposition in the amount of \$600.00 is enclosed.

Respectfully submitted,

INTERACTIVE SUPERCOMPUTING, INC.



Sam Hudson
Foley Hoag LLP
155 Seaport Boulevard
Boston, MA 02210
(617) 832-1000

Dated: January 12, 2009

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the Notice of Opposition, along with Exhibit A, was served upon Respondent StarPound Technologies, Inc.'s counsel of record, Susan T. Craighead at Trusted Counsel (Ashley) LLC, 400 Colony Square 1201 Peachtree Street NE, Suite 500, Atlanta, GA 30361-6371, by First Class Mail this date of January 12, 2009.



Jenevieve Maerker

EXHIBIT A

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2009-01-09 15:27:27 ET

Serial Number: 78465722 Assignment Information Trademark Document Retrieval

Registration Number: 3134002

Mark

STAR-P

(words only): STAR-P

Standard Character claim: Yes

Current Status: Registered.

Date of Status: 2006-08-22

Filing Date: 2004-08-11

Transformed into a National Application: No

Registration Date: 2006-08-22

Register: Principal

Law Office Assigned: LAW OFFICE 117

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2006-07-13

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. INTERACTIVE SUPERCOMPUTING, INC.

Address:

INTERACTIVE SUPERCOMPUTING, INC.
135 BEAVER STREET
WALTHAM, MA 02452

United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 009

Class Status: Active

Computer software, namely, computer software platforms for parallel, distributed or high performance computers, clusters or processors

Basis: 1(a)

First Use Date: 2005-07-31

First Use in Commerce Date: 2005-07-31

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2007-12-04 - TEAS Change Of Correspondence Received

2007-01-10 - Automatic Update Of Assignment Of Ownership

2006-08-22 - Registered - Principal Register

2006-07-03 - Law Office Registration Review Completed

2006-07-03 - Assigned To LIE

2006-06-19 - Allowed for Registration - Principal Register (SOU accepted)

2006-06-19 - Statement of use processing complete

2006-06-19 - Extension 1 granted

2006-06-05 - Amendment to Use filed

2006-06-05 - Extension 1 filed

2006-06-05 - TEAS Extension Received

2006-06-05 - TEAS Statement of Use Received

2006-05-23 - Applicant/Correspondence Changes (Non-Responsive) Entered

2006-05-23 - TEAS Change Of Owner Address Received
2005-12-27 - Notice of allowance - mailed
2005-10-04 - Published for opposition
2005-09-14 - Notice of publication
2005-08-02 - Law Office Publication Review Completed
2005-07-22 - Assigned To LIE
2005-07-19 - Approved for Pub - Principal Register (Initial exam)
2005-07-18 - Examiner's Amendment Entered
2005-07-18 - EXAMINERS AMENDMENT E-MAILED
2005-07-18 - Examiners Amendment -Written
2005-07-18 - Examiner's Amendment Entered
2005-07-18 - EXAMINERS AMENDMENT E-MAILED
2005-07-18 - Examiners Amendment -Written
2005-06-30 - Amendment From Applicant Entered
2005-06-20 - Communication received from applicant
2005-06-20 - PAPER RECEIVED
2005-03-16 - Priority Action E-Mailed
2005-03-16 - Priority Action Written
2005-03-15 - Assigned To Examiner
2004-08-20 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Sam Hudson, Esq.

Correspondent

Samuel B. Hudson
Foley Hoag LLP
Seaport World Trade Center West
155 Seaport Boulevard
Boston MA 02210-2600
Phone Number: 617-832-1000

Fax Number: 617-832-7000



Assignments on the Web > Trademark Query

Trademark Assignment Abstract of Title

Total Assignments: 1

Serial #: [78465722](#)

Filing Dt: 08/11/2004

Reg #: [3134002](#)

Reg. Dt: 08/22/2006

Registrant: Interactive Supercomputing LLC

Mark: STAR-P

Assignment: 1

Reel/Frame: [3454/0093](#)

Received: 01/03/2007

Recorded: 01/03/2007

Pages: 4

Conveyance: CHANGE OF NAME

Assignor: [INTERACTIVE SUPERCOMPUTING LLC](#)

Exec Dt: 12/07/2005

Entity Type: LIMITED LIABILITY COMPANY

Citizenship: DELAWARE

Assignee: [INTERACTIVE SUPERCOMPUTING, INC.](#)

135 BEAVER STREET

WALTHAM, MASSACHUSETTS 02452

Entity Type: CORPORATION

Citizenship: DELAWARE

Correspondent: ANNA ANDERSON, TM PARA., C/O FOLEY HOAG

155 SEAPORT BOULEVARD

SEAPORT WORLD TRADE CENTER WEST

BOSTON, MA 02210

Search Results as of: 01/09/2009 03:27 PM

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350.
Web interface last modified: October 18, 2008 v.2.0.2

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2009-01-09 15:05:20 ET

Serial Number: 78465719 Assignment Information Trademark Document Retrieval

Registration Number: 3237990

Mark

STAR P

(words only): STAR P

Standard Character claim: Yes

Current Status: Registered.

Date of Status: 2007-05-01

Filing Date: 2004-08-11

Transformed into a National Application: No

Registration Date: 2007-05-01

Register: Principal

Law Office Assigned: LAW OFFICE 117

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2007-03-27

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. INTERACTIVE SUPERCOMPUTING, INC.

Address:

INTERACTIVE SUPERCOMPUTING, INC.
135 BEAVER STREET
WALTHAM, MA 02452
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 009

Class Status: Active

Computer software, namely, computer software platforms for parallel, distributed or high performance computers, clusters or processors

Basis: 1(a)

First Use Date: 2006-08-31

First Use in Commerce Date: 2006-08-31

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2007-05-08 - TEAS Change Of Correspondence Received

2007-05-01 - Registered - Principal Register

2007-03-15 - Law Office Registration Review Completed

2007-03-15 - Assigned To LIE

2007-02-20 - Allowed for Registration - Principal Register (SOU accepted)

2007-02-20 - Statement of use processing complete

2007-02-20 - Extension 2 granted

2006-12-06 - Amendment to Use filed

2006-12-06 - Extension 2 filed

2007-01-10 - Automatic Update Of Assignment Of Ownership

2006-12-08 - PAPER RECEIVED

2006-06-17 - Extension 1 granted

2006-06-05 - Extension 1 filed

2006-06-05 - TEAS Extension Received
2006-05-23 - Applicant/Correspondence Changes (Non-Responsive) Entered
2006-05-23 - TEAS Change Of Owner Address Received
2005-12-06 - Notice of allowance - mailed
2005-09-13 - Published for opposition
2005-08-24 - Notice of publication
2005-07-27 - Law Office Publication Review Completed
2005-07-22 - Assigned To LIE
2005-07-18 - Approved for Pub - Principal Register (Initial exam)
2005-07-18 - Examiner's Amendment Entered
2005-07-18 - EXAMINERS AMENDMENT E-MAILED
2005-07-18 - Examiners Amendment -Written
2005-07-18 - Previous allowance count withdrawn
2005-07-18 - Approved for Pub - Principal Register (Initial exam)
2005-07-18 - Examiner's Amendment Entered
2005-07-18 - EXAMINERS AMENDMENT E-MAILED
2005-07-18 - Examiners Amendment -Written
2005-07-18 - Attorney Review Completed
2005-06-20 - PAPER RECEIVED
2005-03-16 - Priority Action E-Mailed
2005-03-16 - Priority Action Written
2005-03-16 - Assigned To Examiner
2005-03-15 - Assigned To Examiner
2004-08-20 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
Sam Hudson, Esq.

Correspondent

Samuel B. Hudson, Esq.

Foley Hoag LLP

Seaport World Trade Center West

155 Seaport Boulevard

Boston MA 02210

Phone Number: 617-832-1000

Fax Number: 617-832-7000



Assignments on the Web > Trademark Query

Trademark Assignment Abstract of Title

Total Assignments: 1

Serial #: [78465719](#)

Filing Dt: 08/11/2004

Reg #: [3237990](#)

Reg. Dt: 05/01/2007

Registrant: INTERACTIVE SUPERCOMPUTING, INC.

Mark: STAR P

Assignment: 1

Reel/Frame: [3454/0093](#)

Received: 01/03/2007

Recorded: 01/03/2007

Pages: 4

Conveyance: CHANGE OF NAME

Assignor: [INTERACTIVE SUPERCOMPUTING LLC](#)

Exec Dt: 12/07/2005

Entity Type: LIMITED LIABILITY COMPANY

Citizenship: DELAWARE

Assignee: [INTERACTIVE SUPERCOMPUTING, INC.](#)

135 BEAVER STREET

WALTHAM, MASSACHUSETTS 02452

Entity Type: CORPORATION

Citizenship: DELAWARE

Correspondent: ANNA ANDERSON, TM PARA., C/O FOLEY HOAG
155 SEAPORT BOULEVARD
SEAPORT WORLD TRADE CENTER WEST
BOSTON, MA 02210

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350.
Web interface last modified: October 18, 2008 v.2.0.2

Search Results as of: 01/09/2009 03:23 PM

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2009-01-09 15:26:42 ET

Serial Number: 78465729 Assignment Information Trademark Document Retrieval

Registration Number: 3240401

Mark

***P**

(words only): *P

Standard Character claim: Yes

Current Status: Registered.

Date of Status: 2007-05-08

Filing Date: 2004-08-11

Transformed into a National Application: No

Registration Date: 2007-05-08

Register: Principal

Law Office Assigned: LAW OFFICE 114

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2007-04-03

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. INTERACTIVE SUPERCOMPUTING, INC.

Address:

INTERACTIVE SUPERCOMPUTING, INC.
135 BEAVER STREET
WALTHAM, MA 02452
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 009

Class Status: Active

Computer software, namely programming software for parallel, distributed or high performance computers, clusters or processors

Basis: 1(a)

First Use Date: 2006-08-31

First Use in Commerce Date: 2006-08-31

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2007-12-04 - TEAS Change Of Correspondence Received

2007-05-08 - Registered - Principal Register

2007-03-23 - Law Office Registration Review Completed

2007-03-23 - Assigned To LIE

2007-02-28 - Allowed for Registration - Principal Register (SOU accepted)

2007-02-23 - Statement of use processing complete

2007-02-23 - Extension 2 granted

2006-12-08 - Amendment to Use filed

2006-12-08 - Extension 2 filed

2007-01-10 - Automatic Update Of Assignment Of Ownership

2006-12-08 - PAPER RECEIVED

2006-06-17 - Extension 1 granted

2006-06-05 - Extension 1 filed

2006-06-05 - TEAS Extension Received
2006-05-23 - Applicant/Correspondence Changes (Non-Responsive) Entered
2006-05-23 - TEAS Change Of Owner Address Received
2005-12-13 - Notice of allowance - mailed
2005-09-20 - Published for opposition
2005-08-31 - Notice of publication
2005-08-10 - Law Office Publication Review Completed
2005-08-10 - Assigned To LIE
2005-08-05 - Assigned To LIE
2005-08-01 - Approved for Pub - Principal Register (Initial exam)
2005-07-28 - Amendment From Applicant Entered
2005-07-25 - Communication received from applicant
2005-07-25 - PAPER RECEIVED
2005-04-18 - Final refusal e-mailed
2005-04-18 - Final Refusal Written
2005-04-14 - Amendment From Applicant Entered
2005-03-21 - Communication received from applicant
2005-03-21 - PAPER RECEIVED
2005-03-16 - NON-FINAL ACTION E-MAILED
2005-03-16 - Non-Final Action Written
2005-03-15 - Non-final action e-mailed
2005-03-15 - Non-Final Action Written
2005-03-15 - Assigned To Examiner
2004-08-20 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
Sam Hudson, Esq.

Correspondent

Samuel B. Hudson

Foley Hoag LLP

Seaport World Trade Center West

155 Seaport Boulevard

Boston MA 02210-2600

Phone Number: 617-832-1000

Fax Number: 617-832-7000



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Trademark Assignment Abstract of Title

Total Assignments: 1

Serial #: [78465729](#)

Filing Dt: 08/11/2004

Reg #: [3240401](#)

Reg. Dt: 05/08/2007

Registrant: INTERACTIVE SUPERCOMPUTING, INC.

Mark: *P

Assignment: 1

Reel/Frame: [3454/0093](#)

Received: 01/03/2007

Recorded: 01/03/2007

Pages: 4

Conveyance: CHANGE OF NAME

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Exec Dt: 12/07/2005

Entity Type: LIMITED LIABILITY COMPANY

Citizenship: DELAWARE

Assignee: [INTERACTIVE SUPERCOMPUTING, INC.](#)

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WALTHAM, MASSACHUSETTS 02452

Entity Type: CORPORATION

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Correspondent: ANNA ANDERSON, TM PARA., C/O FOLEY HOAG

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Search Results as of: 01/09/2009 03:26 PM

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Web interface last modified: October 18, 2008 v.2.0.2