

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

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Mailed: April 4, 2009

Opposition No. 91188353

Interactive Supercomputing,
Inc.

v.

Starpound Technologies, Inc.

Frances S. Wolfson, Interlocutory Attorney:

On March 12, 2009, applicant filed a proposed amendment to its application Serial No. 77451881, with opposer's consent.¹

By the proposed amendment applicant seeks to change the identification of goods in Class 9 **from** "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" **to** "Downloadable open source computer software platform for transporting and aggregating voice, video and data

¹It is noted that applicant filed a copy of the agreement between the parties wherein applicant agreed to file an amendment of the identification of goods and services in its application with the Board. The better practice would have been for applicant to file the proposed amendment in the nature of a motion with the Board, including opposer's consent, and not to merely file a copy of the settlement agreement containing terms for future action with no further clarification.

communications from multiple distributed systems onto one IP network; software for business process modeling, excluding business process modeling using mathematical, parallel, distributed or high performance computing; computer software development tools, excluding such tools for use with software for mathematical, parallel, distributed or high performance computing."

Applicant also seeks to change the identification of services in Class 42 **from** "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" **to** "Design, development and implementation of software other than software for mathematical, parallel, distributed or high performance computing; technical support services, namely, troubleshooting of computer software problems, excluding such services relating to software for mathematical, parallel, distributed or high performance computing; 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."

Inasmuch as the amendment is clearly limiting in nature as required by Trademark Rule 2.71(a), and because opposer

consents thereto, it is approved and entered. See Trademark Rule 2.133(a).

If this resolves the dispute herein, opposer is allowed until *thirty days* from the mailing date of this order to file a withdrawal of the opposition, failing which the opposition will go forward on the application as amended. See Trademark Rule 2.106(c).

NEWS FROM THE TTAB:

The USPTO published a notice of final rulemaking in the Federal Register on August 1, 2007, at 72 F.R. 42242. By this notice, various rules governing Trademark Trial and Appeal Board inter partes proceedings are amended. Certain amendments have an effective date of August 31, 2007, while most have an effective date of November 1, 2007. For further information, the parties are referred to a reprint of the final rule and a chart summarizing the affected rules, their changes, and effective dates, both viewable on the USPTO website via these web addresses:

<http://www.uspto.gov/web/offices/com/sol/notices/72fr42242.pdf>
http://www.uspto.gov/web/offices/com/sol/notices/72fr42242_FinalRuleChart.pdf

By one rule change effective August 31, 2007, the Board's standard protective order is made applicable to all TTAB inter partes cases, whether already pending or commenced on or after that date. However, as explained in the final rule and chart, this change will not affect any case in which any protective order has already been approved or imposed by the Board. Further, as explained in the final rule, parties are free to agree to a substitute protective order or to supplement or amend the standard order even after August 31, 2007, subject to Board approval. The standard protective order can be viewed using the following web address:

<http://www.uspto.gov/web/offices/dcom/ttab/tbmp/stndagmnt.htm>