

BREINER & BREINER, L.L.C.

ATTORNEYS AT LAW

115 NORTH HENRY STREET

ALEXANDRIA, VIRGINIA 22314-2903

TELEPHONE (703) 684-6885
FACSIMILE (703) 684-8206

ALFRED W. BREINER
(1928-2002)

THEODORE A. BREINER

MARY J. BREINER

JENNIFER A. HARCHICK

PATENTS, TRADEMARKS
& COPYRIGHTS

MAILING ADDRESS:
POST OFFICE BOX 320160
ALEXANDRIA, VIRGINIA 22320

July 7, 2009

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

Attention: Trademark Trial and Appeal Board

Re: United States Trademark Opposition
Applicant: DynaSis Integrated Systems Corp.
Mark: ITILITY
Serial No. 77/597,702

Dear Madam:

Enclosed are an original and a duplicate copy of a Notice of Opposition to registration of the trademark ITILITY, Application Serial No. 77/597,702.

A check in the amount of \$300.00 to cover the Trademark Office fee for filing this opposition is attached. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to Deposit Account No. 02-3690.

Very truly yours,

THEODORE A. BREINER

TAB/cjb

Attachments - Original and Duplicate Notice of Opposition
- \$300.00 Check



07-07-2009

IN THE UNITED STATES PATENT AND TRADEMARK OFF.
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application of
DynaSis Integrated Systems Corp.

U.S. Serial No. 77/597,702

Filed: October 22, 2008

Mark: ITILITY

Published in the Trademark
Official Gazette March 10, 2009

ITILITY, L.L.C.,)	
)	
Opposer,)	
)	
v.)	Opposition No.
)	
DYNASIS INTEGRATED SYSTEMS CORP.,)	
)	
Applicant.)	

07/09/2009 SWILSON: 00000011 77597702

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300.00 OF

NOTICE OF OPPOSITION

Attention: Trademark Trial and Appeal Board
Commissioner For Trademarks
Alexandria, Virginia 22313-1451

Dear Madam:

Opposer, Itility, L.L.C., a limited liability company of Virginia, having a place of business at 40824 Manor House Road, Leesburg, Virginia 20175, believes that it will be damaged by registration of the mark of Application Serial No. 77/597,702, and hereby opposes the same.

As grounds of opposition, it is alleged that:

1. The above trademark application Serial No. 77/597,702 (hereafter "the Application") for registration of the mark ITILITY for application service provider, namely, providing, hosting, managing, developing, and maintaining applications, software, web sites, and databases in the fields of personal productivity, wireless communication, mobile information access, wired Internet connectivity and remote data management for delivery of content to desktops, thin clients, handheld computers, laptops and mobile electronic devices (hereafter "IT Services"), published for opposition on March 10, 2009, in International Class 42, in the Official Gazette of the United States Patent and Trademark Office, was filed on October 22, 2008 by DynaSis Integrated Systems Corp., Suite 300, 1100 Old Ellis Road, Roswell, Georgia 30076 (hereafter "applicant").

2. Applicant's application alleges under oath a date of first use anywhere of November 15, 2007 and a date of first use in commerce of March 1, 2008. On information and belief, applicant has not used the ITILITY trademark before these dates.

3. Opposer offers services under the trademark ITILITY, including business management and consultation and consulting in the field of information technology (hereafter "Consulting Services").

4. Opposer has applied to register the mark ITILITY for business management and consultation and consulting in the

field of information technology, Application Serial No. 77/664,852 filed February 6, 2009 and which Application has been suspended by Office action mailed April 27, 2009 pending disposition of the Application.

5. The trademark ITILITY is now used in commerce by opposer and has been used by opposer as a trademark for opposer's services, including long prior to applicant's IT Services in the Application.

6. The services in connection with which applicant seeks registration of its mark here opposed are so closely related to opposer's services that use or registration by applicant of the mark shown in the Application is likely to cause the public to conclude that applicant's services originate with, are authorized or sponsored by, or have some connection with opposer, and will cause confusion, or will cause mistake, or will deceive.

7. Use and registration by applicant of the mark sought to be registered for applicant's services, as set forth in its application for registration, will tend to cause confusion, or cause mistake or will deceive purchasers erroneously into the belief that applicant's services are the services of opposer, or are authorized and/or sponsored by or are otherwise connected with the business of opposer, and would appropriate to applicant substantial amounts of goodwill which opposer has established for

opposer's trademark and will substantially damage opposer in the conduct of opposer's business.

8. Opposer has no control over the nature and quality of applicant's services which are offered by applicant under the mark it seeks to register, and possible dissatisfaction with applicant's services, by purchasers or users thereof, would damage opposer's goodwill and reputation.

9. If registration of the mark sought here to be registered by applicant is granted to applicant, the effect would be to create for applicant statutory rights under the Trademark Act and such registration would tend to restrict and interfere with, and damage opposer in the unhampered conduct of opposer's business.

10. If applicant were granted a registration for ITILITY, it would thereby obtain at least prima facie exclusive right to use of that mark notwithstanding opposer's long and continuous effort in establishing goodwill in the trademark ITILITY. Such a registration in the name of applicant will be a source of damage and injury to opposer.

11. A duplicate of this Notice of Opposition is being filed herewith along with the filing fee of \$300.00.

WHEREFORE, opposer prays that this opposition be sustained and that the application hereby opposed be refused, and for such other and further relief that may be deemed proper.

Respectfully submitted,

UTILITY, L.L.C.

By 

Theodore A. Breiner
Registration No. 32,103
Jennifer A. Harchick
Registration No. 52,139
BREINER & BREINER, L.L.C.
115 North Henry Street
Post Office Box 320160
Alexandria, Virginia 22320-0160
Telephone (703) 684-6885

July 7, 2009

Attorneys for Opposer

CERTIFICATE OF SERVICE

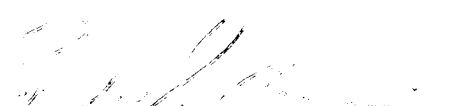
It is hereby certified that on this 7th day of July
2009, a true copy of the foregoing paper entitled -

NOTICE OF OPPOSITION

was served by First Class Mail, postage prepaid, on -

DynaSis Integrated Systems Corp.
Suite 300
1100 Old Ellis Road
Roswell, Georgia 30076

Stacy Raphael Stewart
RAPHAEL STEWART LAW GROUP, LLC
3525 Piedmont Road, Suite 300
7 Piedmont Center
Atlanta, Georgia 30305


Theodore A. Breiner