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Filing date: **11/13/2015**

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

| | |
|------------------------|---|
| Proceeding | 91224223 |
| Party | Defendant QUANTIPLY CORPORATION |
| Correspondence Address | QUANTIPLY CORPORATION QUANTIPLY CORPORATION 4643 BATTEN WAY SAN JOSE, CA 95135-1540 SUREDDY@QUANTIPLY.COM |
| Submission | Answer |
| Filer's Name | Govinda M. Davis |
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| Signature | /Govinda M. Davis/ |
| Date | 11/13/2015 |
| Attachments | R1133 Applicant's Answer to Notice of Opposition.pdf(60456 bytes) |

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

| | | |
|------------------------|---|-------------------------|
| -----X |) | |
| DATA FOUNDRY, INC., |) | |
| |) | |
| Opposer, |) | |
| |) | |
| v. |) | Opposition No. 91224223 |
| |) | |
| QUANTIPLY CORPORATION, |) | Serial No. 86/411,234 |
| |) | |
| Applicant. |) | |
| -----X |) | |

ANSWER AND AFFIRMATIVE DEFENSES
TO NOTICE OF OPPOSITION

The Applicant, QuantiPLY Corporation (“Applicant”), answers the Notice of Opposition as follows:

1. The Applicant lacks information or belief with regard to the allegations of paragraph 1 of the Notice of Opposition, and therefore, denies the allegations of this paragraph.
2. The Applicant lacks information or belief with regard to the allegations of paragraph 2 of the Notice of Opposition, and therefore, denies the allegations of this paragraph.
3. The Applicant lacks information or belief with regard to the allegations of paragraph 3 of the Notice of Opposition, and therefore, denies the allegations of this paragraph.

4. The Applicant denies the allegations of paragraph 4 of the Notice of Opposition.
5. The Applicant lacks information or belief with regard to the allegations of paragraph 5 of the Notice of Opposition, and therefore, denies the allegations of this paragraph.
6. The Applicant lacks information or belief with regard to the allegations of paragraph 6 of the Notice of Opposition, and therefore, denies the allegations of this paragraph.
7. The Applicant denies the allegations of paragraph 7 of the Notice of Opposition, but admits that what purports to be print-outs from the U.S. Patent and Trademark Office database are annexed to the Notice of Opposition as Exhibit A.
8. The Applicant admits the allegations of paragraph 8 of the Notice of Opposition.
9. The Applicant admits the allegations of paragraph 9 of the Notice of Opposition.
10. The Applicant denies the allegations of paragraph 10 of the Notice of Opposition, except admits that the Opposer claims rights in and to certain marks containing the words “data” and “foundry.”
11. The Applicant denies the allegations of paragraph 11 of the Notice of Opposition.
12. The Applicant denies the allegations of paragraph 12 of the Notice of Opposition.
13. The Applicant denies the allegations of paragraph 13 of the Notice of Opposition.
14. The Applicant denies the allegations of paragraph 14 of the Notice of Opposition as it contains the erroneous statement that Applicant’s right to use its BIG DATA FOUNDRY mark in commerce is contingent on the permission of Opposer.

15. The Applicant denies the allegations of paragraph 15 of the Notice of Opposition.
16. The Applicant denies the allegations of paragraph 16 of the Notice of Opposition.

APPLICANT'S AFFIRMATIVE DEFENSES

Without admitting or acknowledging that Applicant bears any burden of proof as to any of the affirmative defenses, Applicant asserts the following affirmative defenses. There may be additional affirmative defenses to the claims alleged by Opposer currently unknown to Applicant. Therefore, Applicant reserves the right to amend its Answer to allege additional affirmative defenses in the event that Applicant's discovery of additional information indicates that they are appropriate.

1. Opposer should be denied relief under the equitable doctrine of unclean hands because Opposer has improperly maintained one or more registrations that it asserts as the basis of this Opposition without having *bona fide* use in the ordinary course of trade and continuous commercial use in commerce in connection with some or all of the goods and services that are subject of the registrations pleaded in this Opposition.
2. The consumers of the parties' respective services under the parties' marks are sophisticated such that there is no likelihood that such consumers will confuse Applicant's mark with Opposer's pleaded marks.
3. Opposer's marks are not inherently distinctive.
4. There is no likelihood of confusion between Applicant's BIG DATA FOUNDRY mark and Opposer's 1 DATA FOUNDRY and DATA FOUNDRY marks.

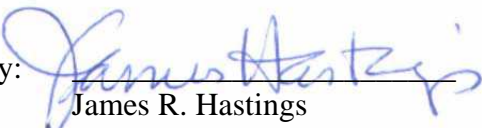
PRAYER FOR RELIEF

WHEREFORE, Applicant prays that:

1. Opposition No. 91224223 be dismissed in all respects;
2. Applicant's Serial No. 86/411,234 proceed to registration;

and any and all other legal or equitable relief that the Board deems just and proper.

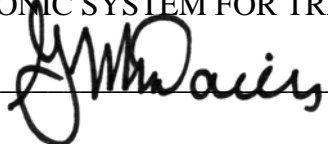
Respectfully submitted for,
Quantiplay Corporation

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Attorneys for Applicant

Dated: November 13, 2015

SHOULD ANY OTHER FEE BE REQUIRED, THE PATENT AND TRADEMARK OFFICE IS HEREBY REQUESTED TO CHARGE SUCH FEE TO OUR DEPOSIT ACCOUNT 03-2465.

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING FILED ELECTRONICALLY WITH THE TRADEMARK TRIAL AND APPEAL BOARD OF THE UNITED STATES PATENT AND TRADEMARK OFFICE BY THE ELECTRONIC SYSTEM FOR TRADEMARK TRIALS AND APPEALS (ESTTA).

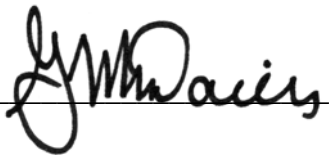
By:  _____

Date: November 13, 2015

CERTIFICATE OF SERVICE

I, Govinda M. Davis, do hereby certify that a true copy of **Applicant's Answer to Notice of Opposition** was duly served upon Opposer's counsel of record by placing a true copy in the United States Mail with sufficient postage thereon to carry same to its destination via First Class Mail, and addressed to:

Pirkey Barber PLLC
600 Congress Avenue Suite 2120
Austin, TX 78701
Ms. Alexandra H. Bistline, Esq.



Dated: November 13, 2015