

ESTTA Tracking number: **ESTTA803452**

Filing date: **02/24/2017**

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	F5 Networks, Inc.
Granted to Date of previous extension	02/26/2017
Address	401 Elliott Avenue West Seattle, WA 98119 UNITED STATES
Attorney information	Vanessa Wheeler & Robert Cumbow Miller Nash Graham & Dunn LLP Pier 70, 2801 Alaskan Way, Suite 300 Seattle, WA 98121 UNITED STATES trademark@millernash.com Phone:206.624.8300

### Applicant Information

Application No	86965716	Publication date	08/30/2016
Opposition Filing Date	02/24/2017	Opposition Period Ends	02/26/2017
Applicant	F2 Systems, LLC 9528 Hwy 56 S Midville, GA 30441 UNITED STATES		

### Goods/Services Affected by Opposition

Class 042. First Use: 2007/10/16 First Use In Commerce: 2007/10/16  
All goods and services in the class are opposed, namely: Planning, design and management of information technology systems

### 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.	2427084	Application Date	03/24/2000
Registration Date	02/06/2001	Foreign Priority Date	NONE
Word Mark	F5		

Design Mark	<b>F5</b>
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 1996/08/01 First Use In Commerce: 1996/08/01 computer hardware and software for enhancing the performance of a plurality of servers connected together by a network Class 042. First use: First Use: 1999/02/18 First Use In Commerce: 1999/02/18 computer consulting services

U.S. Registration No.	2094918	Application Date	08/22/1996
Registration Date	09/09/1997	Foreign Priority Date	NONE

Word Mark	F5
Design Mark	
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 1996/08/01 First Use In Commerce: 1996/08/01 switches and routers and associated computer software for providing or enhancing the performance of a cluster of servers on a computer network

U.S. Registration No.	2335141	Application Date	12/30/1998
Registration Date	03/28/2000	Foreign Priority Date	NONE
Word Mark	F5		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1999/02/18 First Use In Commerce: 1999/02/18 computer consulting Services		

U.S. Registration No.	3718219	Application Date	04/30/2009
Registration Date	12/01/2009	Foreign Priority Date	NONE
Word Mark	F5		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 038. First use: First Use: 2003/06/09 First Use In Commerce: 2003/06/09 Providing an online forum for transmission and posting of messages among computer users concerning enhancing, optimizing, monitoring and managing computer network traffic; providing on-line electronic bulletin boards for transmission of messages among computer users concerning code development		

	<p>contests and information related to application delivery network management solutions and related matters</p> <p>Class 041. First use: First Use: 2002/11/25 First Use In Commerce: 2002/11/25</p> <p>Training services in the fields of operation of computers and networks, network-system design, network operation, computer network maintenance, network testing, network protocols, network management, network engineering, computer use and operation, software design and development, operation of microprocessors and information technology; entertainment services, namely, organizing contests and sweepstakes regarding network management systems, and organizing community sporting and cultural events; providing on-line publications in the nature of magazines, newsletters, journals, books and brochures in the fields of network management solutions and related computer network goods and services; providing an on-line academic library of documents which may be shared by users; computerized on-line training and education services, namely, providing classes, seminars, tutorial sessions, conferences and workshops in the field of computers networks, computer network hardware and software and optimization thereof; educational services, namely, providing interactive tutorial sessions and courses in the nature of how-to guides, tips and techniques, expert guidance and advice, all relating to the purchase, use, care, maintenance, support, upgrading, updating and configuring of computer network related goods</p>
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U.S. Registration No.	3721568	Application Date	04/30/2009
Registration Date	12/08/2009	Foreign Priority Date	NONE

Word Mark	F5
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Description of Mark	NONE
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Goods/Services	<p>Class 038. First use: First Use: 2003/06/09 First Use In Commerce: 2003/06/09</p> <p>Providing an online forum for transmission and posting of messages among computer users concerning enhancing, optimizing, monitoring and managing computer network traffic; providing on-line electronic bulletin boards for transmission of messages among computer users concerning code development</p>
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	<p>contests and information related to application delivery network management solutions and related matters</p> <p>Class 041. First use: First Use: 2002/11/25 First Use In Commerce: 2002/11/25</p> <p>Training services in the fields of operation of computers and networks, network-system design, network operation, computer network maintenance, network testing, network protocols, network management, network engineering, computer use and operation, software design and development, operation of microprocessors and information technology; entertainment services, namely, organizing contests and sweepstakes regarding network management systems, and organizing community sporting and cultural events; providing on-line publications in the nature of magazines, newsletters, journals, books and brochures in the fields of network management solutions and related computer network goods and services; providing an on-line academic library of documents which may be shared by users; computerized on-line training and education services, namely, providing classes, seminars, tutorial sessions, conferences and workshops in the field of computers networks, computer network hardware and software and optimization thereof; educational services, namely, providing interactive tutorial sessions and courses in the nature of how-to guides, tips and techniques, expert guidance and advice, all relating to the purchase, use, care, maintenance, support, upgrading, updating and configuring of computer network related goods</p>
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Attachments	<p>76009335#TMSN.png( bytes )  75154545#TMSN.png( bytes )  75613487#TMSN.png( bytes )  77726649#TMSN.png( bytes )  77726664#TMSN.png( bytes )  F2 Design - Notice of Opposition.pdf(104287 bytes )</p>
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Signature	/Robert C. Cumbow/
Name	Vanessa Wheeler & Robert Cumbow
Date	02/24/2017

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

F5 Networks, Inc.

Opposer,

v.

F2 Systems, LLC,

Applicant.

Application Serial No.: 86/965,716

Mark: F2 and Design

Opposition No. \_\_\_\_\_

**NOTICE OF OPPOSITION**

F5 Networks, Inc. ("Opposer") believes that it will be damaged by registration of the trademark F2 and Design as set forth in application Serial No. 86/965,716 and published in the *Official Gazette* on August 30, 2016, and hereby opposes the same.

The grounds for opposition are as follows:

1. Opposer is a Washington corporation with its principal place of business at 401 Elliott Avenue West, Seattle, Washington 98119.
2. F2 Systems, LLC, ("Applicant"), is a Georgia limited liability company with its principal place of business at 9528 Hwy 56 S, Midville, Georgia 30441.
3. Opposer is the owner of U.S. Trademark Registration Nos. 2,427,084, 2,094,918, 2,335,141, 3,718,219, and 3,721,568. (the "F5 Marks").

1           4. U.S. Trademark Registration No. 2,427,084 was registered on February 6,  
2 2001 in connection with "computer hardware and software for enhancing the performance of a  
3 plurality of servers connected together by a network" in Class 9 and Opposer asserts a date of  
4 first use of its mark with these goods as of August 1, 1996. Opposer's registration also is issued  
5 in connection with "computer consulting services" in Class 42 and Opposer asserts a date of first  
6 use of its mark with these services as of February 18, 1999. Opposer has timely filed all  
7 maintenance, including a Section 8 and 9 renewal on October 15, 2010, which was approved on  
8 October 25, 2010.

9           5. U.S. Trademark Registration No. 2,094,918, registered on September 9, 1997  
10 in connection with "switches and routers and associated computer software for providing or  
11 enhancing the performance of a cluster of servers on a computer network" in Class 9 and  
12 Opposer asserts a date of first use of its mark with these goods as of August 1, 1996. Opposer  
13 has timely filed all maintenance, including a Section 8 and 9 renewal on September 4, 2007,  
14 which was approved on September 27, 2007.

15           6. U.S. Trademark Registration No. 2,335,141, registered on March 28, 2000 in  
16 connection with "computer consulting Services" in Class 42 and Opposer asserts a date of first  
17 use of its mark with these services as of February 18, 1999. Opposer has timely filed all  
18 maintenance, including a Section 8 and 9 renewal on February 19, 2010, which was approved on  
19 February 26, 2010.

20           7. U.S. Trademark Registration No. 3,718,219, registered on December 1, 2009  
21 in connection with "Providing an online forum for transmission and posting of messages among  
22 computer users concerning enhancing, optimizing, monitoring and managing computer network  
23 traffic; providing on-line electronic bulletin boards for transmission of messages among  
24 computer users concerning code development contests and information related to application  
25 delivery network management solutions and related matters" in Class 38, and Opposer asserts a  
26 date of first use of its mark with these services as of June 9, 2003. Opposer's registration also  
NOTICE OF OPPOSITION - 2

1 issued in connection with "Training services in the fields of operation of computers and  
2 networks, network system design, network operation, computer network maintenance, network  
3 testing, network protocols, network management, network engineering, computer use and  
4 operation, software design and development, operation of microprocessors and information  
5 technology; entertainment services, namely, organizing contests and sweepstakes regarding  
6 network management systems, and organizing community sporting and cultural events;  
7 providing on-line publications in the nature of magazines, newsletters, journals, books and  
8 brochures in the fields of network management solutions and related computer network goods  
9 and services; providing an on-line academic library of documents which may be shared by users;  
10 computerized on-line training and education services, namely, providing classes, seminars,  
11 tutorial sessions, conferences and workshops in the field of computers networks, computer  
12 network hardware and software and optimization thereof; educational services, namely,  
13 providing interactive tutorial sessions and courses in the nature of how-to guides, tips and  
14 techniques, expert guidance and advice, all relating to the purchase, use, care, maintenance,  
15 support, upgrading, updating and configuring of computer network related goods" in Class 41,  
16 and Opposer asserts a date of first use of its mark with these services as of November 25, 2002.  
17 Opposer has timely filed all maintenance, including a Section 8 and 15 Declaration of  
18 Continuing Use & Affidavit of Incontestability on November 19, 2015, which was approved on  
19 January 28, 2016.

20           8. U.S. Trademark Registration No. 3,721,568, registered on December 8, 2009  
21 in connection with "Providing an online forum for transmission and posting of messages among  
22 computer users concerning enhancing, optimizing, monitoring and managing computer network  
23 traffic; providing on-line electronic bulletin boards for transmission of messages among  
24 computer users concerning code development contests and information related to application  
25 delivery network management solutions and related matters" in Class 38, and Opposer asserts a  
26 date of first use of its mark with these services as of June 9, 2003. Opposer's registration also  
NOTICE OF OPPOSITION - 3



1 issued in connection with "Training services in the fields of operation of computers and  
2 networks, network system design, network operation, computer network maintenance, network  
3 testing, network protocols, network management, network engineering, computer use and  
4 operation, software design and development, operation of microprocessors and information  
5 technology; entertainment services, namely, organizing contests and sweepstakes regarding  
6 network management systems, and organizing community sporting and cultural events;  
7 providing on-line publications in the nature of magazines, newsletters, journals, books and  
8 brochures in the fields of network management solutions and related computer network goods  
9 and services; providing an on-line academic library of documents which may be shared by users;  
10 computerized on-line training and education services, namely, providing classes, seminars,  
11 tutorial sessions, conferences and workshops in the field of computers networks, computer  
12 network hardware and software and optimization thereof; educational services, namely,  
13 providing interactive tutorial sessions and courses in the nature of how-to guides, tips and  
14 techniques, expert guidance and advice, all relating to the purchase, use, care, maintenance,  
15 support, upgrading, updating and configuring of computer network related goods" in Class 41,  
16 and Opposer asserts a date of first use of its mark with these services as of November 25, 2002.  
17 Opposer has timely filed all maintenance, including a Section 8 and 15 Declaration of  
18 Continuing Use & Affidavit of Incontestability on November 19, 2015, which was approved on  
19 January 28, 2016.

20           9.       Opposer continues to use the F5 Marks in commerce for its goods and  
21 services in the U.S.

22           10. Applicant filed an application to register the trademark F2 and Design on or  
23 about April 6, 2016 in connection with "Planning, design and management of information  
24 technology systems" in Class 42.

25           11. Applicant claims first use of its mark in commerce as of October 16, 2007.

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1                   12. Applicant's trademark F2 and Design was published for opposition in the  
2 Official Gazette on August 30, 2016.

3                   13. Opposer timely submitted a 90-day Request for Extension of Time to Oppose  
4 for Good Cause on September 2, 2016, granted the same day. Opposer subsequently timely  
5 submitted a further 60-day Request for Extension of Time to Oppose Upon Consent on  
6 December 27, 2016, which also was granted the same day. Thus, Opposer's filing of the Notice  
7 of Opposition is timely.

8                   14. Upon information and belief, Applicant's services are or will be offered in  
9 similar channels of trade as Opposer's goods and services and to similar classes of consumers.

10                  15. Applicant's trademark F2 and Design contains a dominant element that is  
11 confusingly similar to Opposer's F5 Mark and therefore is to be likely, when applied to the  
12 services set forth in Applicant's application, to cause confusion, mistake, or deception within the  
13 meaning of Section 2(d) of the Trademark Act. The design element of Applicant's mark is also  
14 confusingly similar to the design elements of Opposer's design marks and is not sufficient to  
15 overcome any likelihood of confusion.

16                  16. Because of the similar nature of Opposer's and Applicant's services, and the  
17 highly similar appearance of the marks, use and registration of the mark F2 and Design by  
18 Applicant in International Class 42 is likely to cause confusion, mistake or deception that  
19 Applicants' services are those of Opposer, or are otherwise endorsed, sponsored or approved by  
20 Opposer under the provisions of Section 2(a) and/or 2(d) of the Trademark Act (15 U.S.C.  
21 § 1052), pursuant to the allegations stated above.

22                  17. For the foregoing reasons, Opposer would be damaged by registration of  
23 Applicant's trademark F2 and Design.

24                  WHEREFORE, Opposer prays that application Serial No. 86/965,716 be refused  
25 registration and this Opposition be sustained in favor of Opposer.

1 DATED this 24th day of February, 2017.

2 Respectfully submitted,

3 MILLER NASH GRAHAM & DUNN LLP

4  
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26 Attorneys for Opposer  
F5 Networks, Inc.