ESTTA Tracking number: **ESTTA872739**

Filing date: **01/23/2018**

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	Information Builders, Inc.
Granted to Date of previous extension	02/03/2018
Address	2 Penn Plaza New York, NY 10121 UNITED STATES

Attorney information	Howard F. Mandelbaum Levine Mandelbaum PLLC 222 Bloomingdale Road, STE 203 White Plains, NY 10605 UNITED STATES Email: mail@levman.com Phone: (914) 421-0500

Applicant Information

Application No	87488610	Publication date	12/05/2017
Opposition Filing Date	01/23/2018	Opposition Period Ends	02/03/2018
Applicant	Innovation Capital, Inc. 168 Summit Avenue Montclair, NJ 07043 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Downloadable mobile artificial intelligence software application for organizingbusiness and marketing data for the purpose of facilitating business decision-making; Downloadable mobile software application for simulating stock market conditions and enabling users to manipulate stock market variables
Class 042. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: software development and design services; providing non-downloadable mobile artificial intelligence software application for organizing business and marketing data for the purpose of facilitating business decision-making; providing non-downloadable mobile software application for simulating stock market conditions andenabling users to manipulate stock market variables

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1652265	Application Date	08/23/1990
Registration Date	07/30/1991	Foreign Priority Date	NONE
Word Mark	FOCUS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1975/03/00 First Use In Commerce: 1975/03/00 computer programs for data base management		

U.S. Registration No.	2821942	Application Date	06/30/2000
Registration Date	03/16/2004	Foreign Priority Date	NONE
Word Mark	FOCUS		
Design Mark	FOCUS		
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1975/03/00 First Use In Commerce: 1975/03/00 COMPUTER SOFTWARE FOR DATABASE MANAGEMENT; COMPUTER SOFTWARE FOR USE IN DECISION SUPPORT SYSTEMS; COMPUTER SOFTWARE FORUSE IN ENTERPRISE REPORTING AND ANALYSIS SYSTEMS AND FOR BUILDING APPLICATIONS FOR THE MANAGEMENT AND TRACKING OF DATA FOR ENTERPRISE REPORTING SYSTEMS; COMPUTER DATABASE PROGRAMS FOR USE IN CONNECTION WITH DECISION SUPPORT, ANALYSIS, AND REPORTING PROGRAMS; COMPUTER SOFTWARE DEVELOPMENT TOOLS FOR USE IN DEVELOPING DECISION SUPPORT, ANALYSIS, AND REPORTING SYSTEMS AND APPLICATIONS; COMPUTER SOFTWARE, NAMELY, CLIENT/SERVER REPORTING, ANALYSIS AND DECISION SUPPORT TOOLS; COMPUTERIZED DATABASE, REPORTING, AND ANALYSIS SOFTWARE FOR USE ON CORPORATE INTRANETWEB SITES; ENTERPRISE SERVER SOFTWARE FOR USE IN WEB BASED DATA PUBLISHING, REPORTING, AND ANALYSIS SOLUTIONS; COMPUTERSOFTWARE FOR ACCESSING DATABASES BY MEANS OF GLOBAL COMPUTER NETWORKS TO GENERATE REPORTS; SOFTWARE DEVELOPMENT TOOLS FOR MAKING REPORTING AND ANALYSIS AVAILABLE THROUGH GLOBAL COMPUTER NETWORK WORLDWIDE WEBSITES AND FOR EXTENDING THE FUNCTIONALITY OF ENTERPRISE REPORTING AND ANALYSIS SYSTEMS ON TO GLOBAL COMPUTER NETWORKS; AND COMPUTER SOFTWARE FOR ACCESSING AND UPDATING DATABASES THROUGH GLOBALCOMPUTER NETWORKS		

U.S. Registration No.	2248562	Application Date	03/03/1997
Registration Date	06/01/1999	Foreign Priority Date	NONE
Word Mark	WEBFOCUS		
Design Mark	WEBFOCUS		
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1996/04/00 First Use In Commerce: 1996/04/00 computer programs for data base management		

U.S. Registration No.	2685249	Application Date	06/30/2000
Registration Date	02/11/2003	Foreign Priority Date	NONE
Word Mark	WEBFOCUS		
Design Mark	WEBFOCUS		
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1996/04/00 First Use In Commerce: 1996/04/00 COMPUTER SOFTWARE FOR DATABASE MANAGEMENT; COMPUTER SOFTWARE FOR ACCESSING DATABASES BY MEANS OF GLOBAL COMPUTER NETWORKS TO GENERATE REPORTS; SOFTWARE DEVELOPMENT TOOLS FOR MAKING REPORTING AND ANALYSIS AVAILABLE THROUGH GLOBAL COMPUTER NETWORK WORLDWIDE WEBSITES AND FOR EXTENDING THE FUNCTIONALITY OF ENTERPRISE REPORTING AND ANALYSIS SYSTEMS ON TO GLOBAL COMPUTER NETWORKS; AND COMPUTER SOFTWAREFOR ACCESSING AND UPDATING DATABASES THROUGH GLOBAL COMPUTER NETWORKS		

Attachments	76083549#TMSN.png(bytes) 75250817#TMSN.png(bytes) 76081024#TMSN.png(bytes) IBI B790US_TM_SM_Notice_of_Opposition.pdf(201050 bytes)

Signature	/Howard F. Mandelbaum/
Name	Howard F. Mandelbaum
Date	01/23/2018

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

In the matter of an application to register FAST FOCUS, Serial No. 87/488,610 filed June 14, 2017, published for opposition on December 5, 2017, on Pages 3963-3964 of the Official Gazette:

Information Builders, Inc.	:	
Plaintiff,	:	
v.	:	Opp. No.
Innovation Capital, Inc.	:	
Defendant.	:	

NOTICE OF OPPOSITION

Information Builders, Inc., a corporation of the State of New York, having a principal place of business at 2 Penn Plaza, New York, New York 10121-2898, believes that it will be damaged by registration of the mark identified above, and hereby opposes such registration.

The grounds for the opposition are as follows:

1. Plaintiff is a business intelligence company that produces, markets and/or licenses computer software for database management, for use in decision support systems, and for information control, reporting, and networking, including designing, building, and maintaining databases, recording, processing, analyzing and displaying data and information in a

wide variety of industries and other fields, and provides to its customers support services including education in the use of software, and technical support and consultation in connection with implementation and installation of the software.

2. Since 1975, Plaintiff has been marketing its software under the trademark FOCUS to computer users in a wide variety of industries and providing consulting services in connection with its FOCUS software for use in the management of business, and Plaintiff has registered its trademark in the Patent and Trademark Office under Nos. 1,652,265 and 2,821,942.

3. In the early 1980's, Plaintiff began marketing its software under various additional trademarks which include the word FOCUS. Plaintiff is also the owner of the following Patent and Trademark Office registrations:

Registration No.	**Trademark**
2,248,562	WEBFOCUS
2,685,249	WEBFOCUS

4. Plaintiff sells computerized instruction and training courses, accompanied by related printed materials, for teaching the use of FOCUS software.

5. Plaintiff renders consulting services in connection with its FOCUS software for use in the management of business.

6. Plaintiff has published a magazine entitled FOCUS SYSTEMS JOURNAL, and newsletters entitled FOCUS NEWS and FOCUS

FLASH, distributed to computer users, as well as an online magazine entitled "The FOCUS Quarterly", and currently publishes WEBFOCUS Journal.

7. Plaintiff established "The Focus Users Group" (FUSE) for its customers, and now holds annual conferences at which representatives of those who use FOCUS software attend educational workshops, see product demonstrations, and otherwise exchange information about FOCUS software.

8. Defendant seeks to register FAST FOCUS for "Downloadable mobile artificial intelligence software application for organizing business and marketing data for the purpose of facilitating business decision-making; Downloadable mobile software application for simulating stock market conditions and enabling users to manipulate stock market variables" in Class 9, and "software development and design services; providing non-downloadable mobile artificial intelligence software application for organizing business and marketing data for the purpose of facilitating business decision-making; providing non-downloadable mobile software application for simulating stock market conditions and enabling users to manipulate stock market variables" in Class 42.

9. Upon information and belief, Defendant's goods and services are so closely related to Plaintiff's and Plaintiff's licensee's software, the printed and online materials distributed by Plaintiff, and Plaintiff's services, that use of similar marks

on the respective goods and services of the parties is likely to cause confusion or mistake, or to deceive purchasers as to the origin of the goods and services.

10. Upon information and belief, the registration by Defendant of FAST FOCUS for goods and services closely related to Plaintiff's and Plaintiff's licensee's goods and services will impair Plaintiff's free use of its trademark, and will result in injury to the good will Plaintiff has acquired with respect to its trademark, all to Plaintiff's damage.

WHEREFORE, Plaintiff prays that the registration for which application has been made be disallowed, and that this opposition be sustained.

/Howard F. Mandelbaum/
Howard F. Mandelbaum
Attorney for Plaintiff
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