

ESTTA Tracking number: **ESTTA896448**

Filing date: **05/14/2018**

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	05/16/2018
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
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### Applicant Information

Application No	87586463	Publication date	01/16/2018
Opposition Filing Date	05/14/2018	Opposition Period Ends	05/16/2018
Applicant	Farm Credit Services of America, ACA 5015 South 118th Street Omaha, NE 68137 UNITED STATES		

### Goods/Services Affected by Opposition

Class 042. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Software as a service (SAAS) services, namely, hosting software for use by others for use in farm and ranch accounting and management; Providing temporary use of online non-downloadable software for farm and ranch accounting and management; Provision of web-based software, namely, providing temporary use of a web-based software application for farm and ranch management, accounting and administration
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### 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.	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	

Description of Mark	NONE
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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 FOR USE 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
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U.S. Registration No.	2248562	Application Date	03/03/1997
Registration Date	06/01/1999	Foreign Priority Date	NONE

Word Mark	WEBFOCUS
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Design Mark	<b>WEBFOCUS</b>
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 SOFTWARE FOR ACCESSING AND UPDATING DATABASES THROUGH GLOBAL COMPUTER NETWORKS		

Attachments	76083549#TMSN.png( bytes ) 75250817#TMSN.png( bytes ) 76081024#TMSN.png( bytes ) IBI B940US_SM_Notice_of_Opposition.pdf(201626 bytes )
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Signature	/Howard F. Mandelbaum/
Name	Howard F. Mandelbaum
Date	05/14/2018

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

In the matter of an application to register FOCUS ON PROFIT,  
Serial No. 87/586,463 filed August 28, 2017, published for  
opposition on January 16, 2018, on Pages 3933-3934 of the Official  
Gazette:

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Information Builders, Inc.                :
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                Plaintiff,                :
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                v.                        :   Opp. No.
                                           :
Farm Credit Services of America, ACA     :
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                Defendant.                :
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**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:

<u>Registration No.</u>	<u>Trademark</u>
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 FOCUS ON PROFIT for "Software as a service (SAAS) services, namely, hosting software for use by others for use in farm and ranch accounting and management; Providing temporary use of online non-downloadable software for farm and ranch accounting and management; Provision of web-based software, namely, providing temporary use of a web-based software application for farm and ranch management, accounting and administration" in Class 42.

9. Upon information and belief, Defendant's 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 FOCUS ON PROFIT for 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/  
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