

EXHIBIT E

Response to Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77318565
LAW OFFICE ASSIGNED	LAW OFFICE 103
MARK SECTION (no change)	
ARGUMENT(S)	
<p>The Examining Attorney refused registration of our ANDROID mark because of the concern that "contemporaneous use" of ANDROID and the cited registration, ANDROID DATA (Reg. No. 2639556) owned by Android Data Corporation, will result in a likelihood of confusion. However, there is no contemporaneous use of ANDROID and ANDROID DATA because ANDROID DATA is not in use and has not been in use for years. According to Archive.org, the last possible commercial use of ANDROID DATA on androiddata.com, the website of the registrant, was on March 10, 2005 (http://web.archive.org/web/20050310015150/http://www.androiddata.com/). Subsequent entries show the site as a parked page, with no commercial use of ANDROID DATA (see attached exhibits). Today, the androiddata.com domain still is a parked page, without any commercial use of ANDROID DATA, and the domain is, in fact, owned by someone else other than the registrant, Android Data Corporation (see attached exhibits). Web results find no evidence of other commercial use of ANDROID DATA. Furthermore, secretary of state records (see attached exhibits) show that the registrant, Android Data Corporation, was involuntarily dissolved on May 1, 2004, and no longer exists as an entity. Because there has been no commercial use of ANDROID DATA for over three years and the company has been dissolved for over four years, we must presume that the company has abandoned the ANDROID DATA mark per TMEP section 1604.11. The company no longer exists as a valid entity, so it cannot file an Affidavit of Use to maintain its registration. Thus, the registration is not valid, and should not be considered as a possible grounds for refusal of our registration of ANDROID. For this reason, we humbly request that the Examining Attorney withdraw this refusal.</p> <p>In addition to the 2(d) citation, the Examining Attorney has asked us that we amend the application. We have done so. He has also asked that we confirm that ANDROID has no significance in the computer hardware and software trade or industry, any geographical significance, or any meaning in a foreign language, and we do so. ANDROID is a arbitrary term we chose as a brand for our products.</p> <p>Because the conflicting registration is not an issue, and we have dealt with the other issues raised by the Examining Attorney in his office action, we ask that the Examining Attorney approve this application for registration.</p>	
EVIDENCE SECTION	

EVIDENCE FILE NAME(S)	\\TICRS\EXPORT3\IMAGEOUT3 \\773\185\77318565\xml1\RO A0002.JPG
	\\TICRS\EXPORT3\IMAGEOUT3 \\773\185\77318565\xml1\RO A0003.JPG
	\\TICRS\EXPORT3\IMAGEOUT3 \\773\185\77318565\xml1\RO A0004.JPG
DESCRIPTION OF EVIDENCE FILE	Current WHOIS data for androiddata.com, Archive.org results for androiddata.com, and an Illinois Secretary of State record showing the involuntary dissolution of Android Data Corporation.
GOODS AND/OR SERVICES SECTION (current)	
INTERNATIONAL CLASS	009
DESCRIPTION	hardware; software
FILING BASIS	Section 1(b)
GOODS AND/OR SERVICES SECTION (proposed)	
INTERNATIONAL CLASS	009
DESCRIPTION	
mobile device hardware and peripherals; operating system software; software for use in developing, executing, and running other software on mobile devices, computers, computer networks, and global communication networks; computer software development tools; computer software for use in transmitting and receiving data over computer networks and global communication networks; computer software for managing communications and data exchange among and between mobile devices and desktop computers; computer middleware, namely, software that mediates between the operating system of a mobile device and the application software of a mobile device; computer application software for mobile devices	
FILING BASIS	Section 1(b)
SIGNATURE SECTION	
DECLARATION SIGNATURE	/t/t/
SIGNATORY'S NAME	Tu T. Tsao
SIGNATORY'S POSITION	Trademark Counsel
DATE SIGNED	08/14/2008
RESPONSE SIGNATURE	/t/t/
SIGNATORY'S NAME	Tu T. Tsao
SIGNATORY'S POSITION	Trademark Counsel

DATE SIGNED	08/14/2008
AUTHORIZED SIGNATORY	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Thu Aug 14 20:43:08 EDT 2008
TEAS STAMP	USPTO/ROA-65.57.245.11-20 080814204308115561-773185 65-430526c8f39c42290315fa 55e1a18c95-N/A-N/A-200808 14190559097132

PTO Form 1007 (Rev. 03/06)
OMB No. 0631-0050 (Exp. 04/30/11)

**Response to Office Action
To the Commissioner for Trademarks:**

Application serial no. **77318565** has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

The Examining Attorney refused registration of our ANDROID mark because of the concern that "contemporaneous use" of ANDROID and the cited registration, ANDROID DATA (Reg. No. 2639556) owned by Android Data Corporation, will result in a likelihood of confusion. However, there is no contemporaneous use of ANDROID and ANDROID DATA because ANDROID DATA is not in use and has not been in use for years. According to Archive.org, the last possible commercial use of ANDROID DATA on androiddata.com, the website of the registrant, was on March 10, 2005 (<http://web.archive.org/web/20050310015150/http://www.androiddata.com/>). Subsequent entries show the site as a parked page, with no commercial use of ANDROID DATA (see attached exhibits). Today, the androiddata.com domain still is a parked page, without any commercial use of ANDROID DATA, and the domain is, in fact, owned by someone else other than the registrant, Android Data Corporation (see attached exhibits). Web results find no evidence of other commercial use of ANDROID DATA. Furthermore, secretary of state records (see attached exhibits) show that the registrant, Android Data Corporation, was involuntarily dissolved on May 1, 2004, and no longer exists as an entity. Because there has been no commercial use of ANDROID DATA for over three years and the company has been dissolved for over four years, we must presume that the company has abandoned the ANDROID DATA mark per TMEP section 1604.11. The company no longer exists as a valid entity, so it cannot file an Affidavit of Use to maintain its registration. Thus, the registration is not valid, and should not be considered as a possible grounds for refusal of our registration of ANDROID. For this reason, we humbly request that the Examining Attorney withdraw this refusal.

In addition to the 2(d) citation, the Examining Attorney has asked us that we amend the application. We have done so. He has also asked that we confirm that ANDROID has no significance in the computer hardware and software trade or industry, any geographical significance, or any meaning in a foreign language, and we do so. ANDROID is a arbitrary term we chose as a brand for our products.

Because the conflicting registration is not an issue, and we have dealt with the other issues raised by the Examining Attorney in his office action, we ask that the Examining Attorney approve this application for registration.

EVIDENCE

Evidence in the nature of Current WHOIS data for androiddata.com, Archive.org results for androiddata.com, and an Illinois Secretary of State record showing the involuntary dissolution of Android Data Corporation. has been attached.

Evidence-1

Evidence-2

Evidence-3

CLASSIFICATION AND LISTING OF GOODS/SERVICES

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 009 for hardware; software

Original Filing Basis:

Filing Basis: Section 1(b), Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

Proposed: Class 009 for mobile device hardware and peripherals; operating system software; software for use in developing, executing, and running other software on mobile devices, computers, computer networks, and global communication networks; computer software development tools; computer software for use in transmitting and receiving data over computer networks and global communication networks; computer software for managing communications and data exchange among and between mobile devices and desktop computers; computer middleware, namely, software that mediates between the operating system of a mobile device and the application software of a mobile device; computer application software for mobile devices

Filing Basis: Section 1(b), Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

SIGNATURE(S)

Declaration Signature

If the applicant is seeking registration under Section 1(b) and/or Section 44 of the Trademark Act, the applicant had a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. 37 C.F.R. Secs. 2.34(a)(2)(i); 2.34 (a)(3)(i); and 2.34(a)(4)(ii). If the applicant is seeking registration under Section 1(a) of the Trademark Act, the mark was in use in commerce on or in connection with the goods or services listed in the application as of the application filing date. 37 C.F.R. Secs. 2.34(a)(1)(i). The undersigned, being hereby warned that willful false statements and the like so

made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. §1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; that if the original application was submitted unsigned, that all statements in the original application and this submission made of the declaration signer's knowledge are true; and all statements in the original application and this submission made on information and belief are believed to be true.

Signature: /ttt/ Date: 08/14/2008
Signatory's Name: Tu T. Tsao
Signatory's Position: Trademark Counsel

Response Signature

Signature: /ttt/ Date: 08/14/2008
Signatory's Name: Tu T. Tsao
Signatory's Position: Trademark Counsel

The signatory has confirmed that he/she is not represented by either an authorized attorney or Canadian attorney/agent, and that he/she is either (1) the applicant or (2) a person(s) with legal authority to bind the applicant; and if an authorized U.S. attorney or Canadian attorney/agent previously represented him/her in this matter, either he/she has filed a signed revocation of power of attorney with the USPTO or the USPTO has granted the request of his/her prior representative to withdraw.

Serial Number: 77318565
Internet Transmission Date: Thu Aug 14 20:43:08 EDT 2008
TEAS Stamp: USPTO/ROA-65.57.245.11-20080814204308115
561-77318565-430526c8f39c42290315fa55e1a
18c95-N/A-N/A-20080814190559097132

[Querying whois.fabulous.com]
[whois.fabulous.com]

Domain androiddata.com:

819 Bocage Lane
Mandeville, Louisiana 70471 US

Administrative contact:
Technical contact:
Billing contact:

Dana Daste
dcdaste@aol.com
819 Bocage Lane
Mandeville, Louisiana 70471 US
Phone: +1.9858458185
Fax:

Record dates:
Record created on: 2007-05-09 18:38:33 UTC
Record modified on: 2007-09-05 04:21:54 UTC
Record expires on: 2009-05-09 UTC

Nameservers:
ns2.dsredirection.com:
ns1.dsredirection.com:

Note: Automated collection of data from this database is strictly prohibited.



CORPORATION FILE DETAIL REPORT

Entity Name	ANDROD DATA CORPORATION	File Number	60277885
Status	DISSOLVED		
Entity Type	CORPORATION	Type of Corp	DOMESTIC BCA
Incorporation Date (Domestic)	12/30/1998	State	ILLINOIS
Agent Name	ERICH M SPECHT	Agent Change Date	12/30/1998
Agent Street Address	114 N ASHLAND AVE	President Name & Address	ERICH SPECHT 114 N ASHLAND AVE PALATINE 60067
Agent City	PALATINE	Secretary Name & Address	INVOLUNTARY DISSOLUTION 05 01 04
Agent Zip	60067	Duration Date	PERPETUAL
Annual Report Filing Date	00/00/0000	For Year	2003

[Return to the Search Screen](#)

Searched for <http://www.androiddata.com>

58 Results

Note some duplicates are not shown. See [#1](#)

* denotes when site was updated.

Material typically becomes available here 6 months after collection. See [FAQ](#).

Search Results for Jan 01, 1996 - Feb 16, 2008

1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
0 pages	0 pages	0 pages	0 pages	0 pages	10 pages	15 pages	15 pages	13 pages	3 pages	1 pages	0 pages	0 pages
				Feb 02, 2001 *	Jan 15, 2002	Jan 15, 2002	Jan 15, 2003 *	Jan 05, 2004	Feb 07, 2005	Feb 25, 2006 *		
				Mar 05, 2001 *	Jan 19, 2002	Feb 14, 2002	Feb 14, 2003	Mar 21, 2004	Mar 13, 2005			
				Mar 26, 2001	Feb 06, 2002	Mar 21, 2002	Mar 21, 2003	Mar 28, 2004	Mar 10, 2005			
				Mar 21, 2001	Mar 29, 2002	Mar 29, 2002	Apr 05, 2003	May 20, 2004				
				Apr 05, 2001 *	Jun 02, 2002	Jun 02, 2002	Apr 16, 2003	Jun 08, 2004				
				Apr 22, 2001 *	Jun 06, 2002	Jun 06, 2002	Apr 15, 2003	Jun 15, 2004				
				May 15, 2001	Jul 22, 2002	Jul 22, 2002	Jun 26, 2003	Aug 18, 2004				
				Sep 27, 2001	Aug 01, 2002	Aug 01, 2002	Aug 06, 2003	Aug 30, 2004				
				Oct 20, 2001	Aug 08, 2002	Aug 08, 2002	Aug 19, 2003	Sep 05, 2004				
				Nov 22, 2001	Sep 24, 2002 *	Sep 24, 2002 *	Sep 26, 2003	Sep 21, 2004				
					Sep 26, 2002	Sep 26, 2002	Oct 02, 2003	Sep 22, 2004				
					Nov 21, 2002 *	Nov 21, 2002 *	Nov 21, 2003	Nov 10, 2004				
					Nov 27, 2002	Nov 27, 2002	Dec 09, 2003	Dec 12, 2004				
					Nov 28, 2002	Nov 28, 2002	Dec 23, 2003					
					Dec 07, 2002 *	Dec 07, 2002 *	Dec 29, 2003					

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