

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

INTELLAPEX, PLLC,)
a Michigan professional limited liability company,)

Plaintiff,)

v.)

INTEL CORPORATION,)
a Delaware corporation,)

Defendant.)

Hon: Richard A. Enslin

Case No.: 1:05-CV-0404

ROBERT J. SAYFIE, P.C.

Robert J. Sayfie (P45267)
161 Ottawa Ave., NW, Suite 407
Grand Rapids, MI 49503
Telephone: 616.774.9244
Facsimile: 616.774.9202

Counsel for Plaintiff

PLAINTIFF’S FIRST AMENDED COMPLAINT and JURY DEMAND

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff IntellApex, PLLC is a Michigan Professional Limited Liability Company, with its registered office at 2855 44th Street, SW, Suite 120, Grandville, Michigan 49418.

2. Defendant Intel Corporation is a Delaware Corporation, with its principal place of business at 2200 Mission College Blvd., Santa Clara, CA 95052.

3. Defendant conducts systematic and continuous business in Grand Rapids, Michigan; and is registered as a Foreign Profit Corporation in Michigan, with the Corporation Company designated as its registered agent, which is located at 30600 Telegraph Road, Bingham Farms, Michigan 48025.

4. Plaintiff IntellApex is engaged in the legal services business with a focus on providing intellectual property law services to its clients, including but not limited to, patent drafting and filing services.

5. Plaintiff is using the domain name intellapex.com in connection with providing the above referenced services.

6. Defendant is engaged in the manufacture and sale of computer, communication, software, networking, and internet-related related-products.

7. This action arises under the Trademark Act, 25 U.S.C. § 1051 *et seq.* (the “Trademark Act”); False Designation of Origin, 15 U.S.C. § 1125(a); and Federal Trademark Dilution, 15 U.S.C. § 1125(c).

8. Jurisdiction is conferred on the Court pursuant to 28 U.S.C. § 1338.

9. Venue is proper in this district under 28 U.S.C. § 1391.

DECLARATORY JUDGMENT-TRADEMARK INFRINGEMENT

10. On or around February 24, 2005, Plaintiff filed a trademark application (Application Serial No. 78/573,940), for the following mark: “IntellApex” (words only), with the United States Patent and Trademark Office.

11. Plaintiff’s above-referred trademark application was filed in International Class 042, relating to provision of legal services.

12. In a certified letter to the Plaintiff, dated June 3, 2005, the Defendant expressly alleged that the Plaintiff is infringing its Intel trademark. (*See* Letter from Intel Corporation dated June 3, 2005, attached hereto as **Exhibit A**).

13. Defendant has indicated that the Plaintiff must abandon its pending trademark application and cease all use of the IntellApex mark and domain name, or else the Defendant may sue the Plaintiff, and thus the Plaintiff has a reasonable apprehension that a suit will be brought.

14. A trademark search (as of 10 June 2005) using the Boolean expression Intel* indicates that 3001 live trademarks exist that contain the letters “intel...” (**Exhibit B**). (Only the first page has been attached as an exhibit because a complete printout would have consumed about 120 pages.)

15. An actual controversy exists under 28 U.S.C. §2201.

DECLARATORY JUDGMENT- FALSE DESIGNATION OF ORIGIN

16. IntellApex realleges and incorporates herein by reference the matters alleged in the above paragraphs.

17. Plaintiff’s use of “IntellApex” in connection with its services does not suggest that IntellApex’s services are connected with, sponsored by, affiliated with, or related to Intel.

18. Plaintiff’s use of “IntellApex” does not constitute a false designation of origin under 15 U.S.C. § 1125(a).

19. Intel has not been, and is not injured or damaged by IntellApex's use of its mark, and no member of the public has been or is induced to believe the IntellApex's services are connected with, sponsored by, affiliated with, or related to Intel.

20. IntellApex's use of its mark does not impair any value of Intel's name, reputation, and goodwill.

21. No IntellApex customer, prospective customer, or any other person has ever questioned, or indicated any confusion about, any connection, association, sponsorship, affiliation or relationship of any kind between IntellApex and Intel Corporation (**Exhibit C**)¹.

DECLARATORY JUDGMENT- FEDERAL TRADEMARK DILUTION

22. IntellApex realleges and incorporates herein by reference the matters alleged in the above paragraphs.

23. IntellApex's use of the "IntellApex" mark in connection with legal services has not and does not dilute the "Intel" mark.

24. IntellApex's use of the "IntellApex" mark has not and does not have an adverse effect upon the value and distinctive quality of the "Intel" mark; nor do Plaintiff's acts blur and whittle away at any distinctiveness and identity-evoking quality of the "Intel" mark.

25. IntellApex's acts do not dilute any value of Intel's goodwill in connection with the "Intel" mark; nor do IntellApex's acts destroy any exclusive association between Intel and its "Intel" and "Intel" composite marks.

26. IntellApex's acts do not constitute trademark dilution under 15 U.S.C. § 1125(c).

¹ The executed Affidavit will be supplied as soon as possible.

27. IntellApex's mark "IntellApex" has not caused, and is not causing irreparable injury to Intel; and "IntellApex" is not and will not continue to dilute any value of the "Intel" mark; and "IntellApex" is not causing further irreparable injury to Intel.

28. No IntellApex customer, prospective customer, or any other person has ever questioned, or indicated any confusion about, any connection, association, sponsorship, affiliation or relationship of any kind between IntellApex and Intel Corporation (**Exhibit C**)².

WHEREFORE, the Plaintiff demands judgment against the Defendant as follows:

- a. Declaring that Plaintiff's use of its mark IntellApex does not infringe Defendant's mark Intel;
- b. Declaring that Plaintiff's use of its domain name intellapex.com in connection with its legal services does not infringe Defendant's mark Intel;
- c. Declaring that Plaintiff's use of its mark IntellApex does not constitute false designation;
- d. Declaring that Plaintiff's use of its mark IntellApex does not constitute trademark dilution; and
- e. And such other and further relief as the Court deems just and proper, such as costs and attorneys fees.

Date: July 25, 2005

Respectfully Submitted,

/S/Robert J. Sayfie
Robert J. Sayfie (P45267)
Robert J. Sayfie, P.C.

² The executed Affidavit will be supplied as soon as possible.

Attorney for Plaintiff
161 Ottawa Ave., NW, Suite 407
Grand Rapids, MI 49503
616-774-9244

JURY DEMAND

Plaintiff requests a jury in this matter.

Date: July 25, 2005

Respectfully Submitted,

/S/Robert J. Sayfie
Robert J. Sayfie (P45267)
Robert J. Sayfie, P.C.
Attorney for Plaintiff
161 Ottawa Ave., NW, Suite 407
Grand Rapids, MI 49503
616-774-9244