

1 Adron W. Beene SB# 129040  
2 Adron G. Beene SB# 298088  
3 Attorney at Law  
4 1754 Technology Drive, Suite 228  
5 San Jose, CA 95110  
Tel: (408) 392-9233  
Fax: (866) 329-0453  
adron@adronlaw.com

6 Attorneys for Defendant and Counter Claimant:  
7 JOHN MARK SUHY

8 **UNITED STATES DISTRICT COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA**

10 NEO4J, INC., a Delaware corporation,  
11 NEO4J Sweden AB

12 Plaintiffs,

13 v.

14 PURETHINK LLC, a Delaware limited  
15 liability company, IGOV INC., a  
16 Virginia corporation, and JOHN MARK  
17 SUHY, an individual,  
Defendants.

CASE NO. 5:18-cv-7182 EJD

**DEFENDANT JOHN MARK SUHY'S COUNTERCLAIM AGAINST NEO4J, INC. FOR**  
**1) Cancellation Of Trademark Procured By Fraud**  
**2) Declaratory Relief (Abandonment of Trademark)**

**DEMAND FOR JURY TRIAL**

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19 PURETHINK LLC, a Delaware limited  
liability company, IGOV, INC. a  
20 Virginia corporation, John Mark Suhy  
21 Counter Claimants

22 v.

23 NEO4J, INC. a Delaware  
24 corporation,  
Counter Defendant.

1 Counter Claimant JOHN MARK SUHY alleges against NEO4J, Inc. as  
2 follows:

3 **I. Jurisdiction**

4 1. This is a compulsory counterclaim under Federal Rule of Civil  
5 Procedure §13(a). This Court has supplemental jurisdiction under 28  
6 USC § 1337(a).

7 **II. Parties**

8 2. Counter Claimant John Mark Suhy (“Suhy”) is an individual.  
9 3. Counter Defendant NEO4J, Inc. (“Neo4J USA”) is a Delaware  
10 corporation.

12 **III. Counterclaims**

13 **First Cause of Action**

14 **Cancellation of Trademark 15 U.S.C. §1119**

15 **(Against Neo4J, Inc.)**

16 4. Suhy reincorporates the allegations in paragraph 1-3 as alleged above.  
17 5. The Registered Trademark for NEO4J, Reg. No. 4,784,280, was  
18 procured by fraud as the representation to the PTO was that Neo  
19 Technology (a Delaware corporation) (changed to Neo4J, Inc.) first used  
20 the trademark in 6-4-2006 and in commerce in 5-28-2007.  
21 6. These statements are knowingly false and material to the decision to  
22 grant the registration application as Neo Technology did not exist on  
23 those dates as the company was formed 7-7-2011 in Delaware under  
24 File Number 5007564.

7. Because the registration was procured by fraud, the registration to the NEO4J trademark should be cancelled pursuant to 15 U.S.C. §1119.

## **Second Cause of Action**

## Declaratory Relief

## **(Abandonment of Trademark)**

## (Against Neo4J, Inc.)

8. Suhy reincorporates the allegations in paragraph 1-7 as alleged above.

9. There is a present controversy where Neo4J, USA claims it has the

right to use and enforce the Neo4j trademark. Suhy claims there is confusion whether Neo4j is a company name trademark or product name trademark. This confusion is exacerbated by Neo4j Sweden's open source license for a product called Neo4J. Neo4j Sweden's license states: "The software ("Software") is developed and owned by Neo4j Sweden AB (referred to in this notice as "Neo4j").... Neo4j Sweden asserts they own the software-and not Neo4J USA - and Neo4J USA use the Neo4j name as part of the company name and call the open source software product Neo4j too. As the Neo4j trademark is used and licensed as open source software there is no ability to maintain quality control over the software product called Neo4j as any licensees may modify combine the software with other code and distributed or convey Neo4j without required quality control by Neo4J USA

10. Suhy requests declaratory relief that the Neo4j registered trademark be abandoned under the doctrine of Naked License.

#### IV. Prayer for Relief

Wherefore PureThink and iGOV request judgment against Neo4J Inc. as follows:

1. The Neo4J trademark registration be cancelled pursuant to 15 U.S.C. 1119 as the registration was procured by fraud;
2. The Neo4j registered trademark be abandoned under the doctrine of Naked License
3. That Counter Claimants recover costs and attorneys fees as permitted by law; and
4. And for such other relief as the Court deems just.

Dated: November 13, 2019

/s/ Adron G. Beene  
Adron W. Beene SB# 129040  
Adron G. Beene SB# 298088  
Attorney At Law  
1754 Technology Drive, Suite 228  
San Jose, CA 95110  
Tel: (408) 392-9233  
Fax: (866) 329-0453

Attorney for Counter Claimant  
John Mark Suhy

**DEMAND FOR JURY TRIAL**

Counter Claimant John Mark Suhy hereby demands a trial by jury.

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