

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
6 Tel: (408) 392-9233
7 Fax: (866) 329-0453
8 adron@adronlaw.com

9 Attorneys for Defendant and Counter Claimant:
10 JOHN MARK SUHY

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA

13 NEO4J, INC., a Delaware corporation,
14 NEO4J Sweden AB

15 Plaintiffs,

16 v.

17 PURETHINK LLC, a Delaware limited
18 liability company, IGOV INC., a
19 Virginia corporation, and JOHN MARK
20 SUHY, an individual,
21 Defendants.

22
23 PURETHINK LLC, a Delaware limited
24 liability company, IGOV, INC. a
25 Virginia corporation, John Mark Suhy
Counter Claimants

v.

NEO4J, INC. a Delaware
corporation,
Counter Defendant.

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

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 § 1367(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.

11 **III. Counterclaims**

12 **First Cause of Action**

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

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

- 15 4. Suhy reincorporates the allegations in paragraph 1-3 as alleged above.
16 5. The Registered Trademark for NEO4J, Reg. No. 4,784,280, was
17 procured by fraud as the representation to the PTO was that Neo
18 Technology (a Delaware corporation) (changed to Neo4J, Inc.) first used
19 the trademark in 6-4-2006 and in commerce in 5-28-2007.
20 6. These statements are knowingly false and material to the decision to
21 grant the registration application as Neo Technology did not exist on
22 those dates as the company was formed 7-7-2011 in Delaware under
23 File Number 5007564.
24
25

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

3
4 **Second Cause of Action**
5 **Declaratory Relief**
6 **(Abandonment of Trademark)**
7 **(Against Neo4J, Inc.)**

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

9 9. There is a present controversy where Neo4J, USA claims it has the
10 right to use and enforce the Neo4j trademark. Suhy claims there is
11 confusion whether Neo4j is a company name trademark or product
12 name trademark. This confusion is exacerbated by Neo4j Sweden's
13 open source license for a product called Neo4J. Neo4j Sweden's license
14 states: "The software ("Software") is developed and owned by Neo4j
15 Sweden AB (referred to in this notice as "Neo4j")... . Neo4j Sweden
16 asserts they own the software-and not Neo4J USA - and Neo4J USA
17 use the Neo4j name as part of the company name and call the open
18 source software product Neo4j too. As the Neo4j trademark is used and
19 licensed as open source software there is no ability to maintain quality
20 control over the software product called Neo4j as any licensees may
21 modify combine the software with other code and distributed or convey
22 Neo4j without required quality control by Neo4J USA

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

1 **IV. Prayer for Relief**

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

- 4 1. The Neo4J trademark registration be cancelled pursuant to 15 U.S.C.
5 1119 as the registration was procured by fraud;
6 2. The Neo4j registered trademark be abandoned under the doctrine of
7 Naked License
8 3. That Counter Claimants recover costs and attorneys fees as permitted
9 by law; and
10 4. And for such other relief as the Court deems just.

11
12 Dated: November 13, 2019

13 /s/ Adron G. Beene
14 Adron W. Beene SB# 129040
15 Adron G. Beene SB# 298088
16 Attorney At Law
17 1754 Technology Drive, Suite 228
18 San Jose, CA 95110
19 Tel: (408) 392-9233
20 Fax: (866) 329-0453
21 adron@adronlaw.com

22 Attorney for Counter Claimant
23 John Mark Suhy

24 **DEMAND FOR JURY TRIAL**

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

26 /s/ Adron G. Beene
27 Adron W. Beene SB# 129040
28 Adron G. Beene SB# 298088
29 Attorney At Law
30 1754 Technology Drive, Suite 228
31 San Jose, CA 95110
32 Tel: (408) 392-9233

Fax: (866) 329-0453
adron@adronlaw.com

Attorneys for Counter Claimant
John Mark Suhy

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25