

ESTTA Tracking number: **ESTTA324662**

Filing date: **12/30/2009**

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	Appriss Inc.
Granted to Date of previous extension	01/03/2010
Address	10401 Linn Station Road, Suite 200 Louisville, KY 40223-3842 UNITED STATES

Attorney information	Scot A. Duvall Middleton Reutlinger 2500 Brown & Williamson Tower, 401 S. Fourth Avenue Louisville, KY 40202 UNITED STATES sduvall@middreut.com Phone:502-625-2784
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Applicant Information

Application No	77713454	Publication date	07/07/2009
Opposition Filing Date	12/30/2009	Opposition Period Ends	01/03/2010
Applicant	Microsoft Corporation One Microsoft Way Redmond, WA 980526399 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. All goods and services in the class are opposed, namely: computer software for social networking
Class 045. All goods and services in the class are opposed, namely: online social networking services

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.	1985527	Application Date	07/10/1995
Registration Date	07/09/1996	Foreign Priority Date	NONE
Word Mark	VINE		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 042. First use: First Use: 1994/12/15 First Use In Commerce: 1994/12/15 telephone information services providing status reports to, and notification for victims of crime

U.S. Registration No.	3082633	Application Date	05/02/2005
Registration Date	04/18/2006	Foreign Priority Date	NONE

Word Mark	VINELINK
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Design Mark	
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Description of Mark	NONE
Goods/Services	Class 045. First use: First Use: 2000/08/01 First Use In Commerce: 2000/08/01 Providing an online computer registration and notification system for victims of crime

U.S. Registration No.	3131240	Application Date	05/02/2005
Registration Date	08/15/2006	Foreign Priority Date	NONE

Word Mark	VINE PROTECTIVE ORDER
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Design Mark	
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Description of Mark	NONE
Goods/Services	Class 045. First use: First Use: 2004/03/00 First Use In Commerce: 2004/12/00 Telephone information services providing status reports to and notification for victims of crime or abuse; and providing an on-line computer registration and notification system for victims of crime and abuse

Attachments	78621239#TMSN.jpeg (1 page)(bytes) 78621233#TMSN.jpeg (1 page)(bytes) NoticeOpp-Fin-123009.pdf (9 pages)(23228 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Scot A. Duvall/
Name	Scot A. Duvall
Date	12/30/2009

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

SERIAL NO.: 77/713454
MARK: MICROSOFT VINE
FILED: 04/14/2009
PUBLISHED: 07/07/2009

Appriss Inc.)	
)	
Opposer)	
)	
v.)	Opposition No. _____
)	
Microsoft Corporation)	
)	
Applicant)	

FILED VIA ESTTA

Trademark Trial and Appeal Board
P.O. Box 1451
Arlington, Virginia 22313-1451

NOTICE OF OPPOSITION

Pursuant to 15 U.S.C. § 1063 and 37 C.F.R. § 2.104, Appriss Inc. (“Opposer”) believes that it would be damaged by the registration of the above-identified trademark, and hereby opposes registration of the goods and services identified in the above-identified application, on the grounds set forth below.

The Parties

1. Opposer, Appriss Inc., is a Delaware corporation located and doing business at 10401 Linn Station Road, Suite 200, Louisville, Kentucky 40223-3842.

2. Applicant, Microsoft Corporation, upon information and belief, is a Washington corporation located and doing business at One Microsoft Way, Redmond, Washington 98052-6399.

Opposer's Registered Marks

3. Opposer owns Registration No. 1985527 for the mark VINE (Standard Characters), in connection with the following services in International Class 042: “telephone information services providing status reports to, and notification for victims of crime.”

Opposer's constructive use priority date for this registration is July 10, 1995, the filing date of the application for registration.

4. Opposer owns Registration No. 3082633 for the mark VINELINK (Standard Characters), in connection with the following services in International Class 045: “Providing an online computer registration and notification system for victims of crime.” Opposer's constructive use priority date for this registration is May 2, 2005, the filing date of the application for registration.

5. Opposer owns Registration No. 3131240 for the mark VINE PROTECTIVE ORDER (Standard Characters; “PROTECTIVE ORDER” disclaimed), in connection with the following services in International Class 045: “Telephone information services providing status reports to and notification for victims of crime or abuse; and providing an on-line computer registration and notification system for victims of crime and abuse.” Opposer's constructive use priority date for this registration is May 2, 2005, the filing date of the application for registration.

Applicant's Pending Application

6. Applicant has filed application Serial No. 77/713454 for the mark MICROSOFT VINE (Standard Characters), for the following goods in International Class 009 and the following services in International Class 045: “computer software for social networking” in Class 009, and “online social networking services” in Class 045. The filing date for this application is 04/14/2009.

7. For the application opposed herein, Applicant's attorney of record and correspondence address of record, as reflected on the records of the USPTO, is William O. Ferron, Jr., Seed IP Law Group PLLC, 701 5th Avenue, Suite 5400, Seattle, Washington 98104-7064. Accordingly, this Notice of Opposition may be served upon the attorney of record at this address pursuant to 37 C.F.R. § 2.101(a) & (b).

The Grounds for Opposition Against Serial No. 77/713454 (MICROSOFT VINE)

8. There is no issue of priority with respect to Applicant's pending application Serial No. 77/713454 for MICROSOFT VINE. The applicable constructive use (filing) date for each of Opposer's registrations pleaded herein and referenced above precedes the constructive use (filing) date of Applicant's application for MICROSOFT VINE, and upon information and belief, Applicant has no rights in MICROSOFT VINE for the applied-for goods and services prior to Opposer's applicable constructive use (filing) date for each of Opposer's corresponding registrations pleaded herein.

9. The goods and services identified in Applicant's pending application Serial No. 77/713454 for MICROSOFT VINE are related to the services of Opposer's Registration No. 1985527 for the mark VINE.

10. The mark of Applicant's pending application Serial No. 77/713454, MICROSOFT VINE, incorporates the entirety of Opposer's mark VINE (namely, the wording "VINE") as depicted in Opposer's Registration No. 1985527.

11. MICROSOFT VINE is confusingly similar to the mark of Registration No. 1985527, such that the use and registration of MICROSOFT VINE for the goods and services identified in pending application Serial No. 77/713454 would be likely to cause confusion in the minds of consumers as to the source of Opposer's services or Applicant's goods or services, and would be likely to confuse and deceive the trade and purchasing public into believing that Applicant's goods and services originate with or are otherwise authorized, licensed, or sponsored by Opposer.

12. Concurrent use of MICROSOFT VINE by the Applicant for the goods and services identified in pending application Serial No. 77/713454, and of the mark of Registration No. 1985527 by Opposer, is likely to result in irreparable damage to Opposer's reputation and goodwill, because purchasers are likely to attribute the source of Applicant's goods and services to Opposer, or to believe that Applicant's goods and services are affiliated with, endorsed by, approved by, or sponsored by Opposer.

13. Registration to Applicant of the applied-for mark MICROSOFT VINE herein opposed for the goods and services identified in pending application Serial No. 77/713454 would provide Applicant with the *prima facie* exclusive right to use MICROSOFT VINE in commerce in connection with such goods and services, despite Opposer's priority rights in the mark of Opposer's Registration No. 1985527.

14. In the event of registration to Applicant of the applied-for mark MICROSOFT VINE herein opposed for the goods and services identified in pending application Serial No. 77/713454 (and therewith, the *prima facie* exclusive right to use the mark in commerce in

connection with goods provided by Opposer under the mark of Registration No. 1985527), confusion in the trade is likely to result from any concurrent use by Applicant and Opposer of their respective marks, all to the great detriment of Opposer.

15. The goods and services identified in Applicant's pending application Serial No. 77/713454 for MICROSOFT VINE are highly related to the services of Opposer's Registration No. 3082633 for the mark VINELINK.

16. The mark of Applicant's pending application Serial No. 77/713454, MICROSOFT VINE, incorporates the leading portion of Opposer's mark VINELINK (namely, the term "VINE") as depicted in Opposer's Registration No. 3082633.

17. MICROSOFT VINE is confusingly similar to the mark of Registration No. 3082633, such that the use and registration of MICROSOFT VINE for the goods and services identified in pending application Serial No. 77/713454 would be likely to cause confusion in the minds of consumers as to the source of Opposer's services or Applicant's goods and services, and would be likely to confuse and deceive the trade and purchasing public into believing that Applicant's goods and services originate with or are otherwise authorized, licensed, or sponsored by Opposer.

18. Concurrent use of MICROSOFT VINE by the Applicant for the goods and services identified in pending application Serial No. 77/713454, and of the mark of Registration No. 3082633 by Opposer, is likely to result in irreparable damage to Opposer's reputation and goodwill, because purchasers are likely to attribute the source of Applicant's goods and services to Opposer, or to believe that Applicant's goods and services are affiliated with, endorsed by, approved by, or sponsored by Opposer.

19. Registration to Applicant of the applied-for mark MICROSOFT VINE herein opposed for the goods and services identified in pending application Serial No. 77/713454 would

provide Applicant with the *prima facie* exclusive right to use MICROSOFT VINE in commerce in connection with such goods and services, despite Opposer's priority rights in the mark of Opposer's Registration No. 3082633.

20. In the event of registration to Applicant of the applied-for mark MICROSOFT VINE herein opposed for the goods and services identified in pending application Serial No. 77/713454 (and therewith, the *prima facie* exclusive right to use the mark in commerce in connection with goods provided by Opposer under the mark of Registration No. 3082633), confusion in the trade is likely to result from any concurrent use by Applicant and Opposer of their respective marks, all to the great detriment of Opposer.

21. The goods and services identified in Applicant's pending application Serial No. 77/713454 for MICROSOFT VINE are highly related to the services of Opposer's Registration No. 3131240 for the mark VINE PROTECTIVE ORDER.

22. The mark of Applicant's pending application Serial No. 77/713454, MICROSOFT VINE, incorporates the entirety of the dominant portion of Opposer's mark VINE PROTECTIVE ORDER (namely, the term "VINE") as depicted in Opposer's Registration No. 3131240.

23. MICROSOFT VINE is confusingly similar to the mark of Registration No. 3131240, such that the use and registration of MICROSOFT VINE for the goods and services identified in pending application Serial No. 77/713454 would be likely to cause confusion in the minds of consumers as to the source of Opposer's services or Applicant's goods and services, and would be likely to confuse and deceive the trade and purchasing public into believing that Applicant's goods and services originate with or are otherwise authorized, licensed, or sponsored by Opposer.

24. Concurrent use of MICROSOFT VINE by the Applicant for the goods and services identified in pending application Serial No. 77/713454, and of the mark of Registration No. 3131240 by Opposer, is likely to result in irreparable damage to Opposer's reputation and goodwill, because purchasers are likely to attribute the source of Applicant's goods and services to Opposer, or to believe that Applicant's goods and services are affiliated with, endorsed by, approved by, or sponsored by Opposer.

25. Registration to Applicant of the applied-for mark MICROSOFT VINE herein opposed for the goods and services identified in pending application Serial No. 77/713454 would provide Applicant with the *prima facie* exclusive right to use MICROSOFT VINE in commerce in connection with such goods and services, despite Opposer's priority rights in the mark of Opposer's Registration No. 3131240.

26. In the event of registration to Applicant of MICROSOFT VINE herein opposed for the goods and services identified in pending application Serial No. 77/713454 (and therewith, the *prima facie* exclusive right to use the mark in commerce in connection with goods provided by Opposer under the mark of Registration No. 3131240), confusion in the trade is likely to result from any concurrent use by Applicant and Opposer of their respective marks, all to the great detriment of Opposer.

27. By reason of all the foregoing, Opposer believes that it would be damaged by registration of the mark which is the subject of Applicant's pending application Serial No. 77/713454, and Opposer hereby opposes registration as to the goods and services identified in the pending application.

WHEREFORE, Opposer respectfully requests that this Notice of Opposition be sustained, and that pending application Serial No. 77/713454 be denied registration for the goods and services identified therein.

Please recognize as attorney of record for Opposer in this proceeding, Scot A. Duvall of the law firm Middleton Reutlinger, whose address is 2500 Brown & Williamson Tower, 401 S. Fourth Avenue, Louisville, Kentucky 40202-3410, and whose telephone number is 502-625-2784 (direct), or 502-584-1135 (firm).

Respectfully submitted,

/Scot A. Duvall/

Scot A. Duvall
MIDDLETON REUTLINGER
2500 Brown & Williamson Tower
401 S. Fourth Avenue
Louisville, Kentucky 40202
Firm: (502) 584-1135
Direct: (502) 625-2784
Fax: (502) 561-0442
Email: sduvall@middreut.com

Attorney of record for Opposer
Appriss Inc.

Dated: December 30, 2009

PROOF OF SERVICE PURSUANT TO 37 C.F.R. §§ 2.101 & 2.119

The undersigned hereby certifies that the foregoing Notice of Opposition was served, pursuant to 37 C.F.R. §§ 2.101 and 2.119, upon the following attorney of record of Applicant at the correspondence address of record (as reflected on the records of the USPTO), by transmitting the document via U.S. first class mail, postage prepaid, this 30th day of December 2009:

William O. Ferron, Jr.
Seed IP Law Group PLLC
701 5th Avenue, Suite 5400
Seattle, Washington 98104-7064

/Scot A. Duvall/

Scot A. Duvall
Attorney of record for Opposer
Appriss Inc.