

ESTTA Tracking number: **ESTTA341309**

Filing date: **04/07/2010**

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	Event Robot Inc.
Granted to Date of previous extension	04/07/2010
Address	19 S Park Street San Francisco, CA 94107 UNITED STATES

Attorney information	Benjamin A. Costa Ridder, Costa & Johnstone LLP 12 Geary Street #701 San Francisco, CA 94108 UNITED STATES trademark@rcjlawgroup.com Phone:4153913311
----------------------	--

**Applicant Information**

Application No	77783791	Publication date	12/08/2009
Opposition Filing Date	04/07/2010	Opposition Period Ends	04/07/2010
Applicant	Syncapse Corp. Suite 301 20 Duncan Street Toronto, M5H3GB CANADA		

**Goods/Services Affected by Opposition**

Class 009. All goods and services in the class are opposed, namely: Computer application software for providing an on-line interface system to allow users to interact, share content and discuss relevant topics across multiple social networks
--

**Grounds for Opposition**

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

**Mark Cited by Opposer as Basis for Opposition**

U.S. Registration No.	3475396	Application Date	10/26/2007
Registration Date	07/29/2008	Foreign Priority Date	NONE

Word Mark	SOCIALCAST
Design Mark	<b>SOCIALCAST</b>
Description of Mark	NONE
Goods/Services	Class 042. First use: First Use: 2004/11/18 First Use In Commerce: 2005/03/01 Application service provider (ASP), namely, hosting computer software applications of others

Related Proceedings	Opposer will concurrently filing a notice of opposition for the trademark SOCIALSYNC (77781806), also owned by Applicant Syncapse Corp.
---------------------	---

Attachments	77315028#TMSN.jpeg ( 1 page )( bytes ) SOCIAL SYNC Not Of Opp.pdf ( 5 pages )(189582 bytes )
-------------	---

### **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	/bc/
Name	Benjamin A. Costa
Date	04/07/2010

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

In the Matter of Application Serial No. 77783791

Published in the Official Gazette on December 8, 2009

Design Mark: SOCIAL SYNC

International Class: 009

EVENT ROBOT, INC., D/B/A

SOCIALCAST, a Delaware corporation,

Opposer,

-against-

Syncapse Corp., a Canadian corporation ,

Applicant.

Opposition No. \_\_\_\_\_

**NOTICE OF OPPOSITION**

TO THE COMMISSIONER FOR TRADEMARKS  
PO BOX 1451  
Alexandria, Virginia 22313-1451

Opposer Event Robot, Inc., d/b/a Socialcast, believes it will be damaged by registration of the design mark SOCIAL SYNC, as shown in the above-identified application, and hereby opposes the same pursuant to Section 13(a) of the Trademark Act, as amended (the "Lanham Act"), 15 U.S.C. § 1063(a).

As grounds for the opposition, Opposer alleges that:

1. Opposer is a Delaware corporation with a principal place of business located at 19 South Park Street, San Francisco, California 94107, United States.

2. Since at least as early as 2004, Opposer has been the owner of valuable and protected common law trademark rights in the trademark SOCIALCAST for goods and services related to enterprise-friendly collaborative software tools, administration features, and data security.

3. Opposer is the owner of federal trademark registration number 3475396 for its registered SOCIALCAST® trademark for *Application service provider (ASP), namely, hosting computer software applications of others* in International Class 042.

4. For more than four years before July 21, 2009, the priority date for the application opposed herein, Opposer has adopted and used its registered SOCIALCAST® trademark in connection with the above-referenced goods and services, and generally in the fields of collaborative software and technology and the internet.

5. During the continuous and extensive use of its registered SOCIALCAST® trademark, Opposer has expended considerable time, effort, and money in advertising and publicizing the sale of goods and services bearing its registered SOCIALCAST® trademark.

6. By virtue of Opposer's use and promotion of its registered SOCIALCAST® trademark, Opposer has established valuable goodwill in the same, and the public has come to associate the registered SOCIALCAST® trademark with Opposer. As such, the public has come to know the registered SOCIALCAST® trademark as an indicator of goods and service that originate from Opposer.

7. On information and belief, Applicant Syncapse Corp. is a Canadian corporation with a principal place of business located at 20 Duncan Street, Suite 301, Toronto, Ontario M5H3G8, Canada.

8. By the application opposed herein, Applicant seeks to register the design mark SOCIAL SYNC for *Computer application software for providing an on-line interface system to allow users to interact, share content and discuss relevant topics across multiple social networks* in International Class 009.

9. The goods for which Applicant seeks registration are closely related to the goods and services with which Opposer's registered SOCIALCAST® trademark has been used, is being used, and will be used.

10. Applicant filed its intent-to-use application for the SOCIAL SYNC design mark more than four years after Opposer began using its registered SOCIALCAST® trademark.

11. On information and belief, Applicant knew that Opposer had adopted and registered its SOCIALCAST® trademark for analogous goods and services prior to the time of the filing of the application opposed herein.

12. Opposer will be damaged by the registration sought by Applicant because such registration will support and assist Applicant in the confusing and misleading use of the design mark sought to be registered, and will give color of exclusive statutory rights to Applicant in violation and derogation of the prior and superior rights of Opposer.

13. Registration should be refused pursuant to Section 2(a) of the Lanham Act, 15 U.S.C. § 1052(a), on the grounds that Applicant's use of its SOCIAL SYNC design mark will falsely suggest a connection between Applicant and Opposer, to the detriment of Opposer.

14. Registration should be refused pursuant to Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), on the grounds that Applicant's SOCIAL SYNC design mark so closely resembles the registered SOCIALCAST® trademark – used consistently by Opposer throughout the United States, throughout North America, and throughout the world – as to be likely, when used on or in connection with the goods and services identified in the application opposed herein, to cause confusion, or to cause mistake, or to deceive, with consequent injury to Opposer and to the public.

15. Registration should be refused pursuant to Section 43(c) of the Lanham Act, 15 U.S.C. § 1125, on the grounds that Applicant's use of its SOCIAL SYNC design mark will dilute the distinctive quality of Opposer's famous registered SOCIALCAST® trademark, to the detriment of Opposer.

WHEREFORE, Opposer believes it will be damaged by the registration of Applicant's SOCIAL SYNC design mark for the goods and services identified in application serial number 77781806, and prays that the opposition be sustained and that registration of said design mark be denied.

Dated: San Francisco, California

April 7, 2010

Respectfully submitted,

RIDDER, COSTA & JOHNSTONE LLP

By:

A handwritten signature in blue ink, appearing to read 'B. Costa', written over a horizontal line.

Benjamin A. Costa, Esq.

**RIDDER, COSTA & JOHNSTONE LLP**  
12 Geary Street  
Suite 701  
San Francisco, CA 94108  
T: (415) 391-3311  
F: (415) 358-4975  
E: Ben@RCJLawGroup.com

COUNSEL FOR OPPOSER, EVENT  
ROBOT, INC., D/B/A SOCIALCAST