

ESTTA Tracking number: **ESTTA342229**

Filing date: **04/14/2010**

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	Facebook, Inc.
Granted to Date of previous extension	04/14/2010
Address	1601 South California Avenue Palo Alto, CA 94304 UNITED STATES

Attorney information	Lori F Mayall Cooley Godward Kronish, LLP 777 6th Street, NW, Suite 110 Washington, DC 20001 UNITED STATES trademarks@cooley.com, lmayall@cooley.com Phone:650-843-5000
----------------------	--

Applicant Information

Application No	77769840	Publication date	12/15/2009
Opposition Filing Date	04/14/2010	Opposition Period Ends	04/14/2010
Applicants	<p>Kingoriah Duane Kithinji Kirichwa Gardens Nairobi, 51185,002 KENYA</p> <p>Wandimi Paul Muruthi Wanyee Road Nairobi, 25715,006 KENYA</p> <p>Wandimi Joseph Muchemi 9 Queensgate Hse, 1 Hereford Rd. London, UNITED KINGDOM</p> <p>Maina Charlene Wangui 601, 310 Queens St Kitchener, Ontario, CANADA</p>		

Goods/Services Affected by Opposition

<p>Class 045. All goods and services in the class are opposed, namely: Online social networking service for registered users to upload and share photos, videos and other forms of captured media experiences</p>

while on travel

Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
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)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3734637	Application Date	05/24/2007
Registration Date	01/05/2010	Foreign Priority Date	NONE
Word Mark	FACEBOOK		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 2006/08/00 First Use In Commerce: 2006/08/00 Software to enable uploading, posting, showing, displaying, tagging, blogging, sharing or otherwise providing electronic media or information over the Internet or other communications network</p> <p>Class 038. First use: First Use: 2004/02/00 First Use In Commerce: 2004/02/00 Audio and video broadcasting services over the Internet or other communications network, namely, uploading, posting, showing, displaying, tagging and electronically transmitting information, audio, and video clips; providing on-line chat rooms, listservers, and on-line forums for transmission of messages among computer users concerning user-defined content; providing on-line chat rooms and electronic bulletin boards for transmission of messages among users in the field of general interest</p> <p>Class 041. First use: First Use: 2004/02/00 First Use In Commerce: 2004/02/00 On-line journals, namely, blogs featuring user-defined content</p> <p>Class 042. First use: First Use: 2004/02/00 First Use In Commerce: 2004/02/00 Application service provider (ASP) featuring software to enable uploading, posting, showing, displaying, tagging, blogging, sharing or otherwise providing electronic media or information over the Internet or other communications network</p>		
U.S. Registration No.	3041791	Application Date	02/24/2005
Registration Date	01/10/2006	Foreign Priority Date	NONE

Word Mark	FACEBOOK
Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 035. First use: First Use: 2004/02/04 First Use In Commerce: 2004/02/04 providing an online directory information service featuring information regarding, and in the nature of, collegiate life, classifieds, virtual community and social networking</p> <p>Class 038. First use: First Use: 2004/02/04 First Use In Commerce: 2004/02/04 providing online chat rooms for registered users for transmission of messages concerning collegiate life, classifieds, virtual community and social networking</p>

U.S. Registration No.	3122052	Application Date	02/24/2005
Registration Date	07/25/2006	Foreign Priority Date	NONE

Word Mark	FACEBOOK
Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 035. First use: First Use: 2004/11/16 First Use In Commerce: 2004/11/16 providing an online directory information service featuring information regarding, and in the nature of, collegiate life, classifieds, virtual community and social networking</p> <p>Class 038. First use: First Use: 2004/11/16 First Use In Commerce: 2004/11/16 providing online chat rooms for registered users for transmission of messages concerning collegiate life, classifieds, virtual community and social networking</p>

U.S. Registration No.	3659516	Application Date	08/29/2006
Registration Date	07/21/2009	Foreign Priority Date	NONE
Word Mark	FACEBOOK		

Design Mark	FACEBOOK
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2006/02/00 First Use In Commerce: 2006/02/00 Clothing for men women, and children, namely, shirts, t-shirts, jackets, tops, sweat shirts, headwear, hats, caps

U.S. Registration No.	3716926	Application Date	03/07/2007
Registration Date	11/24/2009	Foreign Priority Date	NONE

Word Mark	FACEBOOK
-----------	----------

Design Mark	FACEBOOK
Description of Mark	NONE
Goods/Services	Class 018. First use: First Use: 2005/09/00 First Use In Commerce: 2005/09/00 Bags, namely, all purpose sports bags, all purpose carrying bags, bags and hold-alls for sports clothing, tote bags, book bags, carry-all bags, traveling bags; umbrellas; briefcase-type portfolios Class 020. First use: First Use: 2005/09/00 First Use In Commerce: 2005/09/00 Picture frames Class 021. First use: First Use: 2009/05/00 First Use In Commerce: 2009/05/00 Insulating sleeves for beverage cans; insulating sleeves for beverage bottles; portable can coolers; portable bottle coolers; thermally insulated containers for beverages

U.S. Application No.	78962629	Application Date	08/29/2006
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	FACEBOOK
-----------	----------

Design Mark	FACEBOOK
Description of Mark	NONE
Goods/Services	Class 025. First use: Clothing for men, women and children, namely, belts, coats, vests, blouses, jerseys, bottoms, shorts, pants, trousers, boxer shorts, dresses, skirts, neckties, scarves, bandannas, night gowns, night shirts, pajamas, loungewear, socks, sweaters, sweat pants, cummerbunds, aprons, sun visors; slippers

U.S. Application No.	77896312	Application Date	12/17/2009
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	FACEBOOK
-----------	----------

Design Mark	
-------------	---

Description of Mark	The mark consists of the word "FACEBOOK" in white letters with a blue background.
---------------------	---

Goods/Services	Class 009. First use: Computer software development tools; Computer software for use as an application programming interface (API); Application programming interface (API) for computer software which facilitates online services for social networking, building social networking applications and for allowing data retrieval, upload, download, access and management; Computer software to enable uploading, downloading, accessing, posting, displaying, tagging, blogging, streaming, linking, sharing or otherwise providing electronic media or information via computer and communication networks
----------------	---

U.S. Application No.	77896315	Application Date	12/17/2009
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	FACEBOOK
-----------	----------

Design Mark	
Description of Mark	The mark consists of the word "FACEBOOK" in white letters with a blue background.
Goods/Services	Class 035. First use: Marketing, advertising and promotion services; Market research and information services; Promoting the goods and services of others via computer and communication networks; Facilitating the exchange and sale of services and products of third parties via computer and communication networks; Online retail store services featuring delivery of digital media; Charitable services, namely, promoting public awareness about charitable, philanthropic, volunteer, public and community service and humanitarian activities; Contest and incentive award programs designed to recognize, reward and encourage individuals and groups which engage in self-improvement, self-fulfillment, charitable, philanthropic, volunteer, public and community service and humanitarian activities and sharing of creative work product

U.S. Application No.	77896317	Application Date	12/17/2009
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	FACEBOOK
Design Mark	
Description of Mark	The mark consists of the word "FACEBOOK" in white letters with a blue background.
Goods/Services	Class 036. First use: Financial transaction processing services, namely, clearing and reconciling financial transactions via computer and communication networks; Electronic processing and transmission of bill payment data for users of computer and communication networks; Electronic funds transfer services; Bill payment services; Financial exchange services, namely, providing a virtual currency for use by members of an online community via computer and communication networks

U.S. Application No.	77896318	Application Date	12/17/2009
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	FACEBOOK
Design Mark	
Description of Mark	The mark consists of the word "FACEBOOK" in white letters with a blue background.
Goods/Services	Class 038. First use: Providing access to computer, electronic and online databases; Telecommunications services, namely, electronic transmission of data, messages and information; Providing online forums for communication on topics of general interest; Providing online communications links which transfer web site users to other local and global web pages; Facilitating access to third party web sites via a universal login; Providing online chat rooms and electronic bulletin boards; Audio, text and video broadcasting services over computer or other communication networks, namely, uploading, posting, displaying, tagging, and electronically transmitting data, information, audio and video images

U.S. Application No.	77896322	Application Date	12/17/2009
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	FACEBOOK
Design Mark	
Description of Mark	The mark consists of the word "FACEBOOK" in white letters with a blue background.
Goods/Services	Class 041. First use: Providing computer, electronic and online databases in the field of entertainment and in the fields of secondary, collegiate, social and community interest groups; Photosharing and video sharing services; Electronic journals and web logs, featuring user generated or specified content; Electronic publishing services for others; Entertainment services, namely, facilitating interactive and multiplayer and single player game services for games played via computer or communication networks; Providing information about online computer games and video games via computer or communication networks; Arranging and conducting competitions for video gamers and computer game players

U.S. Application No.	77896323	Application Date	12/17/2009
Registration Date	NONE	Foreign Priority	NONE

		Date	
Word Mark	FACEBOOK		
Design Mark			
Description of Mark	The mark consists of the word "FACEBOOK" in white letters with a blue background.		
Goods/Services	<p>Class 042. First use:</p> <p>Computer services, namely, creating virtual communities for registered users to organize groups and events, participate in discussions, and engage in social, business and community networking; Computer services, namely, hosting electronic facilities for others for organizing and conducting meetings, events and interactive discussions via communication networks; Application service provider (ASP) services, namely, hosting computer software applications of others; Application service provider (ASP) featuring software to enable or facilitate the uploading, downloading, streaming, posting, displaying, blogging, linking, sharing or otherwise providing electronic media or information over communication networks; Providing an online network service that enables users to transfer personal identity data to and share personal identify data with and among multiple websites; Providing a web site featuring technology that enables online users to create personal profiles featuring social networking information and to transfer and share such information among multiple websites; Providing information from searchable indexes and databases of information, including text, electronic documents, databases, graphics and audio visual information, on computer and communication networks; Providing temporary use of non-downloadable software applications for social networking, creating a virtual community, and transmission of audio, video, photographic images, text, graphics and data; Computer services in the nature of customized web pages featuring user-defined or specified information, personal profiles, audio, video, photographic images, text, graphics and data</p>		

U.S. Application No.	77896325	Application Date	12/17/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FACEBOOK		
Design Mark			
Description of Mark	The mark consists of the word "FACEBOOK" in white letters with a blue background.		

Goods/Services	Class 045. First use: Social introduction, networking and dating services; Providing access to computer databases in the fields of social networking, social introduction and dating; Providing social services and information in the field of personal development, namely, self-improvement, self-fulfillment, charitable, philanthropic, volunteer, public and community services, and humanitarian activities
----------------	---

U.S. Application No.	78920347	Application Date	06/29/2006
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	FBOOK
-----------	-------

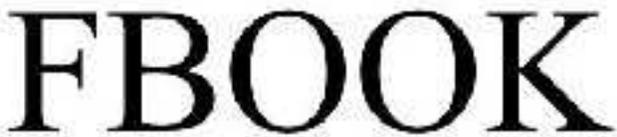
Design Mark	
-------------	--

Description of Mark	NONE
---------------------	------

Goods/Services	Class 038. First use: Providing services in relation to online chat rooms for transmission of messages and online directory information for registered users featuring information regarding, and in the nature of, collegiate life, general interest; classifieds, virtual community, social networking; telecommunication services, namely, worldwide switched text and message transmission services, electronic message sending and outcall notification services; providing transmission services in relation to using mobile devices, namely, to look up user profile information, search for users, send messages to users, post information viewable by users, add contacts, and provide notifications
----------------	---

U.S. Application No.	77039127	Application Date	11/07/2006
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	FBOOK
-----------	-------

Design Mark	
-------------	--

Description of Mark	NONE
Goods/Services	<p>Class 009. First use: Computer software development tools for social networking, building social networking applications and for allowing data retrieval, upload, access and management; application programming interface (API) for third-party software and online services for social networking, building social networking applications and for allowing data retrieval, upload, access and management</p> <p>Class 038. First use: Providing access to computer databases; electronic transmission of instant messages and data</p> <p>Class 041. First use: Electronic publishing services, namely, publishing of online works of others featuring user-created text, audio, video, and graphics; providing on-line journals and web logs featuring user-created content</p> <p>Class 042. First use: Providing temporary use of non-downloadable software applications for classifieds, virtual community, social networking, photo sharing, video sharing, and transmission of photographic images</p>

Attachments	77189479#TMSN.jpeg (1 page)(bytes) 78574726#TMSN.jpeg (1 page)(bytes) 78574730#TMSN.jpeg (1 page)(bytes) 78981126#TMSN.jpeg (1 page)(bytes) 77978174#TMSN.jpeg (1 page)(bytes) 78962629#TMSN.jpeg (1 page)(bytes) 77896312#TMSN.jpeg (1 page)(bytes) 77896315#TMSN.jpeg (1 page)(bytes) 77896317#TMSN.jpeg (1 page)(bytes) 77896318#TMSN.jpeg (1 page)(bytes) 77896322#TMSN.jpeg (1 page)(bytes) 77896323#TMSN.jpeg (1 page)(bytes) 77896325#TMSN.jpeg (1 page)(bytes) 78920347#TMSN.jpeg (1 page)(bytes) 77039127#TMSN.jpeg (1 page)(bytes) SAFARIBOOK NOO 04142010.pdf (12 pages)(448415 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	/l/m/
Name	Lori F Mayall
Date	04/14/2010

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

In the matter of application Serial No. 77/769,840
For the Trademark SAFARIBOOK
Published in the Official Gazette on December 15, 2009

FACEBOOK, INC.,)	
)	
Opposer,)	
)	Opposition No.
v.)	
)	
KINGORIAH DUANE KITHINJI,)	
)	
WANDIMI PAUL MURUTHI,)	
)	
WANDIMI JOSEPH MUCHEMI,)	
)	
MARINA CHARLENE WANGUI,)	
)	
Joint Applicants.)	
_____)	

NOTICE OF OPPOSITION

Opposer Facebook, Inc. (“Facebook”), a Delaware corporation having its principal place of business at 1601 California Avenue, Palo Alto, California 94304, believes that it will be damaged by the issuance of a registration for the mark SAFARIBOOK (the “SAFARIBOOK Mark”), as applied for in Application Serial No. 77/769,840 filed on June 29, 2009 by Applicants (1) Kingoriah Duane Kithinji, a Kenyan individual located at Kirichwa Gardens, Nairobi 51158,002, Kenya; (2) Wandimi Paul Muruthi, a Kenyan individual located at Wanyee Road, Nairobi, 25715,006, Kenya; (3) Wandimi Joseph Muchemi, a Kenyan individual located at 9 Queensgate Hse, 1 Hereford Rd., London, United Kingdom; and (4) Marina Charlene Wangui, a

Kenyan individual located at 601, 310 Queens St., Kitchener, Ontario, Canada (“Joint Applicants”).

As grounds for opposition, Facebook alleges that:

1. Facebook is the world’s leading provider of online networking services. Indeed, Facebook’s website at <http://facebook.com> has been recognized as among the top five most-trafficked websites of any kind in the world. The Facebook website allows computer users to communicate with existing friends, make new friends, organize groups and events and share their personal profiles, statuses, activities, photos, links and videos and to create online communities of users with shared interests and connections. For all of the reasons further discussed herein, the FACEBOOK Marks, as defined below, are famous in connection with those services.

2. Facebook’s services were first offered in 2004 as a networking site at Harvard University. Over the following year, 800 additional college networks were added in rapid succession. In 2006, access to the Facebook service was progressively expanded so that anyone with a valid email address could register as a Facebook user. Currently, Facebook is accessible not only through the Facebook website but also via mobile devices. As of February 2010, Facebook provides online networking services in over 70 languages to over 400 million active users worldwide, more than 200 million of whom typically log on to the Facebook website on any given day. The fastest growing demographic on the Facebook site is users over age 35 – as of September 2009, more than two-thirds of Facebook users are age 35 or older.

3. Facebook provides tools for each of its users to create a personal web page (a “Profile Page”) on which the user can choose to display personal information such as education, professional background, and contact information. In addition, Facebook provides on each

Profile Page a means through which users can communicate with each other, including private messages that are sent directly to users' inboxes, similar to e-mail, as well as online real-time chat. Facebook users are also able to send items such as textual messages, links, photographs, or video on its own or another user's Profile Page and in private messages.

4. Facebook users are also able to update their status and send items such as textual messages, links, photographs, or video from their mobile devices such as the Blackberry and iPhone smartphones, among others. As of February 2010, there are more than 65 million active users accessing the Facebook service through their mobile devices.

5. Facebook provides a "Groups" feature which allows users to create and join groups focused on various topics, including business, common interest, entertainment and arts, geography, internet and technology, music, organizations, sports and recreation, and student groups. The Groups feature allows group members to participate on discussion boards and to upload, post and share photos, videos, and other media with other members of the group.

6. Worldwide, Facebook users spend an average of 55 minutes on the Facebook site each day. The Facebook site is regularly used for photo and video sharing, with more than 3 billion photos uploaded each month. In addition, the Facebook Platform allows for the creation of software programs such as tools and gadgets for personalizing and increasing the utility of user profiles, and interactive games. There are more than a million entrepreneurs and software developers worldwide who have created over 500,000 software programs (known as "applications") for the Facebook Platform.

FACEBOOK'S MARKS

7. Facebook is the owner of U.S. Trademark Registration 3,734,637 for the mark FACEBOOK, which was filed on May 24, 2007 and issued on January 5, 2010, for the following goods and services:

- in International Class 9: software to enable uploading, posting, showing, displaying, tagging, blogging, sharing or otherwise providing electronic media or information over the internet or other communications network (claiming a first use date of August 2006);
- in International Class 38: audio and video broadcasting services over the internet or other communications network, namely, uploading, posting, showing, displaying, tagging and electronically transmitting information, audio, and video clips; providing on-line chat rooms, listservers, and on-line forums for transmission of messages among computer users concerning user-defined content; providing on-line chat rooms and electronic bulleting boards for transmission of messages among users in the field of general interest (claiming a first use date of February 2004);
- in International Class 41: on-line journals, namely, blogs featuring user-defined content (claiming a first use date of February 2004); and
- in International Class 42: application service provider (ASP) featuring software to enable uploading, posting, showing, displaying, tagging, blogging, sharing or otherwise providing electronic media or information over the internet or other communications network (claiming a first use date of February 2004).

8. Facebook is the owner of U.S. Trademark Registration 3,041,791 for the mark FACEBOOK, which was filed on February 24, 2005, claims a first use date of at least as early as February 2004, and registered on January 10, 2006, for the following services:

- in International Class 35: providing an online directory information service featuring information regarding, and in the nature of, collegiate life, classifieds, virtual community and social networking and
- in International Class 38: providing online chat rooms for registered users for transmission of messages concerning collegiate life, classifieds, virtual community and social networking.

9. Facebook is the owner of U.S. Trademark Registration 3,122,052 for the mark FACEBOOK, which was filed on February 24, 2005 and registered on July 25, 2006, also covering services in Classes 35 and 38.

10. Facebook is the owner of U.S. Trademark Registration 3,659,516 for the mark FACEBOOK, which was filed on August 29, 2006 and registered on July 21, 2009, covering goods in Class 25.

11. Facebook is the owner of U.S. Trademark Registration 3,716,926 for the mark FACEBOOK, which was filed on March 7, 2007 and registered on November 24, 2009, covering goods in Classes 18, 20, and 21.

12. Facebook is also the owner of numerous pending U.S. applications to register marks consisting of or incorporating FACEBOOK or a variant thereof, including the following:

- FACEBOOK word mark (Serial No. 78/962,629), filed on August 29, 2006 in International Class 25;
- FACEBOOK logo (Serial Nos. 77/896,312, 77/896,315, 77/896,317, 77/896,318, 77/896,322, 77/896,323, 77/896,325), filed on December 17, 2009 in International Classes 9, 35, 36, 38, 41, 42, and 45.
- FBOOK word mark (Serial No. 78/920,347), filed on June 29, 2006 in International Class 38; and
- FBOOK word mark (Serial No. 77/039,127), filed on November 7, 2006 in International Classes 9, 38, 41 and 42.

13. In addition, Facebook owns common law rights in the FACEBOOK mark, which has been continuously, prominently, and conspicuously in use on its website and other materials in interstate commerce in the United States since at least as early as February 2004. All of Facebook's marks that consist of or incorporate the term FACEBOOK or a variant thereof will hereafter be referred to as the "FACEBOOK Marks."

- 14. The FACEBOOK Marks are inherently distinctive.

15. Facebook has been the subject of thousands of unsolicited stories in television, radio, and print media, highlighting Facebook's innovation and success in providing online networking services. Facebook has been recognized and awarded for its endeavors, including a listing in Nielsen's Top 10 Web Brands (ranking Facebook 4th overall and 1st by hours spent on the site per day) in September 2009; The Webby Award's "People's Voice Winner" for Social Networking in 2007; Harvard Business School's "Entrepreneurial Company of the Year" in June 2008; *BusinessWeek*'s "The World's 50 Most Innovative Companies" in 2008; and The Crunchie Award for Best Overall Startup in 2008.

16. As a result of the nature and quality of Facebook's services, its widespread use of the FACEBOOK Marks, the extensive and continuous media coverage, the high degree of consumer recognition of the FACEBOOK Marks, Facebook's enormous and loyal user base, numerous trademark registrations and pending applications and other factors, the FACEBOOK Marks are famous within the meaning of Section 43(c) of the United States Trademark Act, 15 U.S.C. § 1125(c).

JOINT APPLICANTS' USE OF THE SAFARIBOOK NAME AND MARK

17. Joint Applicants filed Application Serial No. 77/769,840 for SAFARIBOOK ("SAFARIBOOK Application") on an intent-to-use basis on June 29, 2009, for "[o]nline social networking service for registered users to upload and share photos, videos and other forms of captured media experiences while on travel" in Class 45.

18. The SAFARIBOOK Application was published in the *Official Gazette* on December 15, 2009.

19. The services covered by Joint Applicants' SAFARIBOOK Application are identical to and encompassed by services provided by Facebook.

20. The mark Joint Applicants propose to register, SAFARIBOOK, is similar to the FACEBOOK Marks. With respect to the SAFARIBOOK mark, the term “safari” is generic of Joint Applicants’ service as it relates to travel, or “safari,” while the term “book” is distinctive and arbitrary as used in connection with an online networking application. Thus, by combining the generic term “safari” with the dominant and inherently distinctive term BOOK, Joint Applicants have created a mark that creates a misleading association with Facebook.

21. Upon information and belief, Joint Applicants selected the SAFARIBOOK Mark with knowledge of and intent to cause confusion or association with, and to capitalize on the enormous goodwill of, the FACEBOOK Marks.

22. Facebook is not affiliated or connected with Joint Applicants or their service; nor has Facebook endorsed or sponsored Joint Applicants or their service.

23. There is no issue as to priority of use. Facebook began using its FACEBOOK Marks, and enjoys priority as a result of the filing dates of its trademark registrations and applications, well prior to the filing date of the SAFARIBOOK Mark.

**FIRST GROUND FOR OPPOSITION:
LIKELIHOOD OF CONFUSION**

24. Facebook incorporates by reference Paragraphs 1 through 23, inclusive, as if fully set forth herein.

25. Joint Applicants’ SAFARIBOOK Mark is confusingly similar to the FACEBOOK Marks in appearance, sound, and commercial impression. Both marks end with the term “book.” The SAFARIBOOK mark combines the generic term “safari” with the distinctive and dominant term “book.” Thus, the most distinctive and dominant component of the SAFARIBOOK mark is identical to the distinctive “book” component of the FACEBOOK Marks.

26. The services described in the SAFARIBOOK Application are the same as or closely related to the services offered by Facebook under the FACEBOOK Marks and identified in Facebook's trademark registrations and applications. According to the identification of services in their SAFARIBOOK application, Joint Applicants intend to use the SAFARIBOOK mark in connection with an online social networking service, including "[o]nline social networking service for registered users to upload and share photos, videos and other forms of captured media experiences while on travel." Joint Applicants intend to use the SAFARIBOOK Mark in connection with a service that provides the exact same online networking service provided by Facebook, but to a sub-set target audience of travelers (or those on "safari"), who are already served on the Facebook website. Joint Applicants' service is identical to and encompassed by Facebook's online networking services. However, Facebook is not affiliated or connected with Joint Applicants or their service, nor has Facebook endorsed or sponsored Joint Applicants or their service.

27. The types of service identified in the SAFARIBOOK Application and the types of services offered by Facebook under the FACEBOOK Marks are offered through the same channels of trade, namely, through an on-line website.

28. On information and belief, Joint Applicants chose the SAFARIBOOK Mark with knowledge of, and the intent to create an association with or create a likelihood of confusion with Facebook's services and the FACEBOOK Marks.

29. Accordingly, registration of the SAFARIBOOK Mark will injure Facebook by causing the public to be confused or mistakenly believe that the service provided by Joint Applicants is associated with, endorsed, or sponsored by Facebook. Facebook has no control over the nature and quality of the service offered by Joint Applicants under the SAFARIBOOK

Mark, and Facebook's reputation and goodwill will be damaged and the value of the FACEBOOK Marks jeopardized, all to Facebook's detriment. Further, any defect, objection or fault found with Joint Applicants' service marketed under the SAFARIBOOK Mark would necessarily reflect upon and seriously injure the reputation that Facebook has established for the goods and services it offers in connection with the FACEBOOK Marks.

30. Registration of the mark herein opposed will damage Facebook because Joint Applicants' SAFARIBOOK Mark is likely, when used on or in connection with the service described in the opposed application, to cause confusion, or to cause mistake or to deceive. Thus, the SAFARIBOOK Mark is unregistrable under Sections 2(d) and 3 of the Trademark Act, as amended, 15 U.S.C. §§ 1052(d) and 1053, and should be refused registration.

**SECOND GROUND FOR OPPOSITION:
DILUTION OF A FAMOUS MARK**

31. Facebook incorporates by reference Paragraphs 1 through 30 inclusive, as if fully set forth herein.

32. The FACEBOOK Mark is inherently distinctive in relation to Facebook's goods and services.

33. Facebook has used the FACEBOOK mark since at least as early as 2004 for online networking services, and has expanded use of the FACEBOOK Marks to many other goods and services, as evidenced by its applications and as alleged.

34. Facebook is the owner of numerous U.S. registrations and applications for the FACEBOOK Marks.

35. Facebook and the FACEBOOK Marks have been the subject of extensive and continuous media attention.

36. Facebook has continuously used the FACEBOOK Marks throughout the United States and many countries around the world.

37. As a result of the considerable publicity afforded the FACEBOOK Marks and the enormous and loyal base of customers that Facebook has for its services, the FACEBOOK Marks have extensive consumer recognition.

38. The FACEBOOK Mark became famous before Joint Applicants' filing of SAFARIBOOK Mark on December 04, 2008.

39. The dominant portion of the SAFARIBOOK Mark is identical to the "book" portion of the FACEBOOK mark, and Joint Applicants' use of the SAFARIBOOK Mark is likely to cause dilution of the famous FACEBOOK mark. Joint Applicants' use of the SAFARIBOOK Mark in connection with an online social networking service will blur and weaken the connection in consumers' minds between the FACEBOOK mark and Facebook's goods and services, thereby diluting the distinctiveness of the famous FACEBOOK mark to Facebook's severe detriment.

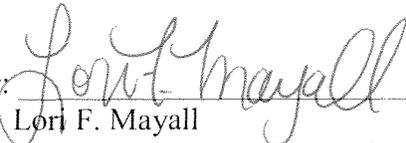
40. Accordingly, Joint Applicants' Mark is unregistrable pursuant to Sections 2(a)(d), 3, 13, and 43(c) of the United States Trademark Act, as amended, 15 U.S.C. §§ 1052(a)(d), 1053, 1063, and 1125, and should be refused registration.

Wherefore, Facebook prays that this Opposition be sustained, and that Application Serial No. 77/769,840 be refused.

Respectfully submitted,

COOLEY GODWARD KRONISH LLP
ANNE H. PECK
KATHLEEN E. JOHNSTON
GAVIN L. CHARLSTON
LORI F. MAYALL

Date: April 14, 2010

By: 
Lori F. Mayall
Attorneys for Opposer Facebook, Inc.

CERTIFICATE OF TRANSMITTAL AND SERVICE

I hereby certify that this Notice of Opposition is being electronically transmitted in PDF format to the Trademark Trial and Appeal Board through the Electronic System for Trademark Trials and Appeals (ESTTA) on the date indicated below.

I hereby further certify that on the date indicated below, a true and correct copy of this Notice of Opposition was placed in the United States Mail, to be sent via express mail, addressed to the applicants and correspondent (being the same as one of the applicants) for the subject application as follows:

Kingoriah Duane Kithinji
Kirichwa Gardens
Nairobi 51185,002
Kenya

Wandimi Paul Muruthi
Wanyee Road
Nairobi 25715,006
Kenya

Wandimi Joseph Muchemi
9 Queensgate Hse, 1 Hereford Rd.
London
United Kingdom

Marina Charlene Wangui
601, 310 Queens St
Kitchener, Ontario
Canada
Legal Entity Type: Individual
Country of Citizenship: Kenya

Courtesy Copy also sent via electronically to applicants:

duane_ke@hotmail.com
paulmuruthi@gmail.com
muchemi@gmail.com
cowi.maina@gmail.com

Date: April 14, 2010


Lori F. Mayall