

ESTTA Tracking number: **ESTTA351540**

Filing date: **06/08/2010**

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	PASSKEY INTERNATIONAL, INC.
Granted to Date of previous extension	06/12/2010
Address	221 Crescent Street Waltham, MA 02453 UNITED STATES

Attorney information	Mark S. Leonardo Brown Rudnick LLP One Financial Center Boston, MA 02111 UNITED STATES ip@brownrudnick.com
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Applicant Information

Application No	77768928	Publication date	04/13/2010
Opposition Filing Date	06/08/2010	Opposition Period Ends	06/12/2010
Applicant	Peylei Technology, Inc. 1415 North Lilac Drive, Suite 210 Golden Valley, MN 55422 UNITED STATES		

Goods/Services Affected by Opposition

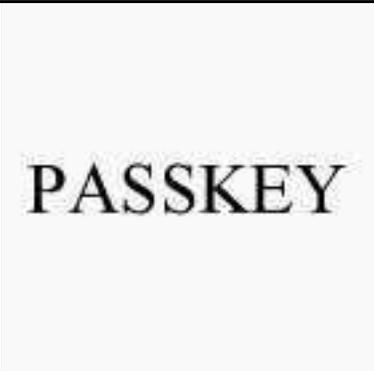
Class 042. All goods and services in the class are opposed, namely: Computer consultation
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2911102	Application Date	12/09/2003
Registration Date	12/14/2004	Foreign Priority Date	NONE
Word Mark	PASSKEY		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 042. First use: First Use: 2000/11/01 First Use In Commerce: 2000/11/01 Providing temporary use of online, non-downloadable computer software for use by event organizers for enabling attendees to make event and hotel reservations

Attachments	78338272#TMSN.jpeg (1 page)(bytes) Passkey_Opposition.pdf (3 pages)(28731 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 Overnight Courier on this date.

Signature	/Mark S. Leonardo/
Name	Mark S. Leonardo
Date	06/08/2010

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

In the matter of Application Serial No. 77/768,928
Published in the Official Gazette on April 13, 2010

PASSKEY INTERNATIONAL, INC.,)	
)	
Opposer)	Opposition No. _____
)	
PEYLEI TECHNOLOGY, INC.,)	
)	
Applicant)	
)	
)	

NOTICE OF OPPOSITION

Passkey International, Inc. (“Passkey”), a corporation organized under the laws of the State of Delaware, believes that it will be severely damaged by registration of the mark PASSKEY COMPUTER SERVICES in class 42 as shown in Application Serial No. 77/768,928, and hereby opposes the same. As grounds for its opposition, Passkey states the following:

1. On June 26, 2009, Peylei Technology, Inc. (“Applicant”), filed an intent-to-use application seeking registration of the word mark PASSKEY COMPUTER SERVICES in connection with Applicant’s computer consultation services in class 42.
2. Applicant describes its class 42 services as “computer consultation.”
3. Since as early as November 1, 2000, Passkey has used its PASSKEY mark in commerce in connection with its computer software services.
4. In connection with these goods and services, Passkey owns U.S. trademark registration number 2,911,102, issued on December 14, 2004, for the word mark PASSKEY, which covers computer software services. Passkey’s registration, application, and the date of its

first use in commerce of the PASSKEY mark all pre-date Applicant's existence and application by nearly a decade.

5. Passkey's registration of its PASSKEY mark is valid, subsisting, in full force and effect, and is incontestable.

6. Passkey has invested substantial time, money, and resources in promoting, advertising, and marketing its software services under the PASSKEY mark referenced above. As a result of this investment, the PASSKEY mark has developed valuable goodwill, and is widely recognized in the marketplace as representing the highest quality in software services.

7. Passkey would be damaged by any registration of Applicant's requested mark because it is confusingly similar to the PASSKEY mark in sight, sound, and commercial impression, and because the services set forth in Applicant's intent-to-use application is similar or highly related to the services provided by Passkey under and in connection with its PASSKEY mark.

8. Applicant's requested registration is nearly identical to Passkey's registration, which has priority over Applicant's use. The aural similarities between Passkey's registration and Applicant's application make it nearly impossible for a listener to tell the difference between the two.

9. Applicant's proposed mark is so similar in sound and appearance that any use by Applicant of the mark PASSKEY COMPUTER SERVICES or PASSKEY in connection with the provision of any software related services is likely to cause confusion, mistake or deception as to the source or sponsorship of Applicant's services. Moreover, any such use by Applicant of the mark it has proposed for registration is likely to cause the public to believe that those services emanate from or are otherwise sponsored by or endorsed by Passkey.

10. If Applicant is granted the registration for which it has applied, it would obtain at least a *prima facie* exclusive right to use the PASSKEY COMPUTER SERVICES mark, which is confusingly similar to the prior registration granted to Passkey. Such a registration would harm Passkey, its reputation, and the goodwill associated with its registered PASSKEY mark.

WHEREFORE, Passkey respectfully requests that the Board sustain this opposition and deny registration to Serial Number 77/768,928.

The filing fee required in Section 2.6 of the Rules of Practice is filed herewith.

Respectfully submitted,

/s/Mark S. Leonardo/

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Attorney for Opposer

PASSKEY INTERNATIONAL, INC.

Dated: June 8, 2010
Boston, Massachusetts