ESTTA Tracking number: **ESTTA379647**
Filing date: **11/19/2010**

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

Proceeding	91196299
Party	Plaintiff Connect Public Relations, Inc.
Correspondence Address	KARL R. CANNON CLAYTON, HOWARTH & CANNON, P.C. P.O. BOX 1909 SANDY, UT 84091 UNITED STATES kcannon@chcpat.com, ttetzl@chcpat.com, docketclerk@chcpat.com, bdavis@chcpat.com
Submission	Motion to Amend Pleading/Amended Pleading
Filer's Name	Karl R. Cannon
Filer's e-mail	kcannon@chcpat.com, bdavis@chcpat.com, docketclerk@chcpat.com, bstinson@chcpat.com
Signature	/krc/
Date	11/19/2010
Attachments	Motion_For_Leave.pdf (3 pages)(99332 bytes) Memorandum_in_Support.pdf (6 pages)(234611 bytes) Declaration_of_KRC.pdf (34 pages)(1624379 bytes)

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Attorneys for Connect Public Relations, Inc.

Opposed Mark: CONNECT
U.S. Trademark Application Serial Number: 77/714,693
Published: March 2, 2010

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

CONNECT PUBLIC RELATIONS, INC., a Utah corporation, Opposer v. DIGITALMOJO, INC., a California corporation, Applicant.	))))))))))))	**MOTION FOR LEAVE TO AMEND THE NOTICE OF OPPOSITION** Opposition No. 91196299

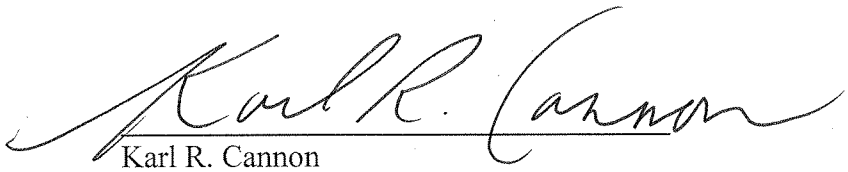
Opposer Connect Public Relations, Inc. ("Opposer") respectfully moves for an order pursuant to 37 C.F.R. §2.107(b), T.B.M.P. § 507 and Fed.R.Civ.P. § 15(a), permitting leave to amend its Notice of Opposition, filed August 30, 2010. In particular, Opposer is seeking leave to amend its Notice of Opposition to add a new ground for opposition, namely, that the Opposer, through use in commerce, has acquired rights to the mark CONNECT, and that Opposer believes

that it will be damaged by the registration of the opposed mark, CONNECT, based upon Opposer's right to the mark CONNECT.

This Motion for Leave to Amend the Notice of Opposition is supported by Opposer's Memorandum of Law and Fact in Support of Motion for Leave to Amend the Notice of Opposition and the Declaration of Karl R. Cannon filed contemporaneously herewith.

Respectfully submitted this 19 day of November, 2010.

Respectfully submitted,



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Attorneys for Opposer
Connect Public Relations, Inc.

C:\Documents and Settings\kcannon\Local Settings\Temp\XPgrpwise\Motion to Amend_1.wpd

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing **MOTION FOR LEAVE TO AMEND THE NOTICE OF OPPOSITION** to be served, via first class mail, postage prepaid, on this 19 day of November, 2010, to:

Thomas W. Cook, Esq.
Thomas Cook Intellectual Property Attorneys
3030 Bridgeway, Suite 425-430
Sausalito, California 94965-2810

Karl R. Cannon

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BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

CONNECT PUBLIC RELATIONS, INC., a Utah corporation, Opposer v. DIGITALMOJO, INC., a California corporation, Applicant.	))))))))))))	**MEMORANDUM OF LAW AND FACT IN SUPPORT OF MOTION FOR LEAVE TO AMEND THE NOTICE OF OPPOSITION** Opposition No. 91196299

Opposer Connect Public Relations, Inc. ("Opposer") respectfully submits this memorandum in support of its Motion for Leave to Amend the Notice of Opposition ("Motion for Leave").

I. INTRODUCTION

Opposer Connect Public Relations respectfully moves for an order pursuant to 37 C.F.R. §2.107(b), T.B.M.P. § 507 and Fed.R.Civ.P. § 15(a) permitting leave to amend its Notice of Opposition, filed August 30, 2010. Opposer is seeking leave to amend its Notice of Opposition to add a new ground for opposition, namely, that the Opposer, through use in commerce, has acquired rights to the mark CONNECT, and that Opposer believes that it will be damaged by the registration of the opposed mark, CONNECT, based upon Opposer's substantial common law rights in the mark CONNECT.

A true and correct copy of Opposer's proposed Amended Notice of Opposition is attached as Exhibit A to the Declaration of Karl R. Cannon ("Cannon Decl.") filed contemporaneously herewith.

II. FACTUAL BACKGROUND

Opposer Connect Public Relations initiated this proceeding by filing a Notice of Opposition on August 30, 2010 against Applicant DigitalMojo, Inc.'s Application No. 77/714,693 ("the '693 application") to register the mark CONNECT for a variety of products and services, all falling within classes 9, 35, 38, 42 and 45. As grounds for opposition, Opposer alleged in the Notice of Opposition a likelihood of confusion under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d), based upon Opposer's U.S. Registration Nos. 2,362,916; 2,373,504; 2,373,505; 2,383,778 for the mark CONNECT PUBLIC RELATIONS and Opposer's U.S. Registration Nos. 2,365,074; 2,366,850; 2,383,777; 2,713,692; 3,330,353 for the mark CONNECTPR.

Since filing the Notice of Opposition, Opposer has come to believe that it will be further damaged by the registration of the '693 application based upon Opposer's common law rights in the mark CONNECT. In particular, Opposer believes that it has been using the mark CONNECT in commerce before any alleged use by Applicant, including any alleged constructive use afforded under the laws of the United States.

As of the time of the filing of Opposer's Motion for Leave, no discovery whatsoever has been conducted by either party in this matter. Cannon Decl., ¶¶ 6 & 7. As of the time of the filing of its Motion for Leave, neither party has served any interrogatories, requests for production, or requests for admissions on the other party. *Id.* Further, neither party has taken any depositions or given notice regarding any scheduled depositions. Cannon Decl., ¶ 7. Initial disclosures are not scheduled to be exchanged until December 9, 2010. *See* Cannon Decl., Ex. B. Further, discovery is not scheduled to close until May 8, 2011. *Id.*

III. ARGUMENT

A. Law

"Pleadings in an opposition proceeding may be amended in the same manner and to the same extent as in a civil action in a United States district court." 37 C.F.R. § 2.107; *see also* T.B.M.P. § 507. Pursuant to Fed. R. Civ. P. 15(a), leave to amend "shall be freely given when justice so requires." The Trademark Trial and Appeal Board "has recognized that 'amendments to pleadings should be allowed with great liberality at any stage of the proceeding where necessary to bring about a furtherance of justice unless it is shown that entry of the amendment would violate settled law or be prejudicial to the rights of any opposing parties.'" *Commodore Elecs. Ltd. V. CBM Kabushiki*

Kaisha, 26 U.S.P.Q.2d 1503, 1505 (T.T.A.B. 1993)(quoting *American Optical Corp. V. American Olean Title Co., Inc.*, 168 U.S.P.Q. 471, 473 (T.T.A.B. 1971)).

B. Applicant Will Not Be Prejudiced by the Proposed Amendment

Applicant will not be prejudiced by the proposed amendment since the present opposition proceeding is just in its beginning stages and no discovery whatsoever has been conducted by either party. In particular, Opposer filed its original Notice of Opposition on August 30, 2010. As of the date of the filing of Opposer's motion, neither party has propounded any discovery on the other party. Initial disclosures are not scheduled to be exchanged until December 9, 2010. Further, no depositions have been scheduled or yet taken in the present matter. Further, the discovery period does not expire until May 8, 2011. Thus, if Opposer's Motion for Leave is granted, Applicant will have the full and complete opportunity to conduct discovery on the new grounds for opposition alleged in Opposer's proposed Amended Notice of Opposition.

For the foregoing reasons, Opposer submits that Applicant will not be prejudiced if Opposer's Motion for Leave is granted.

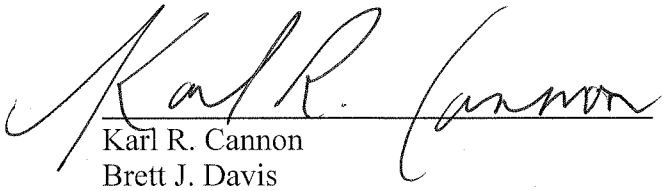
C. The Proposed Amendment does not Violate Settled Law

There is no indication that Opposer's proposed amended Notice of Opposition violates settled law. Therefore, Opposer submits that there is no basis to deny its Motion for Leave on this basis.

D. Conclusion

Opposer Connect Public Relations should be granted leave to amend its Notice of Opposition for the reasons set forth herein.

Respectfully submitted this 19 day of November, 2010.



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Attorneys for Opposer
Connect Public Relations, Inc.

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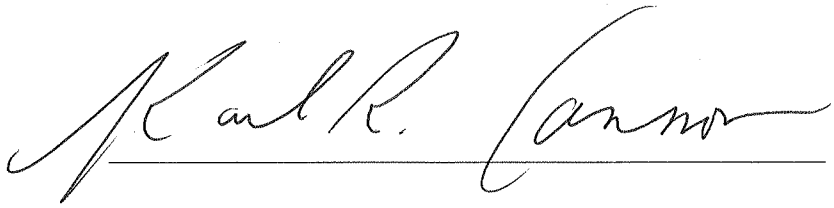
CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing **MEMORANDUM OF LAW AND FACT IN SUPPORT OF MOTION FOR LEAVE TO AMEND THE NOTICE OF OPPOSITION** to be served, via first class mail, postage prepaid, on this 19 day of November, 2010, to:

Thomas W. Cook, Esq.
Thomas Cook Intellectual Property Attorneys
3030 Bridgeway, Suite 425-430
Sausalito, California 94965-2810



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Attorneys for Connect Public Relations, Inc.

Opposed Mark: CONNECT
U.S. Trademark Application Serial Number: 77/714,693
Published: March 2, 2010

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

CONNECT PUBLIC RELATIONS, INC., a Utah corporation, Opposer v. DIGITALMOJO, INC., a California corporation, Applicant.	))))))))))))	**DECLARATION OF KARL R. CANNON** Opposition No. 91196299

DECLARATION OF KARL R. CANNON

1. I am a shareholder of the firm Clayton, Howarth, and Cannon, P.C., counsel for Opposer Connect Public Relations, Inc. in the above-captioned action.

2. I submit this declaration in support of Opposer's Motion for Leave to Amend the Notice of Opposition ("Motion for Leave").

3. Opposer now seeks leave to amend the Notice of Opposition to clarify and/or amplify a claim against Applicant DigitalMojo, Inc. Attached hereto as Exhibit A is a true and correct copy of the proposed Amended Notice of Opposition.

4. Attached hereto as Exhibit B, is a true and correct copy of the August 31, 2010 Order of the Trademark Trial and Appeal Board setting the deadlines in the opposition proceeding and trial dates.

5. As of the date of the filing of Opposer's Motion for Leave, no discovery has been propounded by either party. That is, neither party has served the other party with interrogatories, requests for production, or requests for admissions.

6. As of the date of the filing of Opposer's Motion for Leave, no depositions have been scheduled or taken by either party.

7. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated this 19 day of November, 2010.

Karl R. Cannon

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Attorney for Opposer
Connect Public Relations, Inc.

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EXHIBIT A

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CONNECT PUBLIC RELATIONS, INC., a Utah corporation, Opposer v. DIGITALMOJO, INC., a California corporation, Applicant.	))))))))))))	**AMENDED NOTICE OF OPPOSITION** Opposition No. _____

NOTICE OF OPPOSITION

As grounds for opposing U.S. Trademark Application Serial No. 77/714,693 it is alleged that:

PARTIES

1. Connect Public Relations, Inc. is a Utah corporation having a business address of 80 East 100 North, Provo, Utah 84606 (hereinafter referred to as "Opposer" or "ConnectPR").

2. Upon information and belief, Applicant Digitalmojo, Inc. is a California corporation with its principal place of business at 8344 Clairemont Mesa Blvd., Suite 100, San Diego, California 92111 (hereinafter referred to as "Applicant" or "Digitalmojo").

FACTS

3. ConnectPR is the owner of U.S. Trademark Registration No. 2,362,916, filed March 25, 1998 for the mark CONNECT PUBLIC RELATIONS used in connection with, *inter alia*, printed publications, namely, reports, press kits and brochures in the fields of market research and consulting, public and media relations, sales promotion, strategic marketing planning, development of market positioning and messaging, background editorial support of sales promotion material, and seminar creation and operation.

4. ConnectPR is the owner of U.S. Trademark Registration No. 2,373,504 filed March 25, 1998 for the mark CONNECT PUBLIC RELATIONS used in connection with, *inter alia*, marketing and market research and consulting services; public and media relations services and sales promotion services.

5. ConnectPR is the owner of U.S. Trademark Registration No. 2,373,505 filed March 25, 1998 for the mark CONNECT PUBLIC RELATIONS used in connection with, *inter alia*, prerecorded audio recordings, prerecorded video recordings, and prerecorded audio-visual recordings featuring topics in the fields of marketing and market research and consulting services, public and media relations services and sales promotion services; electronic publications

featuring topics in the fields of marketing and market research and consulting services, public and media relations services and sales promotion services on computer discs and CD-ROMs.

6. ConnectPR is the owner of U.S. Trademark Registration No. 2,383,778, filed March 25, 1998 for the mark CONNECT PUBLIC RELATIONS used in connection with, *inter alia*, communications services, namely, delivery of messages by electronic transmission.

7. ConnectPR is the owner of U.S. Trademark Registration No. 2,365,074, filed March 25, 1998 for the mark CONNECTPR used in connection with, *inter alia*, communications services, namely, delivery of messages by electronic transmission.

8. ConnectPR is the owner of U.S. Trademark Registration No. 2,366,850, filed March 25, 1998 for the mark CONNECTPR used in connection with, *inter alia*, marketing and market research and consulting services; public and media relations services and sales promotion services.

9. ConnectPR is the owner of U.S. Trademark Registration No. 2,383,777, filed March 25, 1998 for the mark CONNECTPR used in connection with, *inter alia*, prerecorded audio recordings, prerecorded video recordings, and prerecorded audio-visual recordings featuring topics in the fields of marketing and market research and consulting services, public and media relations services and sales promotion services; electronic publications featuring topics in the fields of marketing and market research and consulting services, public and media relations services and sales promotion services on computer discs and CD-ROMs.

10. ConnectPR is the owner of U.S. Trademark Registration No. 2,713,692, filed March 25, 1998 for the mark CONNECTPR used in connection with, *inter alia*, printed publications, namely, brochures in the fields of market research and consulting, public and media

relations, sales promotion, strategic marketing planning, development of market positioning and messaging, background editorial support of sales promotion material, and seminar creation and operation.

11. ConnectPR is the owner of U.S. Trademark Registration No. 3,330,353, filed September 30,2002 for the mark CONNECTPR used in connection with, *inter alia*, printed publications, namely, reports, brochures and press kits comprised of brochures, flyers, and press releases, in the fields of market research and consulting, public and media relations, sales promotion, strategic marketing planning, development of market positioning and messaging, background editorial support of sales promotion materials, and seminar creation and operation.

12. ConnectPR is the owner at common law of the CONNECT mark for printed publications.

13. ConnectPR is the owner at common law of the CONNECT mark for marketing and market research and consulting services; public and media relations services and sales promotion services.

14. ConnectPR is the owner at common law of the CONNECT mark for prerecorded audio recordings, prerecorded video recordings, and prerecorded audio-visual recordings; electronic publications featuring public and media relations services and sales promotion services.

15. ConnectPR is the owner at common law of the CONNECT mark for the services of communications services, including, delivery of messages by electronic transmission.

16. Collectively the CONNECT PUBLIC RELATIONS, CONNECTPR, and CONNECT marks are referred to herein as the "ConnectPR Marks."

17. Printouts of each of ConnectPR's U.S. Trademark Registrations, identified above, are attached hereto as Exhibit A.

18. Upon information and belief, and according to the Trademark Electronic Search System ("TESS") maintained by the Trademark Office, Digitalmojo is the applicant for U.S. Trademark Application Serial No. 77/714,693 filed on April 15, 2009 (hereinafter "the '693 Application") for the mark CONNECT to be used in connection with:

Class 009 - Audio recordings featuring music; video recordings featuring music; downloadable audio and video recordings featuring music; prerecorded music on CD, DVD and other media.

Class 035 - Business marketing services in the nature of agency representation of companies marketing a variety of services to home owners and renters, namely, utility hook-ups, telecommunication services, home security services, home warranties, home and yard maintenance, furniture and appliance rental; comparative marketing and advertising services for providers of residential and business telecommunications services, namely, for providers of broadband cable, DSL, fiber optic and satellite Internet access services, cable and satellite television, voice over IP, and long-distance telephone services; operation of telephone call centers for others; marketing of high speed telephone, Internet, and wireless access, and directing consumers to access providers; providing an online directory information service featuring information regarding, and in the nature of, classifieds; advertising and information distribution services, namely, providing classified advertising space via the global computer network; promoting the goods and services of others over the Internet;

providing online computer databases and online searchable databases featuring classified listings and want ads; online business networking services; providing telephone directory information via global communications networks; providing an online interactive website obtaining users comments concerning business organizations, service providers, and other resources; providing information, namely, compilations, rankings, ratings, reviews, referrals and recommendations relating to business organizations, service providers, and other resources using a global computer network; providing telephone directory information via global communications networks; arranging for others the initiation and termination of telecommunication services and utility services in the nature of water, gas and electricity and consultation rendered in connection therewith.

Class 038 - Providing online chat rooms for registered users for transmission of messages concerning classifieds, virtual community and social networking; providing online chat rooms and electronic bulletin boards for transmission of messages among users in the field of general interest; providing email and instant messaging services.

Class 042 - Computer services, namely, creating an online community for registered users to participate in discussions, get feedback from their peers, form virtual communities, and engage in social networking; computer software development; 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; providing temporary use of non-downloadable software applications for classifieds, virtual

community, social networking, photo sharing, video sharing, and transmission of photographic images; computer services, namely, hosting online web facilities for others for organizing and conducting online meetings, gatherings, and interactive discussions; computer services in the nature of customized web pages featuring user-defined information, personal profiles and information.

Class 045 - Online social networking services; Internet based dating, introduction and social networking services.

19. The '693 Application was filed as an intent to use application under § 1(b) of the Lanham Act.

20. The '693 Application was published for opposition on March 2, 2010.

21. On April 1, 2010, ConnectPR (through its counsel) filed a First 90 Day Request for Extension of Time to Oppose for Good Cause. The Request was granted by the Trademark Trial and Appeal Board ("TTAB") on April 1, 2010, thereby extending the deadline until June 30, 2010.

22. On June 30, 2010, ConnectPR (through its counsel) filed a 60 Day Request for Extension of Time to Oppose for Good Cause. The Request was granted by the Trademark Trial and Appeal Board ("TTAB") on June 30, 2010 thereby extending the deadline until August 29, 2010. Accordingly, the filing of the present Notice of Opposition is timely.

23. ConnectPR has used its ConnectPR Marks in interstate commerce in the United States since at least as early as the dates of first use recited in the respective registrations and is currently using the trademarks in interstate commerce.

24. Since long prior to the filing date and any date of first use in Applicant's '693 Application, ConnectPR has used the ConnectPR Marks in commerce in association with their respective goods and services identified in each registration.

25. The ConnectPR Marks are of significant value to ConnectPR as an identification of source in connection with the promotion, marketing, advertisement, and offering of at least the goods and services recited in the registrations for the ConnectPR Marks.

26. ConnectPR has used its ConnectPR Marks in connection with at least the goods and services recited in the registrations for its marks long before the filing date of the '693 Application.

THE GROUNDS FOR OPPOSITION

27. ConnectPR repeats and incorporates by this reference each and every allegation contained in the previous paragraphs of this Notice of Opposition.

28. Since long prior to the filing date of Applicant's U.S. Trademark Application No. 77/714,693, ConnectPR has used the ConnectPR Marks in connection with the goods and services identified above.

29. Opposer has used its ConnectPR Marks in interstate commerce since at least as 1998.

30. Opposer has continuously used its ConnectPR Marks in interstate commerce since at least the dates of first use recited in the respective registrations and is currently using the marks in interstate commerce.

31. ConnectPR's marks are of significant value to Opposer ConnectPR as an identification of source in connection with the promotion, marketing, advertising, and offering of the identified goods and services.

32. The mark set forth in Applicant's U.S. Trademark Application No. 77/714,693 is likely to be confused with the ConnectPR Marks which are used by Opposer ConnectPR.

33. Opposer ConnectPR's use of the ConnectPR Marks occurred well in advance of Applicant's filing of the U.S. Trademark Application No. 77/714,693 for the CONNECT mark, and on information and belief, prior to any date of use that Applicant may allege.

34. Opposer ConnectPR believes that it will be damaged by the registration of U.S. Trademark Application No. 77/714,693, and hereby opposes the same.

FIRST CLAIM FOR RELIEF

(Likelihood of Confusion - Class 009)

35. ConnectPR repeats and incorporates by this reference each and every allegation contained in the previous paragraphs of this Notice of Opposition.

36. Applicant's proposed CONNECT mark, when used in connection with the goods in International Class 009 as specified in the '693 Application, is likely to cause confusion with the ConnectPR Marks.

37. Applicant's proposed CONNECT mark is similar to the ConnectPR Marks in appearance, sound, meaning, and connotation and is likely to cause confusion, or to cause mistake, or to deceive.

38. The goods recited in International Class 009 as specified in the '693 Application are identical, similar or related to the goods and services of the ConnectPR marks.

39. Accordingly, the '693 Application should be denied registration under 15 U.S.C. §1052(d).

SECOND CLAIM FOR RELIEF

(Likelihood of Confusion - Class 035)

40. ConnectPR repeats and incorporates by this reference each and every allegation contained in the previous paragraphs of this Notice of Opposition.

41. Applicant's proposed CONNECT mark, when used in connection with the services in International Class 035 as specified in the '693 Application, is likely to cause confusion with the ConnectPR Marks.

42. Applicant's proposed CONNECT mark is similar to the ConnectPR Marks in appearance, sound, meaning, and connotation and is likely to cause confusion, or to cause mistake, or to deceive.

43. The services recited in International Class 035 as specified in the '693 Application are identical, similar or related to the goods and services of the ConnectPR marks.

44. Accordingly, the '693 Application should be denied registration under 15 U.S.C. §1052(d).

THIRD CLAIM FOR RELIEF

(Likelihood of Confusion - Class 038)

45. ConnectPR repeats and incorporates by this reference each and every allegation contained in the previous paragraphs of this Notice of Opposition.

46. Applicant's proposed CONNECT mark, when used in connection with the services in International Class 038 as specified in the '693 Application, is likely to cause confusion with the ConnectPR Marks.

47. Applicant's proposed CONNECT mark is similar to the ConnectPR Marks in appearance, sound, meaning, and connotation and is likely to cause confusion, or to cause mistake, or to deceive.

48. The services recited in International Class 038 as specified in the '693 Application are identical, similar or related to the goods and services of the ConnectPR marks.

49. Accordingly, the '693 Application should be denied registration under 15 U.S.C. §1052(d).

FOURTH CLAIM FOR RELIEF

(Likelihood of Confusion - Class 042)

50. ConnectPR repeats and incorporates by this reference each and every allegation contained in the previous paragraphs of this Notice of Opposition.

51. Applicant's proposed CONNECT mark, when used in connection with the services in International Class 042 as specified in the '693 Application, is likely to cause confusion with the ConnectPR Marks.

52. Applicant's proposed CONNECT mark is similar to the ConnectPR Marks in appearance, sound, meaning, and connotation and is likely to cause confusion, or to cause mistake, or to deceive.

53. The services recited in International Class 042 as specified in the '693 Application are identical, similar or related to the goods and services of the ConnectPR marks.

54. Accordingly, the '693 Application should be denied registration under 15 U.S.C. §1052(d).

FIFTH CLAIM FOR RELIEF

(Likelihood of Confusion - Class 045)

55. ConnectPR repeats and incorporates by this reference each and every allegation contained in the previous paragraphs of this Notice of Opposition.

56. Applicant's proposed CONNECT mark, when used in connection with the services in International Class 045 as specified in the '693 Application, is likely to cause confusion with the ConnectPR Marks.

57. Applicant's proposed CONNECT mark is similar to the ConnectPR Marks in appearance, sound, meaning, and connotation and is likely to cause confusion, or to cause mistake, or to deceive.

58. The services recited in International Class 045 as specified in the '693 Application are identical, similar or related to the goods and services of the ConnectPR marks.

59. Accordingly, the '693 Application should be denied registration under 15 U.S.C. §1052(d).

PRAYER FOR RELIEF

WHEREFORE, ConnectPR prays that the registration sought by Applicant in the '693 Application be refused and that this Opposition be sustained in favor of Opposer ConnectPR.

Any deficiency in the fee submitted can be charged to Deposit Account No. 50–0836.

All correspondence and telephonic communications should be directed to:

Karl R. Cannon
Brett J. Davis
Attorney Docket No. T12092.A.1
CLAYTON, HOWARTH & CANNON, P.C.
P.O. Box 1909
Sandy, Utah 84091-1909
Telephone: (801) 255-5335
Facsimile: (801) 255-5338

DATED this ____ day of November, 2010.

Respectfully submitted,

_____

Karl R. Cannon
Brett J. Davis

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Attorneys for Opposer
Connect Public Relations, Inc.

S:\CHC Files\T12--\T120--\T12092\A\Amended Notice of Opposition.wpd

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing **AMENDED NOTICE OF OPPOSITION** to be served, via first class mail, postage prepaid, on this ____ day of November, 2010, to:

Thomas W. Cook, Esq.
Thomas Cook Intellectual Property Attorneys
3030 Bridgeway, Suite 425-430
Sausalito, California 94965-2810

_____

EXHIBIT A

Exhibit A to Notice of Opposition

Int. Cl.: 16

Prior U.S. Cls.: 2, 5, 22, 23, 29, 37, 38, and 50

Reg. No. 2,362,916

United States Patent and Trademark Office

Registered June 27, 2000

TRADEMARK
PRINCIPAL REGISTER

CONNECT PUBLIC RELATIONS

CONNECT PUBLIC RELATIONS, INC. (UTAH CORPORATION)
80 EAST 100 NORTH
PROVO, UT 84606

FOR: PRINTED PUBLICATIONS, NAMELY, REPORTS, PRESS KITS AND BROCHURES IN THE FIELDS OF MARKET RESEARCH AND CONSULTING, PUBLIC AND MEDIA RELATIONS, SALES PROMOTION, STRATEGIC MARKETING PLANNING, DEVELOPMENT OF MARKET POSITIONING AND MESSAGING, BACKGROUND EDITORIAL SUPPORT OF SALES PROMOTION MATERIAL, AND SEMINAR CREATION AND OPERATION, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 6-0-1998; IN COMMERCE 6-0-1998.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PUBLIC RELATIONS", APART FROM THE MARK AS SHOWN.

SN 75-456,522, FILED 3-25-1998.

CRAIG D. TAYLOR, EXAMINING ATTORNEY

Int. Cl.: 35

Prior U.S. Cls.: 100, 101, and 102

Reg. No. 2,373,504

United States Patent and Trademark Office

Registered Aug. 1, 2000

SERVICE MARK
PRINCIPAL REGISTER

CONNECT PUBLIC RELATIONS

CONNECT PUBLIC RELATIONS, INC. (UTAH CORPORATION)
80 EAST 100 NORTH
PROVO, UT 84606

FOR: MARKETING AND MARKET RESEARCH AND CONSULTING SERVICES; PUBLIC AND MEDIA RELATIONS SERVICES AND SALES PROMOTION SERVICES, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 5-0-1998; IN COMMERCE 5-0-1998.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PUBLIC RELATIONS", APART FROM THE MARK AS SHOWN.

SN 75-456,519, FILED 3-25-1998.

CRAIG D. TAYLOR, EXAMINING ATTORNEY

Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36, and 38

Reg. No. 2,373,505

United States Patent and Trademark Office

Registered Aug. 1, 2000

TRADEMARK
PRINCIPAL REGISTER

CONNECT PUBLIC RELATIONS

CONNECT PUBLIC RELATIONS, INC. (UTAH CORPORATION)
80 EAST 100 NORTH
PROVO, UT 84606

FOR: PRERECORDED AUDIO RECORDINGS, PRERECORDED VIDEO RECORDINGS, AND PRERECORDED AUDIO-VISUAL RECORDINGS FEATURING TOPICS IN THE FIELDS OF MARKETING AND MARKET RESEARCH AND CONSULTING SERVICES, PUBLIC AND MEDIA RELATIONS SERVICES AND SALES PROMOTION SERVICES; ELECTRONIC PUBLICATIONS FEATURING TOPICS IN THE FIELDS OF MARKETING AND MARKET RESEARCH AND CONSULTING SERVICES, PUBLIC AND MEDIA RELATIONS SERVICES AND SALES PROMOTION SERVICES ON COMPUTER DISCS AND CD-ROMS, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 7-0-1998; IN COMMERCE 7-0-1998.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PUBLIC RELATIONS", APART FROM THE MARK AS SHOWN.

SN 75-456,523, FILED 3-25-1998.

CRAIG D. TAYLOR, EXAMINING ATTORNEY

Int. Cl.: 38

Prior U.S. Cls.: 100, 101, and 104

Reg. No. 2,383,778

United States Patent and Trademark Office

Registered Sep. 5, 2000

SERVICE MARK
PRINCIPAL REGISTER

CONNECT PUBLIC RELATIONS

CONNECT PUBLIC RELATIONS, INC. (UTAH CORPORATION)
80 EAST 100 NORTH
PROVO, UT 84606

FOR: COMMUNICATIONS SERVICES, NAMELY, DELIVERY OF MESSAGES BY ELECTRONIC TRANSMISSION, IN CLASS 38 (U.S. CLS. 100, 101 AND 104).

FIRST USE 5-0-1999; IN COMMERCE 5-0-1999.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PUBLIC RELATIONS", APART FROM THE MARK AS SHOWN.

SN 75-456,520, FILED 3-25-1998.

CRAIG D. TAYLOR, EXAMINING ATTORNEY

Int. Cl.: 38

Prior U.S. Cls.: 100, 101, and 104

Reg. No. 2,365,074

United States Patent and Trademark Office

Registered July 4, 2000

SERVICE MARK
PRINCIPAL REGISTER

CONNECTPR

CONNECT PUBLIC RELATIONS, INC. (UTAH CORPORATION)
80 EAST 100 NORTH
PROVO, UT 84606

FOR: COMMUNICATIONS SERVICES, NAMELY, DELIVERY OF MESSAGES BY ELECTRONIC TRANSMISSION, IN CLASS 38 (U.S. CLS. 100, 101 AND 104).

FIRST USE 2-0-2000; IN COMMERCE 2-0-2000.

SN 75-456,495, FILED 3-25-1998.

CRAIG D. TAYLOR, EXAMINING ATTORNEY

Int. Cl.: 35

Prior U.S. Cls.: 100, 101, and 102

Reg. No. 2,366,850

United States Patent and Trademark Office

Registered July 11, 2000

SERVICE MARK
PRINCIPAL REGISTER

CONNECTPR

CONNECT PUBLIC RELATIONS, INC. (UTAH CORPORATION)
80 EAST 100 NORTH
PROVO, UT 84606

FOR: MARKETING AND MARKET RESEARCH AND CONSULTING SERVICES; PUBLIC AND MEDIA RELATIONS SERVICES AND SALES PROMOTION SERVICES, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 2-0-2000; IN COMMERCE 2-0-2000.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PUBLIC RELATIONS", APART FROM THE MARK AS SHOWN.

SN 75-456,494, FILED 3-25-1998.

CRAIG D. TAYLOR, EXAMINING ATTORNEY

Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36, and 38

Reg. No. 2,383,777

United States Patent and Trademark Office

Registered Sep. 5, 2000

TRADEMARK
PRINCIPAL REGISTER

CONNECTPR

CONNECT PUBLIC RELATIONS, INC. (UTAH CORPORATION)
80 EAST 100 NORTH
PROVO, UT 84606

FOR: PRERECORDED AUDIO RECORDINGS, PRERECORDED VIDEO RECORDINGS, AND PRERECORDED AUDIO-VISUAL RECORDINGS FEATURING TOPICS IN THE FIELDS OF MARKETING AND MARKET RESEARCH AND CONSULTING SERVICES, PUBLIC AND MEDIA RELATIONS SERVICES AND SALES PROMOTION SERVICES; ELECTRONIC PUBLICATIONS FEATURING TOPICS IN THE FIELDS OF MARKETING AND MARKET RESEARCH AND CONSULTING SERVICES, PUBLIC AND MEDIA RELATIONS SERVICES AND SALES PROMOTION SERVICES ON COMPUTER DISCS AND CD-ROMS, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 3-0-2000; IN COMMERCE 3-0-2000.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PUBLIC RELATIONS", APART FROM THE MARK AS SHOWN.

SN 75-456,498, FILED 3-25-1998.

CRAIG D. TAYLOR, EXAMINING ATTORNEY

Int. Cl.: 16

Prior U.S. Cls.: 2, 5, 22, 23, 29, 37, 38, and 50

Reg. No. 2,713,692

United States Patent and Trademark Office

Registered May 6, 2003

TRADEMARK
PRINCIPAL REGISTER

CONNECTPR

CONNECT PUBLIC RELATIONS, INC. (UTAH CORPORATION)
80 EAST 100 NORTH
PROVO, UT 84606

FOR: PRINTED PUBLICATIONS, NAMELY, REPORTS, PRESS KITS AND BROCHURES IN THE FIELDS OF MARKET RESEARCH AND CONSULTING, PUBLIC AND MEDIA RELATIONS, SALES PROMOTION, STRATEGIC MARKETING PLANNING, DEVELOPMENT OF MARKET POSITIONING AND MESSAGING, BACKGROUND EDITORIAL SUPPORT OF SALES PROMOTION MATERIAL, AND SEMINAR CREATION AND OPERATION, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 9-0-2002; IN COMMERCE 9-0-2002.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PUBLIC RELATIONS", APART FROM THE MARK AS SHOWN.

SN 75-456,497, FILED 3-25-1998.

INGA ERVIN, EXAMINING ATTORNEY

Int. Cl.: 16

Prior U.S. Cls.: 2, 5, 22, 23, 29, 37, 38, and 50

Reg. No. 3,330,353

United States Patent and Trademark Office

Registered Nov. 6, 2007

TRADEMARK
PRINCIPAL REGISTER

CONNECTPR

CONNECT PUBLIC RELATIONS, INC. (UTAH CORPORATION)
80 EAST 100 NORTH
PROVO, UT 84606

FOR: PRINTED PUBLICATIONS, NAMELY, REPORTS, BROCHURES AND PRESS KITS COMPRISED OF BROCHURES, FLYERS, AND PRESS RELEASES, IN THE FIELDS OF MARKET RESEARCH AND CONSULTING, PUBLIC AND MEDIA RELATIONS, SALES PROMOTION, STRATEGIC MARKETING PLANNING, DEVELOPMENT OF MARKET POSITIONING AND MESSAGING, BACKGROUND EDITORIAL SUPPORT OF SALES PROMOTION MATERIALS, AND SEMINAR CREATION AND OPERATION, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 1-0-2006; IN COMMERCE 1-0-2006.

OWNER OF U.S. REG. NOS. 2,365,074, 2,366,850, AND 2,383,777.

SN 78-169,520, FILED 9-30-2002.

CAROLINE WOOD, EXAMINING ATTORNEY

EXHIBIT B

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Mailed: August 31, 2010

Opposition No. 91196299
Serial No. 77714693

THOMAS W. COOK
3030 BRIDGEWAY
STE 425-430
SAUSALITO, CA 94965-2810
thomascooklaw@pacbell.net

Connect Public Relations, Inc.

v.

Digitalmojo, Inc.

Karl R. Cannon
CLAYTON, HOWARTH & CANNON, P.C.
P.O. Box 1909
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kcannon@chcpat.com, ttetzl@chcpat.com, docketclerk@chcpat.com,
bdavis@chcpat.com

ESTTA365861

A notice of opposition to the registration sought by the above-identified application has been filed. A service copy of the notice of opposition was forwarded to applicant (defendant) by the opposer (plaintiff). An electronic version of the notice of opposition is viewable in the electronic file for this proceeding via the Board's TTABVUE system: http://ttabvue.uspto.gov/ttabvue/v?qs=91196299.

Proceedings will be conducted in accordance with the Trademark Rules of Practice, set forth in Title 37, part 2, of the Code of Federal Regulations ("Trademark Rules"). These rules may be viewed at the USPTO's trademarks page: http://www.uspto.gov/trademarks/index.jsp. The Board's main webpage (http://www.uspto.gov/trademarks/process/appeal/index.jsp) includes information on amendments to the Trademark Rules applicable to Board proceedings, on Alternative Dispute Resolution (ADR), Frequently Asked Questions about Board proceedings, and a web link to the Board's manual of procedure (the TBMP).

Plaintiff must notify the Board when service has been ineffective, within 10 days of the date of receipt of a returned service copy or the date on which plaintiff learns that service has been ineffective. Plaintiff has no subsequent duty to investigate the defendant's whereabouts, but if plaintiff by its own voluntary investigation or

through any other means discovers a newer correspondence address for the defendant, then such address must be provided to the Board. Likewise, if by voluntary investigation or other means the plaintiff discovers information indicating that a different party may have an interest in defending the case, such information must be provided to the Board. The Board will then effect service, by publication in the Official Gazette if necessary. *See* Trademark Rule 2.118. In circumstances involving ineffective service or return of defendant's copy of the Board's institution order, the Board may issue an order noting the proper defendant and address to be used for serving that party.

Defendant's ANSWER IS DUE FORTY DAYS after the mailing date of this order. (*See* Patent and Trademark Rule 1.7 for expiration of this or any deadline falling on a Saturday, Sunday or federal holiday.) **Other deadlines the parties must docket or calendar are either set forth below (if you are reading a mailed paper copy of this order) or are included in the electronic copy of this institution order viewable in the Board's TTABVUE system at the following web address: http://ttabvue.uspto.gov/ttabvue/.**

Defendant's answer and any other filing made by any party must include proof of service. *See* Trademark Rule 2.119. **If they agree to, the parties may utilize electronic means, e.g., e-mail or fax, during the proceeding for forwarding of service copies.** *See* Trademark Rule 2.119(b)(6).

The parties also are referred in particular to Trademark Rule 2.126, which pertains to the form of submissions. **Paper submissions, including but not limited to exhibits and transcripts of depositions, not filed in accordance with Trademark Rule 2.126 may not be given consideration or entered into the case file.**

Time to Answer	10/10/2010
Deadline for Discovery Conference	11/9/2010
Discovery Opens	11/9/2010
Initial Disclosures Due	12/9/2010
Expert Disclosures Due	4/8/2011
Discovery Closes	5/8/2011
Plaintiff's Pretrial Disclosures	6/22/2011
Plaintiff's 30-day Trial Period Ends	8/6/2011
Defendant's Pretrial Disclosures	8/21/2011
Defendant's 30-day Trial Period Ends	10/5/2011
Plaintiff's Rebuttal Disclosures	10/20/2011
Plaintiff's 15-day Rebuttal Period Ends	11/19/2011

As noted in the schedule of dates for this case, the parties are required to have a conference to discuss: (1) the nature of and basis for their respective claims and defenses, (2) the possibility of settling the case or at least narrowing the scope of claims or

defenses, and (3) arrangements relating to disclosures, discovery and introduction of evidence at trial, should the parties not agree to settle the case. *See* Trademark Rule 2.120(a)(2). Discussion of the first two of these three subjects should include a discussion of whether the parties wish to seek mediation, arbitration or some other means for resolving their dispute. Discussion of the third subject should include a discussion of whether the Board's Accelerated Case Resolution (ACR) process may be a more efficient and economical means of trying the involved claims and defenses. Information on the ACR process is available at the Board's main webpage. Finally, if the parties choose to proceed with the disclosure, discovery and trial procedures that govern this case and which are set out in the Trademark Rules and Federal Rules of Civil Procedure, then they must discuss whether to alter or amend any such procedures, and whether to alter or amend the Standard Protective Order (further discussed below). Discussion of alterations or amendments of otherwise prescribed procedures can include discussion of limitations on disclosures or discovery, willingness to enter into stipulations of fact, and willingness to enter into stipulations regarding more efficient options for introducing at trial information or material obtained through disclosures or discovery.

The parties are required to conference in person, by telephone, or by any other means on which they may agree. A Board interlocutory attorney or administrative trademark judge will participate in the conference, upon request of any party, provided that such participation is requested no later than ten (10) days prior to the deadline for the conference. *See* Trademark Rule 2.120(a)(2). The request for Board participation must be made through the Electronic System for Trademark Trials and Appeals (ESTTA) or by telephone call to the interlocutory attorney assigned to the case, whose name can be found by referencing the TTABVUE record for this case at **http://ttabvue.uspto.gov/ttabvue/**. The parties should contact the assigned interlocutory attorney or file a request for Board participation through ESTTA only after the parties have agreed on possible dates and times for their conference. Subsequent participation of a Board attorney or judge in the conference will be by telephone and the parties shall place the call at the agreed date and time, in the absence of other arrangements made with the assigned interlocutory attorney.

The Board's Standard Protective Order is applicable to this case, but the parties may agree to supplement that standard order or substitute a protective agreement of their choosing, subject to approval by the Board. The standard order is available for viewing at: **http://www.uspto.gov/trademarks/process/appeal/guidelines/stndagmnt.jsp**. Any party without access to the web may request a hard copy of the standard order from the Board. The standard order does not automatically protect a party's confidential information and its provisions must be utilized as needed by the parties. *See* Trademark Rule 2.116(g).

Information about the discovery phase of the Board proceeding is available in chapter 400 of the TBMP. By virtue of amendments to the Trademark Rules effective November 1, 2007, the initial disclosures and expert disclosures scheduled during the discovery phase are required only in cases commenced on or after that date. The TBMP has not yet been amended to include information on these disclosures and the parties are referred to the August 1, 2007 Notice of Final Rulemaking

(72 Fed. Reg. 42242) posted on the Board's webpage. The deadlines for pretrial disclosures included in the trial phase of the schedule for this case also resulted from the referenced amendments to the Trademark Rules, and also are discussed in the Notice of Final Rulemaking.

The parties must note that the Board allows them to utilize telephone conferences to discuss or resolve a wide range of interlocutory matters that may arise during this case. In addition, the assigned interlocutory attorney has discretion to require the parties to participate in a telephone conference to resolve matters of concern to the Board. *See* TBMP § 502.06(a) (2d ed. rev. 2004).

The TBMP includes information on the introduction of evidence during the trial phase of the case, including by notice of reliance and by taking of testimony from witnesses. *See* TBMP §§ 703 and 704. Any notice of reliance must be filed during the filing party's assigned testimony period, with a copy served on all other parties. Any testimony of a witness must be both noticed and taken during the party's testimony period. A party that has taken testimony must serve on any adverse party a copy of the transcript of such testimony, together with copies of any exhibits introduced during the testimony, within thirty (30) days after the completion of the testimony deposition. *See* Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rules 2.128(a) and (b). An oral hearing after briefing is not required but will be scheduled upon request of any party, as provided by Trademark Rule 2.129.

If the parties to this proceeding are (or during the pendency of this proceeding become) parties in another Board proceeding or a civil action involving related marks or other issues of law or fact which overlap with this case, they shall notify the Board immediately, so that the Board can consider whether consolidation or suspension of proceedings is appropriate.

ESTTA NOTE: For faster handling of all papers the parties need to file with the Board, the Board strongly encourages use of electronic filing through the Electronic System for Trademark Trials and Appeals (ESTTA). Various electronic filing forms, some of which may be used as is, and others which may require attachments, are available at **http://estta.uspto.gov**.

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing Declaration of Karl R. Cannon to be served, via first class mail, postage prepaid, on this 19 day of November, 2010, to:

Thomas W. Cook, Esq.
Thomas Cook Intellectual Property Attorneys
3030 Bridgeway, Suite 425-430
Sausalito, California 94965-2810

Karl R. Cannon