

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

In the matter of Trademark App. Ser. No. 77/695,071
Filed: March 19, 2009
Published: January 25, 2011
Mark: TWEETMARKS

Twitter, Inc.,)	
Opposer,)	
)	Opposition No. _____
vs.)	
)	
Peter F. Wingard,)	
Applicant.)	

Express Mail mailing label No. <u>EV518445 905 US</u>
Date of Deposit <u>5-25-11</u>
I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.
<u>Nanette Barant</u> (Type or Print Name of Person Mailing Paper or Fee)
<u>NBS</u> (Signature of Person Mailing Paper or Fee)

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COMMISSIONER FOR TRADEMARKS
P.O. BOX 1451
ALEXANDRIA, VIRGINIA 22313-1451

06/01/2011 SWILSON1 00000008 500261 77695071
01 FC:6402 300.00 DA

NOTICE OF OPPOSITION

Twitter, Inc. ("Opposer") believes that it will be damaged by registration of the mark TWEETMARKS ("Applicant's Mark") with those services listed in Application Serial No. 77695071 (the "Application"), filed by Peter F. Wingard ("Applicant"), and hereby opposes the Application.

Application Serial No. 77695071 was filed on March 19, 2009, for the mark TWEETMARKS based solely on Applicant's alleged intent to use the mark. The application was published for opposition on January 25, 2011. Opposer filed for and obtained the necessary extensions of time in which to oppose the Application following its publication.

Mark: TWEETMARKS
Serial No.: 77695071
Opposer: Twitter, Inc.

As grounds for opposition, Opposer alleges:

1. Opposer is the owner of Registration No. 3780175 for COTWEET for “software as a service (SAAS) services, namely, hosting software for use by others for use in communications between people and organizations, using wireless and wired networks, through computers and mobile devices” in Class 42. Opposer’s application for said registration was filed on March 23, 2009, based on use in commerce since January 6, 2009. Opposer’s January 6, 2009 first use date is prior to Applicant’s March 19, 2009 filing date and use of TWEETMARKS by Applicant, if any. Opposer’s registration is valid and subsisting and is conclusive evidence of Opposer’s exclusive right to use said mark in commerce in connection with the services specified in said registration.

2. Opposer is the owner of U.S. Trademark Application Serial No. 77715815 for TWEET for:

“telecommunications services, namely, providing online and telecommunication facilities for real-time interaction between and among users of computers, mobile and handheld computers, and wired and wireless communication devices; enabling individuals to send and receive messages via email, instant messaging or a website on the internet in the field of general interest; providing on-line chat rooms and electronic bulletin boards for transmission of messages among users in the field of general interest; providing an online community forum for users to share information, photos, audio and video content about themselves, their likes and dislikes and daily activities, to get feedback from their peers, to form virtual communities, and to engage in social networking” in Class 38;

“providing on-line journals, namely, blogs featuring user-defined content” in Class 41; and

“online social networking services; providing a website on the internet for the purpose of social networking; providing on-line computer databases and on-line searchable databases in the field of social networking” in Class 45.

Opposer’s application was filed on April 16, 2009.

3. Opposer is the owner of U.S. Trademark Application Serial No. 85116717 for TWEET for:

“computer software; software and software applications to enable transmission, access, organization, and management of text messaging, instant messaging, online blog journals, text, weblinks, and images via the Internet and other communications networks; computer software used to enhance the capabilities and features of other software and nondownloadable online software; software for accessing information on a global computer network; downloadable software via the internet and wireless devices; downloadable software in the field of social networking; downloadable software in the nature of a mobile application; downloadable software to facilitate online advertising, business promotion, connecting social network users with businesses and for tracking users and advertising of

others to provide strategy, insight, marketing, and predicting consumer behavior” in Class 9; and

“advertising and marketing; advertising services; online advertising and marketing services; business data analysis; promotional services; business networking; online service for connecting social network users with businesses; business monitoring and consulting services, namely, tracking users and advertising of others to provide strategy, insight, marketing guidance, and for analyzing, understanding and predicting consumer behavior and motivations, and market trends” in Class 35.

Opposer’s application was filed on August 26, 2010.

4. Opposer is the owner of U.S. Trademark Application Serial No. 77804841 for RETWEET for:

“transmission of messages; electronic message sending, receiving and forwarding; telecommunications services, namely, providing online and telecommunication facilities for real-time interaction between and among users of computers, mobile and handheld computers, and wired and wireless communication devices; enabling individuals to send and receive messages via email, instant messaging or a website on the internet in the field of general interest; providing on-line chat rooms and electronic bulletin boards for transmission of messages among users in the field of general interest; virtual chatrooms established via electronic messaging and text messaging; chat room services for social networking; providing on-line forums for transmission of messages among computer users; providing an online community forum for users to share information, photos, audio and video content about themselves, their likes and dislikes and daily activities, to get feedback from their peers, to form virtual communities, and to engage in social networking” in Class 38;

“providing on-line journals, namely, blogs featuring user-defined content” in Class 41; and

“online social networking services; providing a website on the internet for the purpose of social networking” in Class 45.

Opposer’s application was filed on August 14, 2009.

5. The above-mentioned marks will be hereafter collectively referred to as Opposer’s Marks. Attached as Exhibit A to this Notice of Opposition is a current printout of information from the electronic database records of the United States Trademark Office showing the current status and title of the aforementioned trademark applications and registration.
6. Opposer provides social networking and micro-blogging goods and services for use by consumers under Opposer’s Marks which are distinctive of Opposer’s goods and services. Opposer’s goods and services are well-known around the world with over 100 million registered users.

7. The popularity of Opposer and Opposer's goods and services and the distinctiveness of Opposer's Marks have resulted in Opposer's name and Opposer's Marks being instantly adopted by consumers and media outlets to refer to Opposer and Opposer's goods and services. Prior to Opposer's offerings, the TWEET mark was not known to the consuming public beyond its dictionary meaning.
8. By virtue of Opposer's extensive use and promotion of Opposer's Marks, Opposer has established valuable goodwill in the marks, and the public has come to associate TWEET with Opposer. As such, the public has come to know TWEET as an indication of goods and services that originate from or are affiliated with Opposer and Opposer's goods and services.
9. As a result of Opposer's widespread and significant popularity, Opposer's TWEET mark is famous and well known to consumers.
10. There is only one conceivable reason why Applicant would apply to register a TWEET-based mark and that is as a reference to Opposer and Opposer's services and to play off of the notoriety and fame of the same.
11. Applicant is pursuing registration of TWEETMARKS based on its purported intent to use the term in connection with:

"Hosting of digital content on the Internet; Providing a web site featuring technology that enables internet users to create, bookmark, annotate, and publicly share data; Providing a web site featuring technology that enables internet users to create, bookmark, annotate, and publicly share fitness-related data, as well as providing health and fitness professionals with a subscription-based client management system; Providing a web site featuring technology that enables internet users to submit comments of personal recognition" in Class 42.
12. Opposer's TWEET mark was famous at the time Applicant filed the Application.
13. Applicant's TWEETMARKS mark is virtually identical to Opposer's Marks. Applicant's mark is pronounced "Tweet-marks," therefore the most prominent element of Applicant's mark, "TWEET," is identical to Opposer's TWEET mark and the most prominent element of Opposer's COTWEET and RETWEET marks.
14. On information and belief, Applicant selected TWEETMARKS to refer to Opposer, Opposer's offerings, and Opposer's Marks, and consumers will likely associate the mark with Opposer and its offerings and will assume there is a relationship between Applicant and Opposer.
15. On information and belief, Applicant chose a virtually identical mark to Opposer's Marks in an effort to provide services related to Opposer's offerings. Therefore, the services in

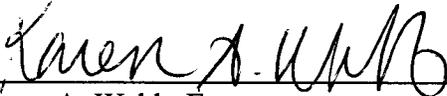
the Application bearing Opposer's Marks are likely to be seen as related to Opposer, which is likely to create consumer confusion.

16. As a result of the similarity between Opposer's Marks and Applicant's TWEETMARKS mark and the identical and related services associated with each party's respective marks, Applicant's mark is likely to cause consumer confusion, mistake or deception in the trade and among consumers as to the source, origin or sponsorship of the parties' respective goods and services.
17. Registration of the TWEETMARKS mark in the Application and use of Applicant's TWEETMARKS mark are likely to dilute Opposer's famous TWEET marks.
18. If the Application is permitted to register, the registration would presumptively entitle Applicant to exclusive ownership and rights to the TWEETMARKS mark. Such registration would cause confusion among consumers as to the separate and distinct sources of Applicant's services and Opposer's goods and services and the relationship of Opposer to Applicant. Further, Opposer would be precluded from using Opposer's Marks in connection with the services included in the Application.

WHEREFORE, Opposer prays that this Notice of Opposition be sustained and that the Application be denied registration.

Respectfully submitted,

Date: May 25, 2011



Karen A. Webb, Esq.
Attorney for Opposer
FENWICK & WEST LLP
801 California Street
Mountain View, CA 94041
650-988-8500
trademarks@fenwick.com

PROOF OF SERVICE BY MAIL

I declare that:

I am employed in the County of Santa Clara, California.

I am over the age of eighteen years and not a party to the within cause; my business address is Fenwick & West LLP, Silicon Valley Center, 801 California Street, Mountain View, CA 94041. On May 25, 2011, I served the within NOTICE OF OPPOSITION on the interested parties in said cause, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, via U.S. First Class Mail at Mountain View, California, addressed as follows:

Ralph H. Dougherty
4219 Kronos Place
Charlotte, NC 28210

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed at Mountain View, California, this 25th day of May, 2011.



Leonor Iglesias

EXHIBIT A



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COTWEET

Word Mark COTWEET
Goods and Services IC 042. US 100 101. G & S: Software as a service (SAAS) services, namely, hosting software for use by others for use in communications between people and organizations, using wireless and wired networks, through computers and mobile devices. FIRST USE: 20081112. FIRST USE IN COMMERCE: 20090106
Standard Characters Claimed
Mark Drawing Code (4) STANDARD CHARACTER MARK
Trademark Search Facility Classification Code LETS-2 CO Two letters or combinations of multiples of two letters
Serial Number 77697186
Filing Date March 23, 2009
Current Filing Basis 1A
Original Filing Basis 1A
Published for Opposition November 3, 2009
Registration 3780175

Number

Registration Date

April 27, 2010

Owner

(REGISTRANT) Launchability, Inc. CORPORATION PENNSYLVANIA 260 Maple Avenue Hershey PENNSYLVANIA 17033

(LAST LISTED OWNER) TWITTER, INC. CORPORATION DELAWARE 795 FOLSOM STREET, SUITE 600 SAN FRANCISCO CALIFORNIA 94107

Assignment Recorded

ASSIGNMENT RECORDED

Attorney of Record

Karen A. Webb, Esq.

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Live/Dead Indicator

LIVE

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Serial Number: 77697186 Assignment Information Trademark Document Retrieval

Registration Number: 3780175

Mark

COTWEET

(words only): COTWEET

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2010-04-27

Filing Date: 2009-03-23

Transformed into a National Application: No

Registration Date: 2010-04-27

Register: Principal

Law Office Assigned: LAW OFFICE 115

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov.

Current Location: M60 -TMO Law Office 115

Date In Location: 2010-10-07

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. TWITTER, INC.

Address:
TWITTER, INC.

795 FOLSOM STREET, SUITE 600
SAN FRANCISCO, CA 94107
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 042

Class Status: Active

Software as a service (SAAS) services, namely, hosting software for use by others for use in communications between people and organizations, using wireless and wired networks, through computers and mobile devices

Basis: 1(a)

First Use Date: 2008-11-12

First Use in Commerce Date: 2009-01-06

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2010-10-07 - Review Of Correspondence Complete
2010-08-25 - Request for new certificate filed
2010-08-25 - Request for new certificate filed
2010-10-07 - Section 7 new certificate issued
2010-08-25 - Section 7 amendment filed
2010-08-25 - TEAS Response To Office Action-Post Reg Received
2010-06-18 - Post Registration action mailed - Section 7
2010-05-12 - Assignment Of Ownership Not Updated Automatically
2010-05-11 - Case Assigned To Post Registration Paralegal

2010-05-10 - TEAS Section 7 Request Received
2010-04-27 - Registered - Principal Register
2010-03-19 - Extension Of Time To Oppose Process - Terminated
2010-03-10 - Assignment Of Ownership Not Updated Automatically
2010-03-02 - Attorney Revoked And/Or Appointed
2010-03-02 - TEAS Revoke/Appoint Attorney Received
2010-02-10 - Assignment Of Ownership Not Updated Automatically
2009-12-03 - Extension Of Time To Oppose Received
2009-11-03 - Notice Of Publication E-Mailed
2009-11-03 - Published for opposition
2009-09-30 - Law Office Publication Review Completed
2009-09-30 - Assigned To LIE
2009-09-18 - Approved for Pub - Principal Register (Initial exam)
2009-08-12 - Assigned To Examiner
2009-07-23 - Teas/Email Correspondence Entered
2009-07-23 - Communication received from applicant
2009-07-23 - TEAS Response to Office Action Received
2009-06-13 - Notification Of Non-Final Action E-Mailed
2009-06-13 - Non-final action e-mailed
2009-06-13 - Non-Final Action Written
2009-06-11 - Assigned To Examiner
2009-03-27 - Notice Of Pseudo Mark Mailed
2009-03-26 - New Application Office Supplied Data Entered In Tram
2009-03-26 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Karen A. Webb, Esq.

Correspondent

Karen A. Webb, Esq.

Fenwick & West LLP

Silicon Valley Center

801 California Street

Mountain View CA 94041

Phone Number: 6509888500

Fax Number: 6509385200



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TWEET

Word Mark TWEET

Goods and Services IC 038. US 100 101 104. G & S: Telecommunications services, namely, providing online and telecommunication facilities for real-time interaction between and among users of computers, mobile and handheld computers, and wired and wireless communication devices; enabling individuals to send and receive messages via email, instant messaging or a website on the internet in the field of general interest; providing on-line chat rooms and electronic bulletin boards for transmission of messages among users in the field of general interest; providing an online community forum for users to share information, photos, audio and video content about themselves, their likes and dislikes and daily activities, to get feedback from their peers, to form virtual communities, and to engage in social networking

IC 041. US 100 101 107. G & S: Providing on-line journals, namely, blogs featuring user-defined content

IC 045. US 100 101. G & S: Online social networking services; providing a website on the internet for the purpose of social networking; providing on-line computer databases and on-line searchable databases in the field of social networking

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial 77715815

Number

Filing Date April 16, 2009

Current Filing Basis 1B

Original Filing Basis 1B

Owner (APPLICANT) Twitter, Inc. CORPORATION DELAWARE 795 Folsom Street, Suite 600 Twitter, Inc. San Francisco CALIFORNIA 94103

Attorney of Record Karen A. Webb

Type of Mark SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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Serial Number: 77715815 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

TWEET

(words only): TWEET

Standard Character claim: Yes

Current Status: Suspension check completed. Application remains suspended.

Date of Status: 2011-01-18

Filing Date: 2009-04-16

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 110

Attorney Assigned:
SMITH REBECCA A

Current Location: M10 -TMO Law Office 110

Date In Location: 2011-01-18

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Twitter, Inc.

Address:

Twitter, Inc.
795 Folsom Street, Suite 600 Twitter, Inc.

San Francisco, CA 94103

United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 038

Class Status: Active

Telecommunications services, namely, providing online and telecommunication facilities for real-time interaction between and among users of computers, mobile and handheld computers, and wired and wireless communication devices; enabling individuals to send and receive messages via email, instant messaging or a website on the internet in the field of general interest; providing on-line chat rooms and electronic bulletin boards for transmission of messages among users in the field of general interest; providing an online community forum for users to share information, photos, audio and video content about themselves, their likes and dislikes and daily activities, to get feedback from their peers, to form virtual communities, and to engage in social networking

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

International Class: 041

Class Status: Active

Providing on-line journals, namely, blogs featuring user-defined content

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

International Class: 045

Class Status: Active

Online social networking services; providing a website on the internet for the purpose of social networking; providing on-line computer databases and on-line searchable databases in the field of social networking

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document

Retrieval" shown near the top of this page.

2011-01-18 - Report Completed Suspension Check Case Still Suspended
2010-07-16 - Report Completed Suspension Check Case Still Suspended
2010-07-16 - Assigned To LIE
2010-01-14 - Notification Of Letter Of Suspension E-Mailed
2010-01-14 - LETTER OF SUSPENSION E-MAILED
2010-01-14 - Suspension Letter Written
2009-12-31 - Teas/Email Correspondence Entered
2009-12-30 - Communication received from applicant
2009-12-30 - TEAS Response to Office Action Received
2009-12-28 - Assigned To Examiner
2009-11-23 - Applicant/Correspondence Changes (Non-Responsive) Entered
2009-11-23 - TEAS Change Of Owner Address Received
2009-07-01 - Notification Of Non-Final Action E-Mailed
2009-07-01 - Non-final action e-mailed
2009-07-01 - Non-Final Action Written
2009-07-01 - Assigned To Examiner
2009-05-29 - Attorney Revoked And/Or Appointed
2009-05-29 - TEAS Revoke/Appoint Attorney Received
2009-04-20 - New Application Office Supplied Data Entered In Tram
2009-04-20 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Karen A. Webb

Correspondent

Karen A. Webb
Fenwick & West LLP

801 California Street
Silicon Valley Center
Mountain View CA 94041
Phone Number: (650) 988-8500
Fax Number: (650) 938-5200



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TWEET

Word Mark TWEET

Goods and Services IC 009. US 021 023 026 036 038. G & S: computer software; software and software applications to enable transmission, access, organization, and management of text messaging, instant messaging, online blog journals, text, weblinks, and images via the Internet and other communications networks; computer software used to enhance the capabilities and features of other software and nondownloadable online software; software for accessing information on a global computer network; downloadable software via the internet and wireless devices; downloadable software in the field of social networking; downloadable software in the nature of a mobile application; downloadable software to facilitate online advertising, business promotion, connecting social network users with businesses and for tracking users and advertising of others to provide strategy, insight, marketing, and predicting consumer behavior

IC 035. US 100 101 102. G & S: advertising and marketing; advertising services; online advertising and marketing services; business data analysis; promotional services; business networking; online service for connecting social network users with businesses; business monitoring and consulting services, namely, tracking users and advertising of others to provide strategy, insight, marketing guidance, and for analyzing, understanding and predicting consumer behavior and motivations, and market trends

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 85116717

Filing Date August 26, 2010

Current Filing Basis 1B

Original Filing Basis 1B

Owner (APPLICANT) Twitter, Inc. CORPORATION DELAWARE 795 Folsom Street, Suite 600 San Francisco CALIFORNIA 94107

Attorney of Record Karen A. Webb, Esq.

Type of Mark TRADEMARK. SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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Serial Number: 85116717 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

TWEET

(words only): TWEET

Standard Character claim: Yes

Current Status: A non-final Office action has been sent (issued) to the applicant. This is a letter from the examining attorney requiring additional information and/or making an initial refusal. The applicant must respond to this Office action. To view all documents in this file, click on the Trademark Document Retrieval link at the top of this page.

Date of Status: 2010-12-22

Filing Date: 2010-08-26

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 110

Attorney Assigned:
SMITH REBECCA A

Current Location: M1X -TMO Law Office 110 - Examining Attorney Assigned

Date In Location: 2010-12-22

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Twitter, Inc.

Address:

Twitter, Inc.
795 Folsom Street, Suite 600
San Francisco, CA 94107
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 009

Class Status: Active

computer software; software and software applications to enable transmission, access, organization, and management of text messaging, instant messaging, online blog journals, text, weblinks, and images via the Internet and other communications networks; computer software used to enhance the capabilities and features of other software and nondownloadable online software; software for accessing information on a global computer network; downloadable software via the internet and wireless devices; downloadable software in the field of social networking; downloadable software in the nature of a mobile application; downloadable software to facilitate online advertising, business promotion, connecting social network users with businesses and for tracking users and advertising of others to provide strategy, insight, marketing, and predicting consumer behavior

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

International Class: 035

Class Status: Active

advertising and marketing; advertising services; online advertising and marketing services; business data analysis; promotional services; business networking; online service for connecting social network users with businesses; business monitoring and consulting services, namely, tracking users and advertising of others to provide strategy, insight, marketing guidance, and for analyzing, understanding and predicting consumer behavior and motivations, and market trends

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2010-12-22 - Notification Of Non-Final Action E-Mailed
2010-12-22 - Non-final action e-mailed
2010-12-22 - Non-Final Action Written
2010-12-15 - Assigned To Examiner
2010-12-09 - Assigned To Examiner
2010-08-31 - New Application Office Supplied Data Entered In Tram
2010-08-30 - New Application Entered In Tram

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RETWEET

Word Mark RETWEET

Goods and Services IC 038. US 100 101 104. G & S: transmission of messages; electronic message sending, receiving and forwarding; telecommunications services, namely, providing online and telecommunication facilities for real-time interaction between and among users of computers, mobile and handheld computers, and wired and wireless communication devices; enabling individuals to send and receive messages via email, instant messaging or a website on the internet in the field of general interest; providing on-line chat rooms and electronic bulletin boards for transmission of messages among users in the field of general interest; virtual chatrooms established via electronic messaging and text messaging; chat room services for social networking; providing on-line forums for transmission of messages among computer users; providing an online community forum for users to share information, photos, audio and video content about themselves, their likes and dislikes and daily activities, to get feedback from their peers, to form virtual communities, and to engage in social networking

IC 041. US 100 101 107. G & S: Providing on-line journals, namely, blogs featuring user-defined content

IC 045. US 100 101. G & S: Online social networking services; providing a website on the internet for the purpose of social networking

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 77804841
Filing Date August 14, 2009
Current Filing Basis 1B
Original Filing Basis 1B
Owner (APPLICANT) Twitter, Inc. CORPORATION DELAWARE 795 Folsom Street, Suite 600 Twitter, Inc. San Francisco CALIFORNIA 94103
Attorney of Record Karen A. Webb
Type of Mark SERVICE MARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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Serial Number: 77804841 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

RETWEET

(words only): RETWEET

Standard Character claim: Yes

Current Status: Suspension check completed. Application remains suspended.

Date of Status: 2011-03-03

Filing Date: 2009-08-14

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 110

Attorney Assigned:
SMITH REBECCA A

Current Location: M10 -TMO Law Office 110

Date In Location: 2011-03-03

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Twitter, Inc.

Address:
Twitter, Inc.
795 Folsom Street, Suite 600 Twitter, Inc.

San Francisco, CA 94103
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 038

Class Status: Active

transmission of messages; electronic message sending, receiving and forwarding; telecommunications services, namely, providing online and telecommunication facilities for real-time interaction between and among users of computers, mobile and handheld computers, and wired and wireless communication devices; enabling individuals to send and receive messages via email, instant messaging or a website on the internet in the field of general interest; providing on-line chat rooms and electronic bulletin boards for transmission of messages among users in the field of general interest; virtual chatrooms established via electronic messaging and text messaging; chat room services for social networking; providing on-line forums for transmission of messages among computer users; providing an online community forum for users to share information, photos, audio and video content about themselves, their likes and dislikes and daily activities, to get feedback from their peers, to form virtual communities, and to engage in social networking

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

International Class: 041

Class Status: Active

Providing on-line journals, namely, blogs featuring user-defined content

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

International Class: 045

Class Status: Active

Online social networking services; providing a website on the internet for the purpose of social networking

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

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2011-03-03 - Report Completed Suspension Check Case Still Suspended

2010-09-03 - Report Completed Suspension Check Case Still Suspended

2010-09-03 - Assigned To LIE

2010-03-01 - Notification Of Letter Of Suspension E-Mailed

2010-03-01 - LETTER OF SUSPENSION E-MAILED

2010-03-01 - Suspension Letter Written

2010-02-19 - Teas/Email Correspondence Entered

2010-02-19 - Communication received from applicant

2010-02-19 - TEAS Response to Office Action Received

2009-11-23 - Applicant/Correspondence Changes (Non-Responsive) Entered

2009-11-23 - TEAS Change Of Owner Address Received

2009-09-18 - Notification Of Non-Final Action E-Mailed

2009-09-18 - Non-final action e-mailed

2009-09-18 - Non-Final Action Written

2009-09-03 - Assigned To Examiner

2009-08-18 - New Application Office Supplied Data Entered In Tram

2009-08-18 - New Application Entered In Tram

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May 25, 2011

KAREN WEBB
ASSOCIATE

EMAIL KWEBB@FENWICK.COM
DIRECT DIAL (650) 335-7656

Box TTAB
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Re: Mark: TWEETMARKS
Serial No. 77/695,071
Applicant: Peter F. Wingard
Opposer: Twitter, Inc.
Our Reference: 25980-00070

Dear Madam:

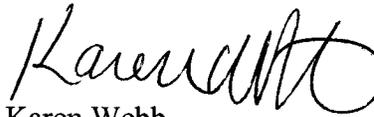
Enclosed for filing is a Notice of Opposition to the above-referenced application.

Please charge the amount of \$300.00 to cover the filing fee and any additional fees to our Deposit Account No. 50-0261.

Please complete this filing, addressing any correspondence or notifications to Karen A. Webb, Esq. at our Mountain View office.

Sincerely,

FENWICK & WEST LLP



Karen Webb

KW/nmb
Enclosures

25980/00070/SF/5342047.1



05-25-2011