

ESTTA Tracking number: **ESTTA419023**

Filing date: **07/11/2011**

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	ThomasJLong
Granted to Date of previous extension	07/13/2011
Address	22 Greeley Street2 Medallion Center Merrimack, NH 03054 UNITED STATES

Attorney information	Gary E. Lambert Lambert & Associates 92 State StreetSuite 200 Boston, MA 02109 UNITED STATES shortell@lambertpatentlaw.com Phone:6177200091
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Applicant Information

Application No	85148889	Publication date	03/15/2011
Opposition Filing Date	07/11/2011	Opposition Period Ends	07/13/2011
Applicant	WaveMarket, Inc. 5980 Horton Street, Suite 675 Emeryville, CA 94608 UNITED STATES		

Goods/Services Affected by Opposition

Class 042. First Use: 2010/06/21 First Use In Commerce: 2010/06/21
All goods and services in the class are opposed, namely: Computer software design; Computer software development

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.	3716436	Application Date	08/04/2008
Registration Date	11/24/2009	Foreign Priority Date	NONE
Word Mark	LOCATIONLAB		

Design Mark	<h1>LocationLab</h1>
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2008/09/01 First Use In Commerce: 2008/09/01 Consulting services, namely, expert analysis and management consulting in economics in the nature of providing statistical analysis and reporting for commercial business purposes of marketing information and data, namely, household and business populations within a market, modeling purchase demand for products/services, analyzing commuting corridors, drawing patterns and trip generation appeal, examining existing competition, uncovering underserved markets, ranking, scoring and prioritizing the relative quality of a variety of different markets, defining expansion plans, identifying means of entry into the market by analyzing commuting corridors, draw patterns and trip generation appeal, examining existing competition, scoring the convenience standards presently established by the existing competitive set, identifying alternative site locations for businesses, ranking, scoring and prioritizing available locations to identify competitive advantage and isolating those with parity or superiority based upon objective criteria, linking the demographics of the defined market to determine the market's purchase demand for products/ services, establishing likely usage to define expected penetration, valuing the potential by uncovering the revenue associated with the location, developing pro forma staffing and expense projections personalized to the location, identifying the operating configuration requirements necessary to meet market and service usage needs, calculating the annual financial impact in the nature of profit and loss surveys and analysis of the new location and producing a cumulative cost recovery schedule over the first five years of operation and calculating profit per square foot

Related Proceedings	Opposition No. 91199096
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Attachments	77538368#TMSN.jpeg (1 page)(bytes) Long v WaveMarket Signed.pdf (13 pages)(2952759 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 First Class Mail on this date.

Signature	/Gary E. Lambert/
Name	Gary E. Lambert
Date	07/11/2011

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

Thomas J. Long,

Opposer,

v.

WaveMarket, Inc.

Applicant.

Opposition No.

Serial No. 85148889

NOTICE OF OPPOSITION

Thomas J. Long, an individual residing at 4 Preserve Drive, Nashua, New Hampshire 03064, hereby brings this Opposition against Application Serial No. 85148889 for the mark "LOCATION LABS" (the "Application" or "Applicant's Mark"), filed by WaveMarket, Inc., ("Applicant") a Delaware Corporation, located at 5858 Horton Street, Suite 250, Emeryville, California 94608, published in the Official Gazette March 15, 2011, and for which Opposer has secured an extension of time to oppose that expires July 13, 2011. Opposer believes it will be damaged by the registration of this Application and therefore opposes the same.

As grounds for the opposition, Opposer alleges as follows:

1. Opposer is an industry leader in assisting banking, insurance and retail companies in improving their market share and earnings by providing research and planning strategies for companies throughout the country.

2. Opposer has continuously used the mark LOCATIONLAB in interstate commerce since at least as early as 2008, in connection with consulting services, namely, expert analysis and management consulting in economics in the nature of providing statistical analysis and reporting for commercial business purposes of marketing information and data, namely, household and business populations within a market, as well as using location and geographic data to identify means of entry into the market and other services in Class 35.

3. Opposer is the owner of United States Trademark Registration No. 3,716,436 for LOCATIONLAB, covering goods in International Class 35. Copies of the title copy of the registration, as of November 24, 2009, for this mark is attached hereto as Exhibit A.

4. Opposer has made substantial sales of goods and services under its LOCATIONLAB mark, and has used the LOCATIONLAB mark to successfully advertise and promote its goods and services, and as a result a significant amount of goodwill has attached to this mark.

5. On October 8, 2010, Applicant filed the Application claiming an intention to use the mark "LOCATION LABS" in commerce in connection with "computer software development in the field of mobile applications" in International Class 42.

6. The Application for "LOCATION LABS" was published for opposition on March 15, 2011.

COUNT 1

LIKELIHOOD OF CONFUSION

7. Opposer realleges paragraphs 1 through 6 as paragraph 7 of this Count I.

8. Opposer's use and registration of its LOCATIONLAB mark pre-date the filing of the Application.

9. Applicant's LOCATION LAB mark is confusingly similar in sound, appearance and meaning to Opposer's LOCATIONLABS mark and creates a similar overall impression to Opposer's mark.

10. The services listed in Application No. 85148889 are closely related to those identified by Opposer's LOCATIONLABS mark. On information and belief, the services in Application No. 85148889 are intended to be offered and rendered in the same channels of trade as those offered and rendered by Opposer under its LOCATIONLABS mark and offered and rendered to the same class of consumers who purchase services promoted and rendered by Opposer under its LOCATIONLABS mark.

11. In light of the foregoing, Applicant's LOCATION LAB mark for the services recited in the opposed application is confusingly similar to Opposer's LOCATIONLABS mark and is likely to cause confusion and mistake, and to deceive the public into believing that Applicant's services originate from, or are in some way sponsored by, licensed by, associated with or otherwise authorized by Opposer in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), resulting in damage to Opposer.

12. In view of the above, the grant of a registration for Applicant's Mark, as sought in the Application, should be denied.

PRAYERS FOR RELIEF

WHEREFORE, by its undersigned attorneys, Opposer respectfully requests that this Notice of Opposition be sustained and that registration of Application Serial No. 85148889 be refused.

The filing fee of \$300 for this Notice of Opposition is being electronically submitted with this Notice.

Respectfully submitted,

THOMAS LONG
By its Attorneys,
Lambert & Associates


Brendan M. Shortell, Esq.
(BBO # 675851)
Gary E. Lambert, Esq.
(BBO # 548303)
LAMBERT & ASSOCIATES
92 State Street, Suite 200
Boston, MA 02109
Tel. No.: (617) 720-0091
Fax. No.: (617) 720-6307

Dated: July 11, 2011

CERTIFICATE OF ELECTRONIC FILING

I HEREBY CERTIFY that the attached NOTICE OF OPPOSITION was filed electronically with the Trademark Trial and Appeal Board on July 11, 2011.



Brendan M. Shortell

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this Notice of Opposition was sent over night via Federal Express on this day of July 11, 2011 in an envelope addressed to the Applicant's counsel of record at the following address:

Alan Korn
Law Offices of Alan Korn
1840 Woolsey Street
Berkeley, CA 94703-2453



Brendan M. Shortell

EXHIBIT A

United States of America

United States Patent and Trademark Office

LocationLab

Reg. No. 3,716,436 THOMAS J. LONG (UNITED STATES INDIVIDUAL)
Registered Nov. 24, 2009 4 PRESERVE DRIVE
NASHUA, NH 03064

Int. Cl.: 35 FOR CONSULTING SERVICES, NAMELY, EXPERT ANALYSIS AND MANAGEMENT CONSULTING IN ECONOMICS IN THE NATURE OF PROVIDING STATISTICAL ANALYSIS AND REPORTING FOR COMMERCIAL BUSINESS PURPOSES OF MARKETING INFORMATION AND DATA, NAMELY, HOUSEHOLD AND BUSINESS POPULATIONS WITHIN A MARKET, MODELING PURCHASE DEMAND FOR PRODUCTS/SERVICES, ANALYZING COMMUTING CORRIDORS, DRAWING PATTERNS AND TRIP GENERATION APPEAL, EXAMINING EXISTING COMPETITION, UNCOVERING UNDERSERVED MARKETS, RANKING, SCORING AND PRIORITIZING THE RELATIVE QUALITY OF A VARIETY OF DIFFERENT MARKETS, DEFINING EXPANSION PLANS, IDENTIFYING MEANS OF ENTRY INTO THE MARKET BY ANALYZING COMMUTING CORRIDORS, DRAW PATTERNS AND TRIP GENERATION APPEAL, EXAMINING EXISTING COMPETITION, SCORING THE CONVENIENCE STANDARDS PRESENTLY ESTABLISHED BY THE EXISTING COMPETITIVE SET, IDENTIFYING ALTERNATIVE SITE LOCATIONS FOR BUSINESSES, RANKING, SCORING AND PRIORITIZING AVAILABLE LOCATIONS TO IDENTIFY COMPETITIVE ADVANTAGE AND ISOLATING THOSE WITH PARITY OR SUPERIORITY BASED UPON OBJECTIVE CRITERIA, LINKING THE DEMOGRAPHICS OF THE DEFINED MARKET TO DETERMINE THE MARKET'S PURCHASE DEMAND FOR PRODUCTS/SERVICES, ESTABLISHING LIKELY USAGE TO DEFINE EXPECTED PENETRATION, VALUING THE POTENTIAL BY UNCOVERING THE REVENUE ASSOCIATED WITH THE LOCATION, DEVELOPING PRO FORMA STAFFING AND EXPENSE PROJECTIONS PERSONALIZED TO THE LOCATION, IDENTIFYING THE OPERATING CONFIGURATION REQUIREMENTS NECESSARY TO MEET MARKET AND SERVICE USAGE NEEDS, CALCULATING THE ANNUAL FINANCIAL IMPACT IN THE NATURE OF PROFIT AND LOSS SURVEYS AND ANALYSIS OF THE NEW LOCATION AND PRODUCING A CUMULATIVE COST RECOVERY SCHEDULE OVER THE FIRST FIVE YEARS OF OPERATION AND CALCULATING PROFIT PER SQUARE FOOT, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

**SERVICE MARK
PRINCIPAL REGISTER**



FIRST USE 9-1-2008, IN COMMERCE 9-1-2008

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 77-538,368, FILED 8-4-2008.

KAREN BRACEY, EXAMINING ATTORNEY

David J. Kappas

Director of the United States Patent and Trademark Office

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Serial Number: 77538368 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 3716436

Mark

LocationLab

(words only): LOCATIONLAB

Standard Character claim: Yes

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

Date of Status: 2009-11-24

Filing Date: 2008-08-04

Transformed into a National Application: No

Registration Date: 2009-11-24

Register: Principal

Law Office Assigned: LAW OFFICE 116

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: 650 -Publication And Issue Section

Date In Location: 2009-10-16

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

1. Thomas J. Long

Address:

Thomas J. Long
4 Preserve Drive
Nashua, NH 03064
United States

Legal Entity Type: Individual**Country of Citizenship:** United States

GOODS AND/OR SERVICES

International Class: 035**Class Status:** Active

Consulting services, namely, expert analysis and management consulting in economics in the nature of providing statistical analysis and reporting for commercial business purposes of marketing information and data, namely, household and business populations within a market, modeling purchase demand for products/services, analyzing commuting corridors, drawing patterns and trip generation appeal, examining existing competition, uncovering underserved markets, ranking, scoring and prioritizing the relative quality of a variety of different markets, defining expansion plans, identifying means of entry into the market by analyzing commuting corridors, draw patterns and trip generation appeal, examining existing competition, scoring the convenience standards presently established by the existing competitive set, identifying alternative site locations for businesses, ranking, scoring and prioritizing available locations to identify competitive advantage and isolating those with parity or superiority based upon objective criteria, linking the demographics of the defined market to determine the market's purchase demand for products/services, establishing likely usage to define expected penetration, valuing the potential by uncovering the revenue associated with the location, developing pro forma staffing and expense projections personalized to the location, identifying the operating configuration requirements necessary to meet market and service usage needs, calculating the annual financial impact in the nature of profit and loss surveys and analysis of the new location and producing a cumulative cost recovery schedule over the first five years of operation and calculating profit per square foot

Basis: 1(a)**First Use Date:** 2008-09-01**First Use in Commerce Date:** 2008-09-01

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.

2011-01-24 - TEAS Change Of Correspondence Received
2011-01-21 - TEAS Change Of Correspondence Received
2009-11-24 - Registered - Principal Register
2009-10-16 - Law Office Registration Review Completed
2009-10-15 - Assigned To LIE
2009-10-09 - Allowed for Registration - Principal Register (SOU accepted)
2009-09-23 - Statement Of Use Processing Complete
2009-09-09 - Use Amendment Filed
2009-09-23 - Case Assigned To Intent To Use Paralegal
2009-09-09 - TEAS Statement of Use Received
2009-04-07 - NOA Mailed - SOU Required From Applicant
2009-01-13 - Published for opposition
2008-12-24 - Notice of publication
2008-12-06 - Law Office Publication Review Completed
2008-12-06 - Assigned To LIE
2008-12-02 - Approved For Pub - Principal Register
2008-12-01 - Teas/Email Correspondence Entered
2008-12-01 - Communication received from applicant
2008-12-01 - TEAS Response to Office Action Received
2008-11-18 - Notification Of Non-Final Action E-Mailed
2008-11-18 - Non-final action e-mailed
2008-11-18 - Non-Final Action Written
2008-11-13 - Assigned To Examiner
2008-08-08 - Notice Of Pseudo Mark Mailed

2008-08-07 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Gary E. Lambert

Correspondent

GARY E. LAMBERT

Lambert & Associates

Suite 200

92 State Street

Boston MA 02109

Phone Number: 617-720-0091

Fax Number: 617-720-6307



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LocationLab

Word Mark LOCATIONLAB

Goods and Services IC 035. US 100 101 102. G & S. Consulting services, namely, expert analysis and management consulting in economics in the nature of providing statistical analysis and reporting for commercial business purposes of marketing information and data, namely, household and business populations within a market, modeling purchase demand for products/services, analyzing commuting corridors, drawing patterns and trip generation appeal, examining existing competition, uncovering underserved markets, ranking, scoring and prioritizing the relative quality of a variety of different markets, defining expansion plans, identifying means of entry into the market by analyzing commuting corridors, draw patterns and trip generation appeal, examining existing competition, scoring the convenience standards presently established by the existing competitive set, identifying alternative site locations for businesses, ranking, scoring and prioritizing available locations to identify competitive advantage and isolating those with parity or superiority based upon objective criteria, linking the demographics of the defined market to determine the market's purchase demand for products/services, establishing likely usage to define expected penetration, valuing the potential by uncovering the revenue associated with the location, developing pro forma statting and expense projections personalized to the location, identifying the operating configuration requirements necessary to meet market and service usage needs, calculating the annual financial impact in the nature of profit and loss surveys and analysis of the new location and producing a cumulative cost recovery schedule over the first five years of operation and calculating profit per square foot. FIRST USE: 20080901. FIRST USE IN COMMERCE: 20080901

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 77538368

Filing Date August 4, 2008

Current Filing Basis 1A
Original Filing Basis 1B
Published for January 13, 2009
Opposition
Registration Number 3716436
Registration Date November 24, 2009
Owner (REGISTRANT) Thomas J. Long INDIVIDUAL UNITED STATES 4 Preserve Drive Nashua NEW HAMPSHIRE 03064
Attorney of Record Gary E. Lambert
Type of Mark SERVICE MARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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