

ESTTA Tracking number: **ESTTA432927**

Filing date: **09/28/2011**

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	Repify, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	P.O. Box 230603 Montgomery, AL 36123 UNITED STATES		

Attorney information	B. Anna McCoy Alleman Hall McCoy Russell & Tuttle LLP 806 SW Broadway, Suite 600 Portland, OR 97205 UNITED STATES harnett@ahmrt.com, mccoey@ahmrt.com, gladwin@ahmrt.com Phone:503-459-4141
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**Applicant Information**

Application No	77982127	Publication date	08/30/2011
Opposition Filing Date	09/28/2011	Opposition Period Ends	09/29/2011
Applicant	REPPIFY LLC 220 MONTGOMERY STREET SUITE 344 SAN FRANCISCO, CA 94104 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 045. First Use: 2010/03/00 First Use In Commerce: 2010/03/00 All goods and services in the class are opposed, namely: Online service that provides ratings of individuals' social reputations based on their activities on social networking websites and that allows individuals to manage their own social reputation scores; reputation rating services, namely, providing pre-employment background screening via a website that rates the social and business reputation of individuals by assigning a numeric score, and that provides businesses with data about individuals' online social and business reputations in order to facilitate hiring decisions
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**Grounds for Opposition**

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

U.S. Registration No.	3937819	Application Date	07/29/2010
Registration Date	03/29/2011	Foreign Priority Date	NONE

Word Mark	REPIFY
Design Mark	
Description of Mark	NONE
Goods/Services	Class 045. First use: First Use: 2009/10/09 First Use In Commerce: 2009/10/31 providing an interactive web site that facilitates the verification of a person's background credentials to verify the trustworthiness of individuals across a wide range of subject areas; providing an interactive web site that facilitates the verification of a person's background credentials to verify an individual's trustworthiness, reliability, dependability and integrity across online and wireless environments

U.S. Registration No.	3937828	Application Date	07/29/2010
Registration Date	03/29/2011	Foreign Priority Date	NONE

Word Mark	REPISCORE
Design Mark	
Description of Mark	NONE
Goods/Services	Class 045. First use: First Use: 2009/10/09 First Use In Commerce: 2009/10/31 providing an interactive web site that facilitates the verification of a person's background credentials to verify the trustworthiness of individuals across a wide range of subject areas; providing an interactive web site that facilitates the verification of a person's background credentials to verify an individual's trustworthiness, reliability, dependability and integrity across online and wireless environments

Related Proceedings	Opposition No. 91200893
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Attachments	85096225#TMSN.jpeg ( 1 page )( 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	/B. Anna McCoy/
Name	B. Anna McCoy
Date	09/28/2011

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

Repify, Inc.,	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. _____
	)	
Reppify LLC	)	Re App. Ser. No. 77/982,127
	)	Mark: REPPIFY
Applicant.	)	
_____	)	

Commissioner for Trademarks  
Trademark Trial and Appeal Board  
U.S. Patent and Trademark Office  
P.O. Box 1451  
Alexandria, VA 22313-1451

**NOTICE OF OPPOSITION**

In the matter of the application of Reppify LLC (“Applicant”), for registration of the mark REPPIFY, Application Serial No. 77/982,127, published in the Official Gazette on August 30, 2011, Repify, Inc. (“Opposer”), a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at P.O. Box 230603, Montgomery, AL 36123-0603, believes that it will be damaged by registration of the mark shown in Serial No. 77/982,127 and hereby opposes registration.

The grounds for opposition are as follows:

1. Opposer is a corporation, doing business as Repify, Inc., organized and existing under the laws of the State of Delaware, with its principal place of business at P.O. Box 230603, Montgomery, AL 36123-0603.

2. Opposer has been and continues to be engaged in the business of online services, specifically, providing an interactive web site that facilitates the verification of a person's background credentials to verify an individual's trustworthiness, reliability, dependability and integrity across online and wireless environments across a wide range of subject areas and other related goods and services in the United States.

3. Opposer has used and continues to use in interstate commerce the mark REPIFY to identify services for providing an interactive web site that facilitates the verification of a person's background credentials to verify the trustworthiness of individuals across a wide range of subject areas; providing an interactive web site that facilitates the verification of a person's background credentials to verify an individual's trustworthiness, reliability, dependability and integrity across online and wireless environments and other related goods and services originating from the Opposer (“Opposer’s services”).

4. Further, Opposer has used and continues to use in interstate commerce the mark REPISCORE to identify Opposer’s services. REPIFY and REPISCORE are a family of marks (“the Opposer’s Marks) identifying Opposer’s services.

5. As shown in U.S. Reg. No. 3,937,819 for REPIFY and in U.S. Reg. No. 3,937,828 for REPISCORE, Opposer first used the Opposer’s Marks at least as early as October 9, 2009, and first used the Opposer’s Marks in commerce at least as early as October 31, 2009.

6. Opposer has common law rights and trademark registrations for the Opposer’s Marks, including the following United States trademark registrations:

Mark	Registration Number	Registration Date	International Class
REPIFY	3,937,819	March 29, 2011	045
REPISCORE	3,937,828	March 29, 2011	045

7. In addition to the Opposer’s Marks, Opposer may have common law rights in additional marks, for use in connection with Opposer’s services, including but not limited to:



8. Opposer has used and continues to use the Opposer’s Marks, and the services in connection therewith have been popular and the subject of advertising and promotional activities.

9. Opposer has promoted and sold its services in interstate commerce under its Opposer’s Marks since prior to any alleged use by Applicant of the mark shown in the Application.

10. The use of Opposer's Marks has been valid and continuous since the dates of first use and Opposer has not abandoned the Opposer's Marks. Opposer's Marks are symbolic of extensive goodwill and consumer recognition built up by Opposer through substantial amounts of time and effort in advertising and promotion. Opposer's Marks identify and distinguish Opposer's goods and services from the goods and services of others, and identify the source and origin thereof to both the trade and the public.

11. Notwithstanding Opposer's rights in and to its Marks, Applicant, on December 17, 2009, filed an intent-to-use application for registration of the mark REPPIFY for services in classes 035 and 045. Applicant's application was given Serial No. 77/895,974.

12. On June 2, 2011, Applicant filed a Request to Divide the Application Serial No. 77/895,974 and an amendment to allege use for class 045 services. The USPTO issued a Notice of Divisional Request Completed on June 10, 2011. The request to divide the Application Serial No. 77/895,974 has been processed as follows:

- (1) Parent (original) application Serial No. 77/895, 974 contains the services in International class 035;
- (2) Child application Serial No. 77/982,127 contains the services in International class 045. An amendment to allege filed on June 2, 2011 has been placed in the child application and routed to the Examining attorney for review.

13. The parent application (App. Serial No. 77/895,974) was published for opposition in the Official Gazette on July 19, 2011. Opposer filed a Notice of Opposition against the parent application (App. Serial No. 77/895,974) on July 26, 2011. Applicant filed Answer to Notice of Opposition and Counterclaims on September 6, 2011.

14. The child application (App. Serial No. 77/982,127) was published on August 30, 2011.

15. The child application (App. Serial No. 77/982,127) for the mark REPPIFY includes the following services:

Online service that provides ratings of individuals' social reputations based on their activities on social networking websites and that allows individuals to manage their own social reputation scores; reputation rating services, namely, providing pre-employment background screening via a website that rates the social and business reputation of individuals by assigning a numeric score, and that provides businesses with data about individuals' online social and business reputations in order to facilitate hiring decisions in Class 045.

16. Applicant claims both a date of first use of the mark and first use of the mark in commerce of March 2010.

17. Applicant's first use date is subsequent to Opposer's first use date for each of the Opposer's Marks.

18. Further, Applicant and Opposer both provide online services and overlap exists between the consumers of the respective marks.

19. Applicant's recited services are closely related to the services offered by Opposer for the Opposer's Marks and consumers may be confused as to source of the goods and services.

20. Opposer's registered mark REPIFY and Applicant's mark REPPIFY are substantially identical with only one letter difference such that consumers are likely to be confused between the marks.

21. Opposer's registered mark REPIFY and Applicant's mark REPPIFY sound the same such that consumers are likely to be confused between the marks.

22. Consumers will likely be confused as to the source of the services offered by Opposer.

23. Opposer notified Applicant of the likelihood of confusion when the Opposer's applications were pending; however, Opposer failed to take any action to address the concerns raised by Applicant and has continued to pursue the application in bad faith.

24. Applicant's mark REPPIFY, when used in connection with the services set forth in its application, is confusingly similar to Opposer's use of its Opposer's Marks. Registration of Applicant's mark and use by it for its services in the U.S. is likely to cause confusion, mistake and deception among consumers. Registration of Applicant's mark may damage the goodwill and consumer recognition that Opposer has built up in its Opposer's Marks.

WHEREFORE, Opposer believes that it will be damaged by registration of Applicant's mark, and prays that registration be denied.

Opposer authorizes the Commissioner for Trademarks to charge the fee for filing this Notice of Opposition, or any other additional fees that may be due, to Deposit Account 503397.

DATED this 28<sup>th</sup> day of September 2011.

Respectfully submitted,

Alleman Hall McCoy Russell & Tuttle LLP



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B. Anna McCoy  
Attorney for Opposer  
806 S.W. Broadway, Suite 600  
Portland, Oregon 97204  
Telephone: (503) 459-4141  
Facsimile: (503) 459-4142

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing NOTICE OF OPPOSITION was served by First Class Mail upon Applicant's attorney at the address of record below on this 28<sup>th</sup> day of September, 2011:

Linda Goldman  
Fenwick & West LLP  
801 California St.  
Mountain View, CA 94041-1990



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B. Anna McCoy  
Attorney for Opposer