

ESTTA Tracking number: **ESTTA467228**

Filing date: **04/16/2012**

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	Shazam Entertainment Limited
Granted to Date of previous extension	04/15/2012
Address	26-28 Hammersmith Grove London, W67HA UNITED KINGDOM
Attorney information	LISA A PIERONI KIRSCHSTEIN ISRAEL ET AL 425 FIFTH AVENUE 5TH FLOOR NEW YORK, NY 10016 UNITED STATES lap@kirschsteinlaw.com Phone:212-697-3750

Applicant Information

Application No	79099055	Publication date	10/18/2011
Opposition Filing Date	04/16/2012	Opposition Period Ends	04/15/2012
International Registration No.	1081798	International Registration Date	10/27/2010
Applicant	Look4 Pty Ltd 32 Telopea Street Punchbowl NSW 2196 AUSTRALIA		

Goods/Services Affected by Opposition

<p>Class 035. All goods and services in the class are opposed, namely: Advertising services; advertising and directory services, namely, promoting the services of others by providing a web page featuring links to the websites of others; providing a searchable on-line advertising guide featuring the goods and services of other vendors on the Internet; arranging and conducting of auctions sales; business management; on-line retail store services featuring books, music, clothing, software, and a wide variety of consumer goods of others</p>
<p>Class 042. All goods and services in the class are opposed, namely: Provision of non-downloadable software applications for creating personalized on-line information services and enabling cross-platform login, registration and data display for, to and from third party services; computer services, namely, hosting online web facilities for others for organizing and conducting online meetings, gatherings, and interactive discussions; computer services, including, creating, maintaining and hosting a website over the Internet that gives the computer user the ability to upload, post, show, display, tag, blog a variety of information of general interest to the user; provision of non-downloadable software</p>

applications to enable uploading, posting, showing, displaying, tagging, blogging, emailing, sharing or otherwise providing electronic media or information over the Internet; provision of non-downloadable software applications for viewing and posting classifieds, books, publications and for virtual community, social networking, photo sharing, video sharing, transmission of photographic images; providing Internet search engines; data storage services including computerized data storage services

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.	3637141	Application Date	02/26/2002
Registration Date	06/16/2009	Foreign Priority Date	NONE
Word Mark	SHAZAM		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 035. First use: The rental of advertising space; information and advisory services relating to the aforesaid services</p> <p>Class 038. First use: Messaging services; telecommunication services, namely, delivery of audio recordings via telephone or mobile phone; telecommunication services, namely, delivery of audio/video recordings of performances by musical artists delivered via telephone or mobile phone; information and advisory services relating to the aforesaid services</p> <p>Class 041. First use: Provision of information relating to music via telephone or mobile phone where said music is relayed to the information provider via telephone or mobile phone; information and advisory services relating to the aforesaid services</p>		

U.S. Registration No.	3387890	Application Date	03/15/2007
Registration Date	02/26/2008	Foreign Priority Date	NONE
Word Mark	SHAZAM		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 009. First use: Software for music recognition; databases containing downloadable recorded music files; downloadable electronic wallpaper or other graphical images delivered by telephone or mobile phone

U.S. Registration No.	3614492	Application Date	09/27/2007
Registration Date	05/05/2009	Foreign Priority Date	08/30/2007

Word Mark	SHAZAM ID
Design Mark	

Description of Mark	NONE
Goods/Services	<p>Class 009. First use: Software for music recognition; databases containing downloadable recorded music files; downloadable electronic wallpaper and other geographical images delivered by telephone or mobile phone</p> <p>Class 035. First use: Rental of advertising space; receiving orders for pre-recorded music, ring-tones, electronic wallpaper and audio and video recordings of performances by musical artists and transmitting them to and causing them to be filed by participating providers of such goods; online retail store services featuring audio recordings, ring tones, electronic wallpaper or other graphical images, and audio and video recordings of performances by musical artists; information and advisory services relating to the aforesaid services</p> <p>Class 038. First use: Transmission of messages; transmission of audio recordings via telephone or mobile phone; electronic voice mail messaging, namely, the recording and subsequent transmission of audio recorded messages by telephone or mobile phone; transmission of audio/video recordings of performances by musical artists delivered via telephone or mobile phone; information and advisory services relating to the aforesaid services</p> <p>Class 041. First use: Provision of information relating to music via telephone or mobile phone or via the Internet; provision of information relating to music via telephone or mobile phone where said music is relayed to the information provider via telephone or mobile phone; entertainment services in the nature of pre-recorded music messages by telephone and mobile phone; information and advisory services relating to the aforesaid services</p>

U.S. Registration No.	3366072	Application Date	10/05/2006
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Registration Date	01/08/2008	Foreign Priority Date	NONE
Word Mark	SHAZAM		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 035. First use: Rental of advertising space; receiving orders for pre-recorded music, ring tones, electronic wallpaper and audio and video recordings of performances by musical artists and transmitting them to and/or causing them to be filled by participating providers of such goods; on-line retail store services featuring downloadable pre-recorded music, pre-recorded audio and video recordings of performances by musical artists, ring tones, electronic wallpaper; promotion, advertising and marketing of on-line websites</p>		

U.S. Application No.	85123840	Application Date	09/07/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SHAZAM		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: Software providing entertainment or information internet links; software providing entertainment or information internet links in response to specified audio/visual content; software providing a viewer of radio, television or streaming programmes, cinematic films or other audio/visual entertainment content, upon request, with internet links to relevant goods, services or information including, other audio/visual entertainment or information content, retail services providers and offers or competitions; software providing, in response to specified audio/visual content, a viewer of radio, television or streaming programmes, cinematic films or other audio/visual entertainment content with internet links to relevant goods, services or information including, other audio/visual entertainment or information content, retail services providers and offers or competitions; software enabling a viewer of audio/visual entertainment to access interactive audio/visual entertainment or information content; software enabling a viewer of audio/visual or media content to access entertainment or information; software enabling a viewer of audio/visual or media content to access retail services providers; software enabling a viewer of radio, television or streaming</p>		

programmes, cinematic films or other audio/visual entertainment or information content to access, online or via mobile phone, interactive audio/visual entertainment or information content, offers or competitions and/or retail services providers; software enabling a viewer of DVDs, or other optical media, to access interactive audio/visual entertainment or information content; software enabling a viewer of films or radio, television or streaming programmes or other audio/visual entertainment to access interactive audio/visual entertainment or information content; software for recognition of audio/visual content; software for identification of audio/visual content; software which recognizes specified audio/visual entertainment content and, in response, provides access to interactive audio/visual entertainment or information content; software which recognizes specified audio/visual content and, in response, provide access to entertainment or information and/or retail services providers and/or offers or competitions; software for music recognition; software for recognition of images; software for music identification; software for accessing information relating to music and audio/visual recordings; software for searching information from a global computer network or the Internet; downloadable databases of recorded music files; databases of recorded music recorded on computer media; downloadable electronic wallpaper, graphics, music, computer games, ring tones via the internet and wireless devices

Class 035. First use:

The rental of advertising space; advertising services providing a viewer of radio, television or streaming programs, cinematic films or other audio/visual entertainment content upon request, with internet links to relevant goods, services or information including, other audio/visual entertainment or information content, retail services providers, offers or competitions and entertainment or information; providing an internet website portal featuring links to music-related merchandise for retail purposes; the receipt of orders from consumers for entertainment-related goods or services and the transfer of said orders to retailers of entertainment-related goods or services; the receipt of orders from consumers for entertainment performance tickets and the transfer of said orders to retailers of entertainment performance tickets; the receipt of orders from consumers for music and the transfer of said orders to retailers of music; the receipt of orders from consumers for entertainment information and the transfer of said orders to retailers of entertainment information; the receipt of orders from consumers for pre-recorded music and the transfer of said orders to retailers of pre-recorded music; the receipt of orders from consumers for ring tones and the transfer of said orders to ring tone providers; the receipt of orders from consumers for electronic wallpaper or other graphical images and the transfer of said orders to electronic wallpaper providers; the receipt of orders from consumers for audio/video recordings of performances by musical artists and the transfer of said orders to retailers of audio/video recordings of performances by musical artists; the receipt of orders from consumers for pre-recorded audio/visual entertainment content and the transfer of said orders to retailers of pre-recorded audio/visual entertainment content; procurement, namely, purchasing tickets to entertainment events for others; retail store services in the field of musical sound recordings; the bringing together, for the benefit of others, of a variety of goods being audio recordings, ring tones, electronic wallpaper or other graphical images, and audio/video recordings of performances by musical artists, enabling customers to conveniently view, purchase and download those goods from an Internet website specializing in the marketing of audio recordings, ring tones, electronic wallpaper or other graphical images, and audio/video recordings of performances by musical artists; the bringing together, for the benefit of others, of a variety of goods being pre-recorded audio/visual entertainment content enabling customers to conveniently view, purchase and/or download those goods from an Internet website specializing in the marketing of audio/visual entertainment content; information and advisory services relating to each of the aforesaid services

Class 038. First use:

Telecommunications services, namely, electronic messaging; providing on-line communications links via telephone or mobile phone which transfer the web site user to other local and global web pages; telecommunications access services for consumers for access to entertainment or information, offers or competitions and/or retail services providers; electronic wireless delivery of internet links via telephone or mobile phone; electronic wireless delivery of information via telephone or mobile phone; electronic wireless delivery of audio/visual content via telephone or mobile phone; electronic wireless transmission to consumers of internet links to interactive audio/visual entertainment content; electronic wireless transmission to consumers, upon request, of internet links to interactive audio/visual entertainment content; electronic wireless transmission to consumers of internet links to interactive audio/visual entertainment content in response to specified audio/visual content; electronic wireless transmission to consumers of internet links to information, sales offers and/or competitions; electronic wireless transmission to consumers, upon request, of internet links to information, sales offers and/or competitions; electronic wireless transmission to consumers of internet links to information, sales offers and/or competitions in response to specified audio/video content; electronic wireless delivery of audio recordings via telephone or mobile phone; electronic wireless delivery of audio/video recordings of performances by musical artists delivered via telephone or mobile phone; providing multiple use access to global computer information networks for the transfer and dissemination of a wide range of information; providing online chat rooms and electronic bulletin boards for transmission of messages among users in the field of general interest; providing online and telecommunications facilities for real-time interaction between and among users of computers, telephones and mobile phones; provision of access to electronic communication networks and the Internet; providing access to an online interactive database of photos and videos in the field of music, entertainment and films; providing telecommunications access to interactive audio/visual entertainment or information, offers or competitions and retail services providers based on the specified content; information and advisory services relating to each of the aforesaid services

Class 041. First use:

Providing an Internet website portal featuring links to entertainment information websites in response to specified audio/visual content; provision of geographic site-specific information relating to entertainment, namely, information relating to live performances, road shows, live stage events, theatrical performances, live music concerts and audience participation in such events; providing an internet website portal featuring links to musical artist websites and music performance ticket information based on specified audio/visual entertainment content; providing an internet website portal in the field of music; providing an internet website portal in the field of entertainment to telephone or mobile phone users or via the Internet; providing an internet website portal that displays information in response to specific requests in the fields of music and entertainment; provision of information relating to specific audio/visual content, music and entertainment via telephone, mobile phone or the Internet; provision of databases or online databases in the field of music; on-line forums, journals and blogs featuring music and audio/visual entertainment content; online entertainment services, namely, providing non-downloadable computer games; providing online interactive information in the field of music, entertainment and films; information and advisory services relating to each of the aforesaid services

Class 042. First use:

Providing customized on-line web pages featuring user-defined information, which includes search engines and on-line web links to other web sites; providing information at the specific request of end-users by means of telephone or global computer networks; providing an interactive web site that enables user to enter, access, track, manage, monitor, and generate information and reports regarding music and movies; non-downloadable software for sound and music recognition services; providing a web site featuring temporary use of non-downloadable

	software allowing web site users to upload on-line videos for sharing with others for entertainment purposes; providing electronic verification of on-line orders of audio/visual and audio/visual entertainment digital content and generating electronic permission codes which then allow users to access said digital content via satellite and global computer networks to computers, in-store kiosks and wireless devices
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Overnight Courier on this date.

Signature	/Lisa A. Pieroni/
Name	LISA A PIERONI
Date	04/16/2012

Opposer Shazam Entertainment Limited, a limited liability company organized under the laws of England and located at 26-28 Hammersmith Grove, London, United Kingdom, W6 7HA, believes that it will be damaged by registration of the mark shown in Application Serial No. 79/099,055 and hereby opposes the same. As grounds for this opposition, it is alleged that:

1. Opposer is the world's leading media discovery company, enabling people to experience and share content across mobile devices and the Internet and has created a new way to learn about music, TV and brands and share finds with friends. In 2002, Opposer launched a service designed to connect people with music they heard but didn't know. Since then, Opposer has moved beyond music discovery and consumers who use Opposer's services can discover new music, search for a specific interest, buy a range of music products, marking a track to buy it later, or just to create a collection and even pass it on to friends and family.

2. In 2002, prior to the filing of Application Serial No. 79/ 099,055 Opposer filed U.S. Application Serial No. 76/375,086 (resulting in U.S. Registration No. 3,637,141 dated June 16, 2009) for the mark SHAZAM for services in Classes 35, 38 and 41 as stated in said registration. Opposer has since used the SHAZAM trademark in connection with the aforementioned services in interstate commerce throughout the United States and internationally.

3. Opposer is also the owner of Registration Nos. 3,387,890 of February 26, 2008 for the mark SHAZAM; 3,614,492 of May 5, 2009 for the mark SHAZAM ID and 3,366,072 of January 8, 2008 for the mark SHAZAM in addition to Application Serial No. 85/123,840 of September 7, 2010 for the mark SHAZAM.

4. By virtue of Opposer's priority and continuous use of its SHAZAM trademark on goods and in connection with its services throughout the United States and internationally, Opposer's SHAZAM mark has become distinctive of Opposer's products and services as indicating the source or origin of said products and services to consumers and the trade and has become one of the world's most recognized mobile consumer brands.

5. The services identified by Applicant as those to which it intends to apply the mark SHOOZAM , are in the same classes of services and are nearly identical to those which Opposer has offered and currently offers under the trademark SHAZAM.

6. Applicant's trademark SHOOZAM opposed herein is nearly identical in sound, appearance and connotation to the SHAZAM trademark previously and currently used, registered and applied for by Opposer, that it is likely that when Applicant's said mark is applied to the services of Applicant, confusion or mistake among purchasers and potential purchasers will result, and consumers and the trade are likely to believe that Applicant's trademark SHOOZAM and any services sold or services offered thereunder are associated with or sponsored by Opposer.

7. Because of the confusion, mistake and deception which is likely to result from the concurrent use of Opposer's trademark SHAZAM and Applicant's nearly identical trademark SHOOZAM in connection with related services, Opposer's business and reputation will be seriously damaged and its rights under its aforesaid trademark will be impaired by registration of the published SHOOZAM mark. In addition, Opposer's rights in its said trademark will be diluted by registration of the published SHOOZAM mark.

WHEREFORE, Opposer demands judgment sustaining this opposition and adjudging that the Applicant is not entitled to the registration of the trademark for which it has filed Application Serial No. 79/099,055.