

ESTTA Tracking number: **ESTTA476318**

Filing date: **06/05/2012**

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	Stout Solutions, LLC
Granted to Date of previous extension	07/25/2012
Address	322 Encinitas Blvd., Suite 100 Encinitas, CA 92024 UNITED STATES

Attorney information	ANGELA ALVAREZ SUJEK BODMAN PLC 201 SOUTH DIVISION STREET, SUITE 400 ANN ARBOR, MI 48104 UNITED STATES skornfield@bodmanlaw.com, asujek@bodmanlaw.com, kanderson@bodmanlaw.com Phone:734-930-0121
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Applicant Information

Application No	85301985	Publication date	03/27/2012
Opposition Filing Date	06/05/2012	Opposition Period Ends	07/25/2012
Applicant	DigitalGlobe, Inc. Suite 260 1601 Dry Creek Drive Longmont, CO 80503 UNITED STATES		

Goods/Services Affected by Opposition

Class 038. All goods and services in the class are opposed, namely: Providing email notification via the internet for real-time updates in the field of geospatial imagery relating to natural or man-made disasters
Class 042. All goods and services in the class are opposed, namely: Providing an on-line computer database in the field of geospatial imagery to provide rapid geospatial imagery-based analysis of the scope, magnitude, and initial assessment of critical infrastructure following a natural or man-made disaster; Providing scientific analysis reports from geospatial imagery for rapid initial assessment of the condition of key infrastructure nodes within the zone associated with a natural or man-made disaster

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	2826097	Application Date	08/22/2002
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No.			
Registration Date	03/23/2004	Foreign Priority Date	NONE
Word Mark	FIRSTWATCH		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 2002/09/30 First Use In Commerce: 2002/09/30 downloadable computer software and computer software recorded on disk that monitors, collects, organizes, analyzes, and displays data for the purpose of alerting changes in emergency care data</p> <p>Class 042. First use: First Use: 2002/09/30 First Use In Commerce: 2002/09/30 online non-downloadable software that monitors, collects, organizes, analyzes, and displays data for the purpose of alerting changes in emergency care data</p>		

Attachments	76442531#TMSN.gif (1 page)(bytes) firstwatchopp.pdf (5 pages)(169340 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	/angela alvarez sujek/
Name	ANGELA ALVAREZ SUJEK
Date	06/05/2012

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

In the matter of Application Serial No. 85/301985
Filed on April 22, 2011
For the Mark FIRSTWATCH
Published in the Official Gazette on March 27, 2012

STOUT SOLUTIONS, LLC)
)
Opposer,) Opposition No. _____
)
v.)
)
DIGITALGLOBE, INC.,)
)
Applicant.)

NOTICE OF OPPOSITION

On April 22, 2011, Applicant DigitalGlobe, Inc. (“DigitalGlobe”), applied for U.S. registration of the trademark “FIRSTWATCH,” Application Serial No. 85/301985, for “Providing e-mail notification for real-time updates in the field of geospatial imagery relating to natural or man-made disasters,” in International Class 38, and for “Providing an on-line computer database in the field of geospatial imagery to provide rapid geospatial imagery-based analysis of the scope, magnitude, and initial assessment of critical infrastructure following a natural or man-made disaster. Providing analysis reports for rapid initial assessment of the condition of key infrastructure nodes within the zone associated with a natural or man-made disaster,” in International Class 42.

On February 3, 2012, and in response to an Office Action issued by the U.S. Patent and Trademark Office, DigitalGlobe proposed to amend its identification of services to “Providing email notification via the internet for real-time updates in the field of geospatial imagery relating to natural or man-made disasters,” in International Class 38, and “Providing an on-line computer database in the field of geospatial imagery to provide rapid geospatial imagery-based analysis of the scope, magnitude, and initial assessment of critical infrastructure following a natural or man-made disaster. Providing scientific analysis reports from geospatial imagery for rapid initial assessment of the condition of key infrastructure nodes within the zone associated with a natural or man-made disaster,” in International Class 42. The U.S. Patent and Trademark Office entered this amended identification of services on February 4, 2012.

DigitalGlobe’s mark was published for opposition in the Official Gazette on March 27, 2012.

Stout Solutions, LLC, a Nevada limited liability company with a business address of 904 Second St., Encinitas, California 92024 (“Stout Solutions”), filed a First 90 Day Request for Extension of Time to Oppose for Good Cause on March 29, 2012. The Trademark Trial and Appeal Board granted this request on March 30, 2012, which extended Stout Solutions’ time to oppose to July 25, 2012.

Stout Solutions attempted to resolve this matter with Digital Globe in order to avoid an opposition. No resolution was reached.

Stout Solutions believes it would be damaged by registration of the mark claimed by DigitalGlobe and timely files this Opposition.

The grounds for opposition are as follows:

1. Stout Solutions is the owner of the trademark “FIRSTWATCH” (the “Mark”), U.S. Registration No. 2,826,097, which was registered on March 23, 2004, and is used for “downloadable computer software and computer software recorded on disk that monitors, collects, organizes, analyzes, and displays data for the purpose of alerting changes in emergency care data,” in International Class 9, and “online non-downloadable software that monitors, collects, organizes, analyzes, and displays data for the purpose of alerting changes in emergency care data,” in International Class 42. The Mark has been used by Stout Solutions since 2002 and is in use nationwide.

2. Stout Solutions has built considerable goodwill in the Mark.

3. Stout Solutions’ registration of the Mark is incontestable.

4. DigitalGlobe’s mark is identical to Stout Solutions’ Mark in sound, appearance, connotation, and commercial impression, and is likely, when used in connection with DigitalGlobe’s services, to cause confusion, deception, or mistake.

5. The public will be likely to believe that DigitalGlobe’s services are affiliated with, sponsored by, connected with, approved by, or in some other manner associated with Stout Solutions’ goods and services.

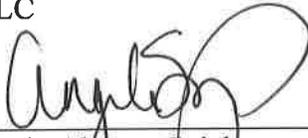
6. In fact, Stout Solutions has experienced actual consumer confusion.

7. Stout Solutions believes it will be damaged by the registration of DigitalGlobe’s mark, and requests that registration be refused, and that this Opposition be sustained.

Angela Alvarez Sujek, attorney for Stout Solutions, LLC, states as follows: I am the person authorized to sign for the Opposer named in this Opposition; I have read the opposition and know the contents; all statements made of my own knowledge are true and all statements made on information and belief are believed to be true.

Respectfully submitted,
Bodman PLC

Dated: 6/5/12

By:  _____

Angela Alvarez Sujek
Susan M. Kornfield
Karen H. Anderson
Attorneys for Opposer Stout Solutions, LLC
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Ann Arbor, Michigan 48104
734-761-3780

Certificate of Service

I hereby certify that the foregoing Notice of Opposition was filed electronically with the Trademark Trial and Appeal Board and a copy served on Applicant by depositing same with the United States Postal Service, First Class Mail postage prepaid, on June 5, 2012, in an envelope addressed to:

Susan E. Chetlin
Fennemore Craig, P.C.
1700 Lincoln St., Suite 2900
Denver, CO 80203-4529

I declare the statements above are true to the best of my information, knowledge and belief.



Mary Poupard