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

Proceeding	91205920
Party	Defendant Beckner, Sean
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No.: 85/375,382

Mark: G+

Published: February 10, 2012

GOOGLE INC., ) OPPOSITION NO. 91205920  
)  
*Opposer,* )  
)  
v. )  
)  
SEAN BECKNER, )  
)  
*Applicant.* )  
)

**ANSWER TO NOTICE OF OPPOSITION**

Applicant, Sean Beckner, through his undersigned attorneys, hereby answer's Opposer's Notice of Opposition as follows:

1. Opposer is a Delaware corporation, having its principal place of business at 1600 Amphitheatre Parkway, Mountain View, California 94043.

**ANSWER:** Applicant lacks knowledge or information concerning the corporate status and place of business of Opposer and therefore denies the same.

2. On information and belief, Applicant is an individual with an address of 7500 College Blvd. Overland Park, Kansas 66210.

**ANSWER:** Applicant admits the allegations contained in paragraph 2 of the Notice of Opposition.

3. Founded in 1998, Google is a world famous provider of search engine, advertising, web application and social networking services. The Google search engine, available at [www.google.com](http://www.google.com), is the most-used search engine on the Internet, receiving several hundred million queries each day through its various services. Since its inception, Google has grown rapidly to become a leading technology company and now offers a wide variety of products and services. Among its innovative products, Google offers online networking and promotional services to third parties under the trademarks GOOGLE+ and G+ and Design (collectively, the

“Google G+ Marks”). Google has continuously marketed its services under the Google G+ Marks since prior to the filing of the application herein opposed.

**ANSWER:** Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of the Notice of Opposition, and therefore denies same.

4. Google is the owner of U.S. Application No. 85/466,455 for the mark G+ and Design in connection with, among other things, “[c]omputer software for publishing and sharing digital media and information via global computer and communication networks,” in International Class 9; “telecommunications services” in International Class 38; “[p]roviding temporary use of on-line non-downloadable software for publishing and sharing digital media and information via global computer and communication networks” in International Class 42; and “[o]n-line social networking services” in International Class 45 (the “Google’s G+ and Design Application”).

**ANSWER:** Applicant admits only that Opposer appears in the USPTO’s “TESS” database records as the Owner/Applicant for U.S. Application No. 85/466,455 and that the description of goods and services for U.S. Application No. 85/466,455 appear to include the goods and services listed by Opposer in paragraph 4 of the Notice of Opposition, with the exception that “telecommunications services” are specifically narrowed in the USPTO records as “telecommunications services, namely, electronic transmission of data and digital messaging via global computer and communication networks”. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 4 of the Notice of Opposition, and therefore denies same.

5. Applicant’s G+ Standard Character Application includes a wide variety of networking, advertising and promotional activities to be offered online, specifically including “[A]dvertising, promotional, and business networking services in the field of consumer products, services, events, activities, attractions and facilities; promoting the products, services, events, activities, attractions and facilities of others by providing discounts, coupons, rebates, vouchers, special offers, and links to the websites of others; promoting the products, services, events, activities, attractions and facilities of others by providing a website to share discounts, coupons, rebates, vouchers, special offers, and links to the websites of others.” On information and belief Applicant has not yet made use of the applied-for mark.

**ANSWER:** Applicant admits that its U.S. Application No. 85/375,382 speaks for itself and, to date, includes the following description of goods and services: “Advertising, promotional, and business networking services in the field of consumer products, services, events, activities, attractions and facilities; promoting the products, services, events, activities, attractions and facilities of others by providing discounts, coupons, rebates, vouchers, special offers, and links to the websites of others; promoting the products, services, events, activities, attractions and facilities of others by providing a website to share discounts, coupons, rebates, vouchers, special offers, and links to the websites of others.” Applicant admits the remaining allegations of paragraph 5 of the Notice of Opposition with the exception of characterizations of breadth of the variety of goods and services described in the application because, again, the application speaks for itself.

6. On March 1, 2012, the United States Patent and Trademark Office (“USPTO”) issued an initial refusal of Google’s G+ and Design Application based, in part, on a likelihood of confusion with the mark that is the subject of Applicant’s G+ Standard Character Application under Section 2(d) of the Trademark Act of 1946, 15 U.S.C. § 1052(d).

**ANSWER:** Applicant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6 of the Notice of Opposition, and therefore denies same.

7. Applicant’s G+ Standard Character Application is causing actual harm to Google as it is blocking registration of Google’s G+ and Design Application.

**ANSWER:** Applicant denies the allegations set forth in paragraph 7 of the Notice of Opposition.

8. Opposer repeats and realleges each and every allegation set forth in Paragraphs 1 through 7 as if fully set forth herein.

**ANSWER:** Applicant reincorporates each and every answer as set forth in response to Paragraphs 1 through 7 as if fully set forth herein.

9. The services described in Applicant's application are either virtually identical or closely related to Google's services offered under and/or associated with Google's G+ Marks.

**ANSWER:** Applicant denies the allegations set forth in paragraph 9. of the Notice of Opposition.

10. The mark which is the subject of Applicant's G+ Standard Character Application, is confusingly similar to Google's G+ Marks, in that, among other reasons, it fails to specify a design distinct from those of Google's G+ Marks.

**ANSWER:** Applicant denies the allegations set forth in paragraph 10. of the Notice of Opposition.

11. Thus, Applicant's G+ Standard Character Mark is unregistrable pursuant to Sections 2(a) and (d), 3, 13, and 43(a) of the United States Trademark Act, as amended, 15 U.S.C. §§ 1052, 1053, 1063, and 1125, and should be refused registration.

**ANSWER:** Applicant denies the allegations set forth in paragraph 11. of the Notice of Opposition.

12. Google accordingly requests that this Notice of Opposition be sustained, and that Applicant's G+ Standard Character Application be refused registration.

**ANSWER:** Applicant denies the allegations set forth in paragraph 12. of the Notice of Opposition.

### **DEFENSES**

1. Opposer's Notice of Opposition fails to state a claim on which relief can be granted.

2. Opposer's claims are barred, in whole or in part, by the doctrines of laches, waiver and estoppel.

3. Applicant is the owner of the mark G+ in the United States for the goods and services identified in Serial No. 85/375,382.

4. Applicant's filing date for the G+ mark in United States for the goods and services identified in Serial No. 85/375,382 predates any use or priority date for G+ and Design by Opposer on similar goods or services.

5. Applicant reserves the right to assert additional defenses and to supplement those asserted herein upon further analysis and discovery of information regarding Opposer's claims.



**CERTIFICATE OF SERVICE**

I hereby certify that I caused a true and correct copy of the foregoing **APPLICANT'S ANSWER AND DEFENSES TO NOTICE OF OPPOSITION** to be served upon:

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counsel for Opposer Google, Inc. by placing same in an envelope, properly sealed and addressed, with postage prepaid and depositing same with the United States Postal Service on this 13th day of August, 2012.

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/Stephen J Huggins/  
Stephen J. Huggins

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