

ESTTA Tracking number: **ESTTA488164**

Filing date: **08/09/2012**

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    | SignalShare, LLC  |             |                |
| Entity  | Limited Liability Company   | Citizenship | North Carolina |
| Address | 100 Regency Forest Drive Suite 130<br>Cary, NC 27518<br>UNITED STATES |             |                |

|                            |   |
|----------------------------|---|
| Correspondence information | Eric Stevens<br>Attorney for Applicant<br>Poyner Spruill LLP<br>301 Fayetteville Street Suite 1900<br>Raleigh, NC 27601<br>UNITED STATES<br>estevens@poyners.com Phone:919 783-1017 |
|----------------------------|---|

**Applicant Information**

|                        |   |                        |            |
|------------------------|---|------------------------|------------|
| Application No         | 85612859  | Publication date       | 07/10/2012 |
| Opposition Filing Date | 08/09/2012  | Opposition Period Ends | 08/09/2012 |
| Applicant              | Amy Gurvey<br>315 Highland Avenue<br>Montclair, NJ 07043<br>UNITED STATES |                        |            |

**Goods/Services Affected by Opposition**

|   |
|---|
| <p>Class 038.<br/>All goods and services in the class are opposed, namely: Audio and video broadcasting services over the Internet; Broadcasting of video and audio programming over the Internet; Broadcasting programs via a global computer network; Broadcasting services, namely, transmission of advertising programs and media advertising communications via digital communications networks; Communication services, namely, transmission of voice, audio, visual images and data by telecommunications networks, wireless communication networks, the Internet, information services networks and data networks; Communications services, namely, transmitting streamed sound and audiovisual recordings via the Internet; Data transmission and reception services via telecommunication means; Digital network telecommunications services; Electronic transmission of voice, data and images by television and video broadcasting; Information transmission services via digital networks; Internet broadcasting services; Mobile media services in the nature of electronic transmission of entertainment media content; Podcasting services; Providing co-location services for voice, video and data communications applications; Providing telecommunication connectivity services for transfer of images, messages, audio, visual, audiovisual and multimedia works; Simulcasting broadcast television over global communication networks, the Internet and wireless networks; Transmission services via the Internet, featuring MP3 files and music videos; Video broadcasting; Video broadcasting and transmission services via the Internet, featuring films and movies; Video broadcasting services over the Internet or other communications network featuring the uploaded,</p> |
|---|

posted and tagged videos of others; Video broadcasting services over the Internet or other communications network, namely, electronically transmitting video clips; Video broadcasting services via the Internet; Webcasting services; Wireless broadband communication services; Wireless broadcasting

## Grounds for Opposition

|                                      |                            |
|--------------------------------------|----------------------------|
| Priority and likelihood of confusion | Trademark Act section 2(d) |
|--------------------------------------|----------------------------|

## Mark Cited by Opposer as Basis for Opposition

|                      |   |                       |            |
|----------------------|---|-----------------------|------------|
| U.S. Application No. | 85687375  | Application Date      | 07/26/2012 |
| Registration Date    | NONE  | Foreign Priority Date | NONE       |
| Word Mark            | LIVE-FI   |                       |            |
| Design Mark          |   |                       |            |
| Description of Mark  | NONE  |                       |            |
| Goods/Services       | <p>Class 035. First use: First Use: 2009/09/13 First Use In Commerce: 2009/09/13 Advertising and marketing services for event hosts, namely using a custom wireless internet platform to collect, archive, and analyze data regarding the internet usage of event attendees and enable event hosts to communicate with event attendees through social networks</p> <p>Class 042. First use: First Use: 2009/09/13 First Use In Commerce: 2009/09/13 Design, deployment, and management of custom wireless internet networks for others that enable event hosts to provide wireless internet access to event attendees and that allow event organizers to communicate with attendees through the internet network and to collect, archive, and analyze data concerning internet use by event attendees</p> |                       |            |

|             |   |
|-------------|---|
| Attachments | 85687375#TMSN.jpeg ( 1 page )( bytes )<br>Opposition for Live-Fi.pdf ( 5 pages )(200243 bytes ) |
|-------------|---|

## 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 | /Eric Stevens/ |
| Name      | Eric Stevens   |

|      |            |
|------|------------|
| Date | 08/09/2012 |
|------|------------|

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

In the matter of trademark application Serial No. 85612859

For the mark LIVE-FI

|                  |   |                      |
|------------------|---|----------------------|
| SignalShare, LLC | ) |                      |
|                  | ) |                      |
| Opposer          | ) |                      |
|                  | ) |                      |
| v.               | ) | Opposition No. _____ |
|                  | ) |                      |
| Amy Gurvey       | ) |                      |
|                  | ) |                      |
| Respondent.      | ) |                      |

**NOTICE OF OPPOSITION**

SignalShare, LLC (“SignalShare” or “Opposer”) is a limited liability company with a principal place of business in Raleigh, North Carolina. SignalShare has established common law rights in the service mark LIVE-FI, and will suffer damage if the U.S. Patent and Trademark Office approves Respondent Amy Gurvey’s application to register the mark LIVE-FI, USPTO Application Serial No. 85612859 (the “Application”). SignalShare hereby gives timely notice of opposition to the Application, for reasons that follow.

**Likelihood of Confusion**

1. On May 1, 2012, Respondent submitted an “intent to use” Application to federally register the LIVE-FI mark (the “Contested Mark”) for the following services:

Audio and video broadcasting services over the Internet; Broadcasting of video and audio programming over the Internet; Broadcasting programs via a global computer network; Broadcasting services, namely, transmission of advertising programs and media advertising communications via digital communications networks; Communication services, namely, transmission of voice, audio, visual images and data by telecommunications networks, wireless communication networks, the Internet, information services networks and data networks;

Communications services, namely, transmitting streamed sound and audiovisual recordings via the Internet; Data transmission and reception services via telecommunication means; Digital network telecommunications services; Electronic transmission of voice, data and images by television and video broadcasting; Information transmission services via digital networks; Internet broadcasting services; Mobile media services in the nature of electronic transmission of entertainment media content; Podcasting services; Providing co-location services for voice, video and data communications applications; Providing telecommunication connectivity services for transfer of images, messages, audio, visual, audiovisual and multimedia works; Simulcasting broadcast television over global communication networks, the Internet and wireless networks; Transmission services via the Internet, featuring MP3 files and music videos; Video broadcasting; Video broadcasting and transmission services via the Internet, featuring films and movies; Video broadcasting services over the Internet or other communications network featuring the uploaded, posted and tagged videos of others; Video broadcasting services over the Internet or other communications network, namely, electronically transmitting video clips; Video broadcasting services via the Internet; Webcasting services; Wireless broadband communication services; Wireless broadcasting.

2. Opposer owns, has extensively used, and has applied to register the mark LIVE-FI, USPTO Application Serial No 85687375. Opposer has used the LIVE-FI mark in interstate commerce since September 13, 2009 to identify and distinguish the following services:

Design, deployment, and management of custom wireless internet networks for others that enable event hosts to provide wireless internet access to event attendees, communicate with attendees through the internet network, and collect, archive, and analyze data concerning internet use by event attendees in class 42.

Advertising and marketing services for event hosts, namely using a custom wireless internet platform to collect, archive, and analyze data regarding the internet usage of event attendees and enable event hosts to communicate with event attendees through social networks in class 35.

3. The custom wireless internet and related services that Opposer has offered consumers for nearly three years under the LIVE-FI mark are closely similar to the internet broadcasting and other services described in Respondent's Application, and the respective marks

of the parties are identical. If Respondent were permitted to offer and register the services described by the Application under the LIVE-FI mark, consumers are likely to be confused and deceived into thinking that the services are either being offered by Opposer or that they are sponsored or endorsed by Opposer.

4. Respondent seeks to register a mark in which Opposer has established prior rights. Respondent filed her Application on May 1, 2012 on an intent-to-use basis, long after Opposer established common law rights in the Contested Mark on September 13, 2009. Upon information and belief, Respondent has never used the LIVE-FI mark in interstate commerce to offer consumers any of the services described in the Application.

6. Opposer has invested substantial resources to develop, refine, and promote its custom wireless internet network and other services under the LIVE-FI mark. As a result, Opposer has developed extensive goodwill in the LIVE-FI mark. Consumers have substantially increased their purchases of LIVE-FI services from Opposer since the services were first made available in 2009, and the LIVE-FI mark has become a valuable asset of SignalShare.

7. If the Respondent is allowed to use and register the Contested Mark, persons familiar with the Opposer's LIVE-FI services are likely to mistakenly use the Respondent's services rather than those of Opposer, resulting in lost sales to Opposer. If those confused consumers encounter any defect, objection, or fault with the services offered by Respondent under the LIVE-FI mark, the reputation of Opposer and its LIVE-FI services will suffer unwarranted harm.

WHEREFORE, SignalShare prays that the USPTO will deny Respondent's Application to register the LIVE-FI mark.

Opposer hereby appoints Eric Stevens of Poyner Spruill LLP, a law firm having a place of business at 301 Fayetteville Street, Suite 1900, Raleigh, North Carolina, to act as attorney for Opposer herein, with full power to prosecute this Opposition proceeding, to transact all relative business in the United States Patent and Trademark Office and in the United States courts, and to receive all official communications in connection with this Opposition proceeding.

This the 9th day of August, 2012.

**POYNER & SPRUILL LLP**

By: 

Eric P. Stevens

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Raleigh, NC 27601

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ATTORNEYS FOR  
SIGNALSHARE, LLC

**CERTIFICATE OF SERVICE**

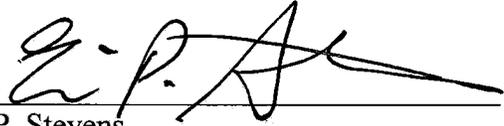
I certify that on this day I served the foregoing Notice of Opposition on counsel for Respondent Amy Gurvey by first class mail directed to:

Amy Gurvey  
315 Highland Avenue  
Montclair, NJ 07043

John R. Kettle III TMCP-RUT  
Rutgers Community Law Clinic  
123 Washington Street  
Newark, NJ 07102

This the 9<sup>th</sup> day of August, 2012.

**POYNER & SPRUILL LLP**

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