

ESTTA Tracking number: **ESTTA532077**

Filing date: **04/12/2013**

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	SproutLoud Media Networks, LLC
Granted to Date of previous extension	04/14/2013
Address	15431 SW 14TH STREET SUNRISE, FL 33326 UNITED STATES

Attorney information	Ury Fischer Lott & Fischer, PL PO BOX 141098 CORAL GABLES, FL 33114-1098 UNITED STATES ufischer@lfiplaw.com, nlajevardi@lfiplaw.com, jzambrano@lfiplaw.com, sdonna@lfiplaw.com Phone:3054487089
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Applicant Information

Application No	85613523	Publication date	10/16/2012
Opposition Filing Date	04/12/2013	Opposition Period Ends	04/14/2013
Applicant	Sprout Social, Inc. 30 North Racine Chicago, IL 60607 UNITED STATES		

Goods/Services Affected by Opposition

Class 041. First Use: 2009/11/30 First Use In Commerce: 2009/11/30 All goods and services in the class are opposed, namely: providing a website featuring temporary use of non-downloadable software for businesses to interact with consumers over a global communication network through social channels, to track and analyze communications across those channels and to maintain records of those communications, all in order to improve business operations and strengthen business to consumer communication

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.	3479061	Application Date	06/14/2007
Registration Date	08/05/2008	Foreign Priority Date	NONE

Word Mark	SPROUT LOUD
Design Mark	
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2006/02/01 First Use In Commerce: 2006/02/01 Advertising and marketing; Advertising and publicity services, namely, promoting the goods, services, brand identity and commercial information and news of third parties through print, audio, video, digital and on-line medium; Concept and brand development in the print, radio, online medium, television fields; Advertising services, namely, creating corporate and brand identity for others

U.S. Application No.	85978874	Application Date	07/23/2012
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	SPROUTLOUD
Design Mark	
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2006/02/01 First Use In Commerce: 2006/02/01 Advertising and marketing; Advertising and publicity services, namely, promoting the goods, services, brand identity and commercial information and news of third parties through print, audio, video, digital and on-line medium; Concept and brand development in the print, radio, online medium, television fields; Advertising services, namely, creating corporate and brand identity for others; Advertising and marketing services provided by means of marketing communications, namely, through direct mail and print marketing communications channels; Advertising and marketing services provided by means of marketing communications, namely, through e-mail communications channels; Advertising and marketing services provided by means of marketing communications, namely, through, social media, Internet marketing and search engine marketing communication channels; Advertising and marketing services provided by means of marketing communications, namely, through, mobile device marketing, blogging and other forms of passive, sharable or viral

	communications channels Class 042. First use: First Use: 2006/02/01 First Use In Commerce: 2006/02/01 Application service provider, namely, hosting, managing, developing, and maintaining applications, software, and web sites, in the fields of marketing and advertising
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Attachments	77206597#TMSN.jpeg (1 page)(bytes) 85978874#TMSN.jpeg (1 page)(bytes) [Final] Notice of Opposition SPROUT SOCIAL - 04.12.13.pdf (6 pages)(115287 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 Overnight Courier on this date.

Signature	/Ury Fischer/
Name	Ury Fischer
Date	04/12/2013

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

SproutLoud Media Networks, LLC, a
Florida limited liability company,
Opposer,

v.

Sprout Social, Inc., a Delaware
corporation,
Applicant.

Opposition No.: _____
Application Serial No.: **85/613,523**

Date of Publication: October 16, 2012
Mark: **SPROUT SOCIAL**

NOTICE OF OPPOSITION

Opposer, SproutLoud Media Networks, LLC (“Opposer”), a Florida limited liability company, located and doing business at 15431 SW 14th Street, Sunrise, Florida 33326, believes it will be damaged by registration of Application Serial No. 85/613,523 (the “Opposed Application”), and, pursuant to 15 U.S.C. § 1063(a) and TBMP § 303.01, hereby opposes same.

As grounds for opposition, Opposer alleges:

1. Upon information and belief, Sprout Social, Inc. (“Applicant”), a Delaware corporation, located and doing business at 30 North Racine, Chicago, Illinois 60607, filed the Opposed Application on May 1, 2012, for the mark **SPROUT SOCIAL** (“Applicant’s Trademark”).

2. Applicant seeks registration of the Opposed Application on the Principal Register based on the purported use of Applicant’s Trademark in commerce in connection with the following services:

Providing a website featuring temporary use of non-downloadable software for businesses to interact with consumers over a global communication network through social channels, to track and analyze

communications across those channels and to maintain records of those communications, all in order to improve business operations and strengthen business to consumer communication, in International Class 041.

3. In the Opposed Application, Applicant claims Applicant's Trademark was first used in commerce by Applicant at least as early as November 2009.

4. Opposer believes that it will be damaged by registration of Applicant's Trademark.

5. Opposer is the owner of United States Trademark Registration No. 3,479,061 registered August 5, 2008 for the mark **SPROUT LOUD and Design** ("Opposer's Registration") in respect of:

Advertising and marketing; Advertising and publicity services, namely, promoting the goods, services, brand identity and commercial information and news of third parties through print, audio, video, digital and on-line medium; Concept and brand development in the print, radio, online medium, television fields; Advertising services, namely, creating corporate and brand identity for others, in International Class 035.

6. Opposer is the owner of United States Trademark Application No. 85/978,874 filed July 23, 2012 for the mark **SPROUTLOUD** in respect of:

a. Advertising and marketing; Advertising and publicity services, namely, promoting the goods, services, brand identity and commercial information and news of third parties through print, audio, video, digital and on-line medium; Concept and brand development in the print, radio, online medium, television fields; Advertising services, namely, creating corporate and brand identity for others; Advertising and marketing services provided by means of marketing communications, namely, through direct mail and print marketing communications channels; Advertising and marketing services provided by means of marketing communications, namely, through e-mail communications channels; Advertising and marketing services provided by means of marketing communications, namely, through, social media, Internet marketing and search engine marketing communication channels; Advertising and marketing services provided by means of marketing communications, namely, through, mobile device marketing, blogging and other forms of passive, sharable or viral communications channels, in International Class 035; and

b. Application service provider, namely, hosting, managing, developing, and maintaining applications, software, and web sites, in the fields of marketing and advertising, in International Class 042.

7. Opposer is the owner of United States Trademark Application No. 85/684,540 filed July 23, 2012 for the mark **SPROUTLOUD** in respect of:

Downloadable computer software for use in the fields of marketing and advertising, in International Class 009.

8. Opposer has made use in commerce of the mark **SPROUT LOUD and Design** in respect of:

Advertising and marketing; Advertising and publicity services, namely, promoting the goods, services, brand identity and commercial information and news of third parties through print, audio, video, digital and on-line medium; Concept and brand development in the print, radio, online medium, television fields; Advertising services, namely, creating corporate and brand identity for others, in International Class 035.

9. Opposer has made use in commerce of the mark **SPROUTLOUD** in respect of:

a. Advertising and marketing; Advertising and publicity services, namely, promoting the goods, services, brand identity and commercial information and news of third parties through print, audio, video, digital and on-line medium; Concept and brand development in the print, radio, online medium, television fields; Advertising services, namely, creating corporate and brand identity for others; Advertising and marketing services provided by means of marketing communications, namely, through direct mail and print marketing communications channels; Advertising and marketing services provided by means of marketing communications, namely, through e-mail communications channels; Advertising and marketing services provided by means of marketing communications, namely, through, social media, Internet marketing and search engine marketing communication channels; Advertising and marketing services provided by means of marketing communications, namely, through, mobile device marketing, blogging and other forms of passive, sharable or viral communications channels, in International Class 035; and

b. Application service provider, namely, hosting, managing, developing, and maintaining applications, software, and web sites, in the fields of marketing and advertising, in International Class 042.

10. Opposer's use in commerce of the marks **SPROUT LOUD and Design** and **SPROUTLOUD**¹ (collectively "Opposer's Trademarks") commenced at least as early as February 1, 2006 and such use has been continuous since its commencement.

11. Upon information and belief, Opposer's use of Opposer's Trademarks commenced before Applicant's Use of Applicant's Trademark and Opposer is therefore the senior user.

12. Opposer's Trademarks are well-known and distinctive trademarks which Opposer has advertised, promoted, and used since at least as early as February 1, 2006. Based on such long use and promotion, the public has come to readily associate Opposer with the services covered by Opposer's Registration and Opposer's Application No. 85/978,874.

13. Applicant's Trademark is confusingly similar in appearance, sound, connotation and commercial impression to Opposer's Trademarks. Moreover, the services offered under Applicant's Trademark are highly similar to the services offered under Opposer's Trademarks.

14. In view of the similarity of the parties' respective marks and the overlapping nature of the parties' respective services, Applicant's mark so resembles Opposer's marks so as to be likely to cause the public to be confused, mistaken, or deceived into believing that Applicant's services originate from Opposer or are in some way related to, associated with, approved by, or sponsored by Opposer.

15. Accordingly, registration of Applicant's Trademark is barred by the provisions of Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d), in that Applicant's

¹ Trademark Application No. 85/978,874

Trademark consists of or comprises a mark which so resembles marks previously used in the United States by Opposer in respect of related services so as to be likely to cause the public to be confused, mistaken or deceived.

16. Registration of Applicant's Trademark would damage Opposer because the public is likely to attribute the source or sponsorship of Applicant's Services to Opposer.

PRAYER FOR RELIEF

WHEREFORE, Opposer respectfully requests that the instant opposition be granted and that Application Serial No. 85/613,523 be denied registration.

Date: April 12, 2013 Respectfully submitted,

LOTT & FISCHER, PL

/Ury Fischer/

Ury Fischer, Esq.

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Attorneys for Opposer

SproutLoud Media Networks, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing **NOTICE OF OPPOSITION** was served upon Applicant by delivering true and correct copies of same to Applicant and counsel for Applicant via Federal Express on April 12, 2013 as follows:

Sprout Social, Inc.
30 North Racine
Chicago, Illinois 60607

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Dykema Gossett PLLC
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/Ury Fischer/

Ury Fischer, Esq.