

ESTTA Tracking number: **ESTTA537318**

Filing date: **05/12/2013**

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	NetCloud, LLC		
Entity	limited liability company	Citizenship	Texas
Address	8813 Glen Canyon Dr. Round Rock, TX 78681 UNITED STATES		

Attorney information	Morris E. Turek YourTrademarkAttorney.com 167 Lamp and Lantern Village, #220 Chesterfield, MO 63017-8208 UNITED STATES morris@yourtrademarkattorney.com Phone:(314) 749-4059		
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Applicant Information

Application No	85777557	Publication date	04/16/2013
Opposition Filing Date	05/12/2013	Opposition Period Ends	05/16/2013
Applicant	East Coast Network Services, LLC 202 S. 3rd St. Coopersburg, PA 18036 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 042. First Use: 2012/11/10 First Use In Commerce: 2012/11/10 All goods and services in the class are opposed, namely: Computer monitoring service which tracks application software performance, performs periodic maintenance and provides reports and alerts concerning such performance; Computer services, namely, cloud hosting provider services; Computer services, namely, computer system administration for others; Computer services, namely, filtering of unwanted e-mails; Computer services, namely, integration of private and public cloud computing environments; Computer services, namely, on-line scanning, detecting, quarantining and eliminating of viruses, worms, trojans, spyware, adware, malware and unauthorized data and programs on computers and electronic devices; Computer services, namely, remote and on-site management of the information technology (IT) systems of others; Hosting the software, websites and other computer applications of others on a virtual private server; Providing virtual computer systems and virtual computer environments through cloud computing</p>

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. Application/	NONE	Application Date	NONE
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Registration No.			
Registration Date	NONE		
Word Mark	NETCLOUD		
Goods/Services	cloud virtual private server (cloud VPS) services and cloud hosting services		

Attachments	Netcloud Notice of Opposition.pdf (1 page)(22190 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	/met20/
Name	Morris E. Turek
Date	05/12/2013

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

In the matter of trademark application Serial No.: **85777557**

For the mark: **NETCLOUD**

Published in the *Official Gazette* on: **April 16, 2013**

NetCloud, LLC)	
Opposer,)	
v.)	Opposition No. _____
East Coast Network Services, LLC)	
Applicant.)	
_____)	

NOTICE OF OPPOSITION

NetCloud, LLC (“Opposer”) is a Texas limited liability company located and doing business at 8813 Glen Canyon Dr., Round Rock, Texas 78681.

To the best of Opposer’s knowledge, East Coast Network Services, LLC (“Applicant”) is a Pennsylvania limited liability company with a mailing address of 202 S. 3rd St, Coopersburg, Pennsylvania 18036.

Pursuant to 15 U.S.C. §1063, Opposer believes it will be damaged by the registration of Application Serial No. 85777557 and hereby opposes the same.

The grounds for opposition are as follows:

1. Since long before any date on which Applicant could reasonably rely, Opposer has been continuously using the trademark NETCLOUD in commerce in connection with cloud virtual private server (cloud VPS) services and cloud hosting services.

2. As a result of Opposer's substantial and continuous use of its NETCLOUD trademark in connection with its services, the purchasing public has come to exclusively associate the NETCLOUD trademark with Opposer's services. As such, the NETCLOUD trademark is extremely valuable to Opposer and has developed a substantial amount of goodwill and recognition among the purchasing public.

3. Opposer's NETCLOUD trademark has been used, and continues to be used, by the purchasing public to identify the source of Opposer's services and to distinguish such services from those offered by Opposer's competitors.

4. Opposer is the owner of all right, title, and interest in and to the NETCLOUD trademark as used in connection with its services.

5. On November 12, 2012, Applicant filed a trademark application under §1(a) seeking registration of the mark NETCLOUD in International Class 42 for "computer monitoring service which tracks application software performance, performs periodic maintenance and provides reports and alerts concerning such performance; computer services, namely, cloud hosting provider services; computer services, namely, computer system administration for others; computer services, namely, filtering of unwanted e-mails; computer services, namely, integration of private and public cloud computing environments; computer services, namely, on-line scanning, detecting, quarantining and eliminating of viruses, worms, trojans, spyware, adware, malware and unauthorized data and programs on computers and electronic devices; computer services, namely, remote and on-site management of the information technology (IT) systems of

others; hosting the software, websites and other computer applications of others on a virtual private server; providing virtual computer systems and virtual computer environments through cloud computing.” Applicant’s application was assigned Serial No. 85777557.

6. Applicant alleges in its application that it first used its NETCLOUD trademark at least as early as November 10, 2012, and first used its NETCLOUD trademark in interstate commerce at least as early as November 10, 2012.

7. Opposer’s use of its NETCLOUD trademark in connection with its services precedes the filing date of Applicant’s application for NETCLOUD, as well as the dates of first use as alleged by Applicant in its application.

8. Applicant’s NETCLOUD trademark is identical in appearance, sound, and commercial impression to Opposer’s NETCLOUD trademark.

9. The services recited in Applicant’s application for NETCLOUD are identical or strongly related to those currently offered by Opposer under its NETCLOUD trademark.

10. Opposer reasonably believes that it will be damaged by the registration of Application Serial No. 85777557 since Applicant’s NETCLOUD mark, when used on or in connection with its services, so resembles Opposer’s NETCLOUD trademark as to be likely to cause confusion, to cause mistake, or to deceive as to the affiliation, connection, or association of Applicant with Opposer, or as to the origin, sponsorship, or approval of Applicant’s services by Opposer.

11. Opposer reasonably believes it will be further damaged by the registration of Application Serial No. 85777557 because such registration would give color of exclusive statutory rights to Applicant in violation and derogation of the prior superior rights of Opposer.

