

ESTTA Tracking number: **ESTTA536669**

Filing date: **05/07/2013**

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	PROBOARDS, INC
Granted to Date of previous extension	05/18/2013
Address	20381 Lake Forest Drive, Suite B2 Lake Forest, CA 92630 UNITED STATES

Attorney information	Conor Kennedy KRONENBERGER ROSENFELD, LLP 150 Post St. Suite 520 San Francisco, CA 94108 UNITED STATES tmapps@krinternetlaw.com
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### Applicant Information

Application No	85752386	Publication date	03/19/2013
Opposition Filing Date	05/07/2013	Opposition Period Ends	05/18/2013
Applicant	Clipix LLC Suite 100 2050 Center Avenue Fort Lee, NJ 07024 UNITED STATES		

### Goods/Services Affected by Opposition

Class 042. All goods and services in the class are opposed, namely: providing a website that gives computer users the ability to categorize, manage, and share online bookmarks and user-generated content
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### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

### Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2663391	Application Date	02/05/2002
Registration Date	12/17/2002	Foreign Priority Date	NONE
Word Mark	PROBOARDS		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 042. First use: First Use: 2000/01/01 First Use In Commerce: 2000/01/01 HOSTING THE ONLINE MESSAGE BOARDS OF OTHERS ON A COMPUTER SERVER FOR A GLOBAL COMPUTER NETWORK

Attachments	Notice of Opposition.pdf(5153820 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	/s/ Conor Kennedy
Name	Conor Kennedy
Date	05/07/2013



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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.: 85-752386  
For the Trademark: PROBOARD  
Published in the Official Gazette on March 19, 2013  
30-Day Extension Granted Until: May 17, 2013 [D.E. No. 2]**

PROBOARDS, INC.,  
  
                  Opposer,  
  
          v.  
  
CLIPIX LLC,  
  
                  Applicant.

Opposition No. \_\_\_\_\_

**NOTICE OF OPPOSITION**

Opposer ProBoards, Inc. (hereinafter "Opposer" or "ProBoards"), which has its principal place of business at 20381 Lake Forest Drive, Suite B2, Lake Forest, California 92630, believes that it would be damaged by the registration of Applicant Clipix LLC ("Applicant" or "Clipix")'s application for the mark PROBOARD, as shown in United States Trademark Application Serial No. 85-752386 filed on October 12, 2012 and published for opposition on March 19, 2013 (the "Application"). ProBoards therefore opposes the Application.

ProBoards, Inc. has requested and received an extension of time until May 17, 2013 in which to oppose the Application.

The grounds for this Opposition are as follows:

**INTRODUCTION**

ProBoards, Inc. ("ProBoards") is the owner of the incontestable, federally registered mark "PROBOARDS" and the website <www.proboards.com> (the "ProBoards Website"). (Declaration of Patrick Clinger in Support of Notice of Opposition ("Clinger

**OPPOSITION NO.** \_\_\_\_\_

**NOTICE OF OPPOSITION  
SERIAL NO. 85-752386**



1 Decl.”) ¶2 & Ex. A.) ProBoards hereby opposes the registration of the virtually identical  
2 mark “PROBOARD” by the company Clipix LLC, which has no relationship to ProBoards.  
3 ProBoards files this opposition in order to prevent serious commercial harm to itself and  
4 its customers and to prevent the substantial likelihood of marketplace confusion resulting  
5 from competing, virtually identical marks in closely related trade channels.

6 The USPTO published the applicant mark “PROBOARD” in the March 19, 2013  
7 edition of the Official Gazette. The application is summarized as follows:

8  
9 Applicant: Clipix LLC

10 Serial No.: 85-752386

11 Filed: October 12, 2012

12 Mark: PROBOARD (Standard Character Mark)

13 For: PROVIDING A WEBSITE THAT GIVES COMPUTER USERS THE  
14 ABILITY TO CATEGORIZE, MANAGE, AND SHARE ONLINE  
15 BOOKMARKS AND USER-GENERATED CONTENT (U.S. CLS.  
16 100 AND 101).

17 Class: 042

18  
19 **Grounds for Opposition**

20 ProBoards has requested and received an extension of time to oppose.

21 ProBoards’ grounds for opposition are as follows:

22 1. ProBoards has the exclusive right to use the mark “PROBOARDS” and to  
23 exclude any use of substantially similar marks. ProBoards owns the federally registered  
24 mark “PROBOARDS” for online hosting services (Reg. No. 2663391, Ser. No.  
25 78106800), used in commerce since 2000 and registered federally on December 17,  
26 2002, a true and correct copy of which registration is attached hereto as **Exhibit A**. In  
27 light of ProBoards’ registration and continuous use of “PROBOARDS,” the TTAB should  
28 refuse registration of the applicant mark.



1           2.       ProBoards is the largest provider of free forum hosting on the Internet.  
2 (Clinger Decl. ¶4 & Ex. B.) ProBoards began operating the ProBoards Website and  
3 using the “PROBOARDS” mark in 2000. (Clinger Decl. ¶2-3 & Ex. A.)

4           3.       ProBoards supplies its forums and hosting services to tens of millions of  
5 registered users, providing free hosting and other customized forum services for large  
6 online communities across the Internet. (Clinger Decl. ¶5.) The ProBoards forum  
7 hosting service serves more than 16 million unique online visitors per month, accessible  
8 on both computers and mobile devices. (Clinger Decl. ¶5.)

9           4.       ProBoards’ trademark “PROBOARDS” was initially registered to ProBoards’  
10 principal, Patrick Clinger, and subsequently assigned from Patrick Clinger to ProBoards,  
11 a true and correct copy of which assignment and official notice of recordation are  
12 attached hereto as **Exhibit B**. ProBoards has used the mark continuously to distinguish  
13 its good and services in commerce since 2000. (Clinger Decl. ¶3.) On February 22,  
14 2012, ProBoards filed a declaration of incontestability for the mark “PROBOARDS,”  
15 which the USPTO granted, a true and correct copy of which acknowledgment is attached  
16 hereto as **Exhibit C**.

17           5.       ProBoards has expended, and continues to expend, considerable sums to  
18 advertise and promote its products and services under the “PROBOARDS” mark.  
19 (Clinger Decl. ¶6.) Additionally, ProBoards has generated earned media from prominent  
20 industry press outlets, including the technology industry’s business-to-business news  
21 website TechCrunch, and other prominent outlets. (Clinger Decl. ¶6 & Ex. C.) By reason  
22 of its longstanding commercial success using the mark, the “PROBOARDS” mark is  
23 identified in the public’s mind with the products and services originating with ProBoards.  
24 In addition, by reason of the fame attaching to the “PROBOARDS” mark, and ProBoards’  
25 continued expansion of its use of the mark to new product and service categories, the  
26 public has come to conclude that virtually all of the goods and services bearing the  
27 “PROBOARDS” mark emanate from, or are authorized by, ProBoards.

28 //



1           6.       The applicant mark infringes upon ProBoards' mark "PROBOARDS." The  
2 TTAB will refuse registration for an applicant mark if it is "likely, when used on or in  
3 connection with the goods of the applicant, to cause confusion, or to cause mistake, or to  
4 deceive." 15 U.S.C. §1052(d). Applicant marks are not eligible for registration where  
5 they create a likelihood of confusion in the minds of ordinary purchasers concerning the  
6 source or origin of goods and services. *See id.*

7           7.       As an initial matter, the applicant mark "PROBOARD" is virtually identical in  
8 its entirety to the "PROBOARDS" mark. Additionally, the services Clipix plans to offer  
9 under the applicant mark overlap substantially with the goods and services that  
10 ProBoards has continuously provided in connection with its "PROBOARDS" mark for  
11 more than a decade. Furthermore, Clipix's unrestricted application to use the mark  
12 "PROBOARD" for directly competing online services threatens to mislead ordinary  
13 consumers.

14           8.       Consumers are likely to be confused as to the affiliation or connection  
15 between ProBoards, the "PROBOARDS" mark, and the goods and services offered on  
16 the ProBoards Website on the one hand and Clipix and the competing services offered  
17 under the applicant mark on the other hand.

18           9.       In determining whether there is a likelihood for consumer confusion, courts  
19 balance several factors, including similarity of the marks, similarity of goods and services,  
20 and similarity of trade and marketing channels. *See AMF Inc. v. Sleekcraft Boats*, 599  
21 F.2d 341, 348 (9th Cir.1979); *Application of E.I. Du Pont De Nemours & Co.*, 476 F.2d  
22 1357, 1361 (Cust. & Pat.App.1973). As discussed below, there is significant likelihood of  
23 consumer confusion.

24           10.      First, the marks are substantially similar. Marks can be similar as to  
25 appearance, sound, connotation, and commercial impression. *See Sleekcraft* at 348.  
26 The marks are virtually identical with respect to each of these characteristics. The marks  
27 share all but one letter in common. The extra letter is an "S." ProBoards' mark contains  
28 an "S" and the applicant mark lacks an "S." The extra letter fails to distinguish the



1 applicant mark in appearance, sound, connotation, or commercial impression so as to  
2 reduce consumer confusion. Regarding connotation or commercial impression, “S” is  
3 used to pluralize words. The connotation or commercial impression of the applicant mark  
4 is unrelated to anything singular. This factor therefore weighs heavily against granting  
5 registration, and the TTAB should therefore reject the applicant mark.

6 11. Second, the goods and services are substantially similar. The TTAB must  
7 compare the description in the “PROBOARD” application<sup>1</sup> to the description in the  
8 “PROBOARDS” registration<sup>2</sup>. Both are categorized in International Class 042. The  
9 marks describe substantially similar goods and services. The “PROBOARD” application  
10 uses a new industry term, “User-Generated Content,” to describe an established industry  
11 practice. The application does not define the term. The term entered mainstream usage  
12 after ProBoards filed its registration in 2002. Still, “User-Generated Content” describes a  
13 central purpose of ProBoards’ goods and services. (Clinger Decl. ¶3.) “User-Generated  
14 Content” is creative material, including text, images, or videos, produced by amateurs.  
15 See OECD Report: *“Participative Web: User-Created Content,”* pg. 8 (2007), *Org. for*  
16 *Econ. Cooperation and Dev.*, <http://www.oecd.org/dataoecd/57/14/38393115.pdf>. The  
17 ability to categorize, manage, and share user-generated content is central to online  
18 message boards. (Clinger Decl. ¶3.) If the TTAB granted registration, the goods and  
19 services described in the application would therefore place the applicant mark in direct  
20 competition with ProBoards’ mark. The similarity of goods and services as between the  
21 applicant mark and ProBoards’ mark therefore weighs further against granting  
22 registration to the applicant mark.

23 12. Third, the marks use substantially similar trade channels. Absent specific  
24 disclaimers, the TTAB must assume an applicant mark applies to “all normal and usual”  
25 trade channels. *SquirtCo v. Tomy Corp.*, 697 F.2d 1038, 1043 (Fed. Cir. 1983).

26 \_\_\_\_\_  
27 <sup>1</sup> Clipix Application for “PROBOARD”: “PROVIDING A WEBSITE THAT GIVES COMPUTER USERS THE  
28 ABILITY TO CATEGORIZE, MANAGE, AND SHARE ONLINE BOOKMARKS AND USER-GENERATED  
CONTENT.”

<sup>2</sup> ProBoards’ Registration for “PROBOARDS”: “HOSTING THE ONLINE MESSAGE BOARDS OF  
OTHERS ON A COMPUTER SERVER FOR A GLOBAL COMPUTER NETWORK.”

1 Furthermore, if there is any doubt about the similarity of trade channels, the doubt should  
2 be resolved in favor of the prior user – here, ProBoards. ProBoards has expended  
3 significant funds to market “PROBOARDS” in all normal and usual trade channels for  
4 hosting user-generated content. These channels include popular search engines and  
5 social media websites. The trade channel factor therefore weighs against granting  
6 registration.

7 13. In summary and as demonstrated, there is considerable likelihood of  
8 consumer confusion if the TTAB does not reject the applicant mark.

9 14. ProBoards will suffer serious commercial damage if the applicant mark is  
10 not rejected. Applicant’s proposed mark for use in connections with the goods and  
11 services claimed in the Application is confusingly similar to ProBoards’ mark  
12 “PROBOARDS,” such that the purchasing public are likely to be confused into believe  
13 such goods and services originate or are otherwise authorized by, sponsored by,  
14 licensed by, or associated with ProBoards, the ProBoards Website, and/or goods and  
15 services offered under the “PROBOARDS” mark. Additionally, should the USPTO issue  
16 a registration for the applicant mark, Clipix may use that registration to try to preclude  
17 ProBoards from continuing to operate the ProBoards Website, even though ProBoards’  
18 use of the “PROBOARDS” mark predates Clipix’s use of the applicant mark. As a result,  
19 Opposer ProBoards has a direct and personal stake in this proceeding and has a  
20 reasonable basis that it would be damaged by the registration of the applicant mark.

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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.: 85-752386  
For the Trademark: PROBOARD  
Published in the Official Gazette on March 19, 2013  
30-Day Extension Granted Until: May 17, 2013 [D.E. No. 2]**

PROBOARDS, INC.,  Opposer,  v.  CLIPIX LLC,  Applicant.	Opposition No. _____
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**CERTIFICATE OF TRANSMITTAL**

I hereby certify that a true copy of the foregoing NOTICE OF OPPOSITION is being filed electronically with the TTAB via ESTTA on this day, May 7, 2013.

/s/ Conor H. Kennedy  
Conor H. Kennedy

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 7, 2013, a true and correct copy of the foregoing NOTICE OF OPPOSITION was served upon Applicant's attorney of record by depositing the same with the U.S. Postal Service, First-Class postage prepaid, addressed as follows:

DAVID M. PERRY  
BLANK ROME LLP  
1 LOGAN SQ FL 8  
PHILADELPHIA, PA 19103-6998

/s/ Conor H. Kennedy  
\_\_\_\_\_  
Conor H. Kennedy

# Exhibit A

**Int. Cl.: 42**

**Prior U.S. Cls.: 100 and 101**

**Reg. No. 2,663,391**

**United States Patent and Trademark Office**

**Registered Dec. 17, 2002**

**SERVICE MARK  
PRINCIPAL REGISTER**

**PROBOARDS**

CLINGER, PATRICK, A (UNITED STATES INDIVIDUAL)  
21532 CALLE OTONO  
LAKE FOREST, CA 92630

FIRST USE 1-1-2000; IN COMMERCE 1-1-2000.

FOR: HOSTING THE ONLINE MESSAGE  
BOARDS OF OTHERS ON A COMPUTER SERVER  
FOR A GLOBAL COMPUTER NETWORK, IN CLASS  
42 (U.S. CLS. 100 AND 101).

SER. NO. 78-106,800, FILED 2-5-2002.

ELISSA GARBER KON, EXAMINING ATTORNEY

# Exhibit B

**TRADEMARK ASSIGNMENT**

Electronic Version v1.1  
 Stylesheet Version v1.1

<b>SUBMISSION TYPE:</b>		NEW ASSIGNMENT	
<b>NATURE OF CONVEYANCE:</b>		ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL	
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
Patrick A. Clinger		03/22/2010	INDIVIDUAL: UNITED STATES
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	ProBoards, Inc.		
<b>Street Address:</b>	20381 Lake Forest Dr., Ste B2		
<b>City:</b>	Lake Forest		
<b>State/Country:</b>	CALIFORNIA		
<b>Postal Code:</b>	92630		
<b>Entity Type:</b>	CORPORATION: CALIFORNIA		
<b>PROPERTY NUMBERS Total: 1</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
<b>Registration Number:</b>	2663391	PROBOARDS	
<b>CORRESPONDENCE DATA</b>			
<b>Fax Number:</b>	(415)955-1158		
	<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
<b>Phone:</b>	415-955-1155 x 115		
<b>Email:</b>	tmapps@kronenbergerlaw.com		
<b>Correspondent Name:</b>	Matthew M. Thomson		
<b>Address Line 1:</b>	150 Post Street, Suite 520		
<b>Address Line 4:</b>	San Francisco, CALIFORNIA 94108		
<b>NAME OF SUBMITTER:</b>		Matthew M. Thomson	
<b>Signature:</b>		/Matthew M. Thomson/	
<b>Date:</b>		03/22/2010	
<b>Total Attachments: 1</b> source=Trademark Assignment - PROBOARDS#page1.tif			

OP \$40.00 2663391

**TRADEMARK ASSIGNMENT AGREEMENT**

This TRADEMARK ASSIGNMENT AGREEMENT (this "Assignment") is entered into as of March 22, 2010 (the "Effective Date") between Patrick A. Clinger, an individual residing at 1 Pallazo Cir., Foothill Ranch, CA 92610 ("Clinger"), and ProBoards, Inc., a California corporation with its principle offices located at 20381 Lake Forest Dr., Ste B2, Lake Forest, CA 92630 ("ProBoards").

WHEREAS, Clinger has adopted, used, is using and is the owner of the trademark PROBOARDS, which is registered in the United States Patent and Trademark Office (Reg. No. 2663391); and

WHEREAS, ProBoards is desirous of acquiring said trademark.

NOW THEREFORE, in exchange for good and valuable consideration, the receipt of which is hereby acknowledged, Clinger hereby assigns to ProBoards all right, title and interest in the United States in and to said trademark, together with the goodwill of the business symbolized by said trademark.

IN WITNESS WHEREOF, the parties have executed this Assignment as of the Effective Date.

**PATRICK A. CLINGER**  
1 Pallazo Cir  
Foothill Ranch, CA 92610

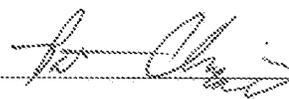
**PROBOARDS, INC.**  
20381 Lake Forest Dr., Ste B2  
Lake Forest, CA 92630

By: \_\_\_\_\_



Name: Patrick A. Clinger

By: \_\_\_\_\_



Name: Patrick A. Clinger  
Title: CEO & President

# Exhibit C

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**From:** TMOfficialNotices@USPTO.GOV  
**Sent:** Thursday, May 2, 2013 11:00 PM  
**To:** tmapps@krinternetlaw.com  
**Subject:** Trademark RN 2663391: Official Notice of Acknowledgement under Section 15 of the Trademark Act

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**U.S. Registration Number:** 2663391

**U.S. Serial Number:** 78106800

**U.S. Registration Date:** Dec 17, 2002

**Mark:** PROBOARDS

**Owner:** PROBOARDS, INC.

May 2, 2013

## NOTICE OF ACKNOWLEDGEMENT UNDER SECTION 15

The declaration of incontestability filed for the above-identified registration meets the requirements of Section 15 of the Trademark Act, 15 U.S.C. §1065. **The Section 15 declaration is acknowledged.**

TRADEMARK SPECIALIST  
POST-REGISTRATION DIVISION  
571-272-9500

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### REQUIREMENTS FOR MAINTAINING A FEDERAL TRADEMARK REGISTRATION

**WARNING: Your registration will be canceled if you do not file the documents below during the specified time periods.**

#### Requirements in the First Ten Years

##### What and When to File:

**First Filing Deadline:** You must file a declaration of use (or excusable nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless canceled by an order of the Commissioner for Trademarks or a Federal Court.

**Second Filing Deadline:** You must file a declaration of use (or excusable nonuse) **and** an application for renewal between the 9th and 10th years after the registration date.\* See 15 U.S.C. §§1058, 1059.

#### Requirements in Successive Ten-Year Periods

**What and When to File:** You must file a declaration of use (or excusable nonuse) **and** an application for renewal between every 9th and 10th-year period, calculated from the registration date.\* See 15 U.S.C. §§1058, 1059.

#### Grace Period Filings

The above documents will be considered as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**\*ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of

protection to the United States under the Madrid Protocol must timely file the declarations of use (or excusable nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the declarations of use (or excusable nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

**\*\*\*The USPTO WILL NOT SEND ANY FURTHER NOTICE OR REMINDER OF THESE REQUIREMENTS. THE REGISTRANT SHOULD CONTACT THE USPTO ONE YEAR BEFORE THE EXPIRATION OF THE TIME PERIODS SHOWN ABOVE TO DETERMINE APPROPRIATE REQUIREMENTS AND FEES.\*\*\***

To view this notice and other documents for this application on-line, go to <http://tdr.uspto.gov/search.action?sn=78106800>.

NOTE: This notice will only be available on-line the next business day after receipt of this e-mail.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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PROBOARDS, INC.,  
Opposer,  
v.  
CLIPIX LLC,  
Applicant.

Opposition No. \_\_\_\_\_

**DECLARATION OF PATRICK CLINGER IN SUPPORT OF NOTICE OF OPPOSITION**

I, Patrick Clinger, state and declare as follows:

1. I am the founder and owner of ProBoards, Inc. ("Opposer" or "ProBoards"). I am over the age of eighteen years. I have personal knowledge of the matters stated in this Declaration and, if called to testify thereupon, could and would do so competently and truthfully.

2. Since 2000, ProBoards has hosted and continues to host Internet discussion forums, as owner and operator of the popular website <www.proboards.com> (the "ProBoards Website"). Attached hereto as **Exhibit A** is a true and correct printout of the ownership records for <www.proboards.com> as of May 2, 2013.

3. ProBoards started operating the ProBoards Website and using the "PROBOARDS" mark in 2000. ProBoards has offered and continues to offer products and services under the "PROBOARDS" mark as described in the official registration for the mark: "HOSTING THE ONLINE MESSAGE BOARDS OF OTHERS ON A

OPPOSITION NO. \_\_\_\_\_

P. CLINGER DECL ISO NTC OF OPPOSITION  
SERIAL NO. 85-752386



1 COMPUTER SERVER FOR A GLOBAL COMPUTER NETWORK.” Many of the  
2 products and services ProBoards offers also fall within the use category for the  
3 applicant mark “PROBOARD,” including products and services that allow ProBoards’  
4 registered users to categorize, manage, and share user-generated content.

5 4. ProBoards is the largest provider of free forum hosting on the Internet.  
6 Attached hereto as **Exhibit B** is a true and correct copy of the public Alexa Rank for  
7 <www.proboards.com> as of May 2, 2013. Alexa Rank is a public pageview metric that  
8 measures online traffic and popularity for websites in the United States and  
9 internationally.

10 5. ProBoards supplies its forums and hosting services to tens of millions of  
11 registered users, providing free hosting and other customized forum services for large  
12 online communities across the Internet. The ProBoards forum hosting service serves  
13 more than 16 million unique online visitors per month, accessible on both computers  
14 and mobile devices.

15 6. I have personally overseen ProBoards’ advertising and promotion  
16 operations over the last decade. ProBoards has expended, and continues to expend,  
17 considerable sums to advertise and promote its products and services under the  
18 “PROBOARDS” mark. Additionally, ProBoards has generated earned media from  
19 prominent industry press outlets, including the technology industry’s business-to-  
20 business news website TechCrunch and the consumer review website Forum-  
21 Software.org. Attached hereto as **Exhibit C** are true and correct copies of articles  
22 providing media coverage of the ProBoards Website and the products and services  
23 offered under the “PROBOARDS” mark.

24  
25 I declare under penalty of perjury under the laws of the State of California that  
26 the foregoing is true and correct and that this Declaration was executed in Lake Forest,  
27 California on May 7, 2013.

28

By:   
Patrick Clinger

OPPOSITION NO. \_\_\_\_\_

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P. CLINGER DECL ISO NTC OF OPPOSITION  
SERIAL NO. 85-752386



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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.: 85-752386  
For the Trademark: PROBOARD  
Published in the Official Gazette on March 19, 2013  
30-Day Extension Granted Until: May 17, 2013 [D.E. No. 2]**

PROBOARDS, INC.,  
Opposer,  
v.  
CLIPIX LLC,  
Applicant.

Opposition No. \_\_\_\_\_

**CERTIFICATE OF TRANSMITTAL**

I hereby certify that a true copy of the foregoing DECLARATION OF PATRICK CLINGER IN SUPPORT OF NOTICE OF OPPOSITION is being filed electronically with the TTAB via ESTTA on this day, May 7, 2013.

/s/ Conor H. Kennedy

Conor H. Kennedy

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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Opposer,  
v.  
CLIPIX LLC,  
Applicant.

Opposition No. \_\_\_\_\_

**CERTIFICATE OF SERVICE**

I hereby certify that on May 7, 2013, a true and correct copy of the foregoing  
DECLARATION OF PATRICK CLINGER IN SUPPORT OF NOTICE OF OPPOSITION  
was served upon Applicant's attorney of record by depositing the same with the U.S.  
Postal Service, First-Class postage prepaid, addressed as follows:

DAVID M. PERRY  
BLANK ROME LLP  
1 LOGAN SQ FL 8  
PHILADELPHIA, PA 19103-6998

/s/ Conor H. Kennedy  
Conor H. Kennedy

OPPOSITION NO. \_\_\_\_\_

# Exhibit A



You are logged in as kar93786 Upgrade Your Account | Log out | Help

Search bar containing 'proboards.com' and 'Whois Search' button

- Navigation menu: HOME, RESEARCH, MONITOR, BUY DOMAINS, LEARN, MY ACCOUNT

ProBoards.com Whois Record

Social sharing buttons: +1, Tweet, Like, +5.8k

Search Whois Records: proboards.com

- Whois Record, Site Profile, Registration, Server Stats, My Whois

My Whois View

Related Domains For Sale or At Auction: OpenDiscussion.com (\$1,195), HealthDiscussion.com (\$2,633), SportsDiscussion.com (\$2,095), PanelDiscussion.com (\$3,588), HonestDiscussion.com (\$2,527), GroupDiscussions.com (\$1,755)

Created: 1999-10-14
Reverse IP: 44 other sites hosted on this server.
Whois History: 1,384 records have been archived since 2001-12-13.
IP History: 5 changes on 4 unique IP addresses over 6 years.
NS History: 1 change on 2 unique name servers over 10 years.
Registrar History: 1 registrar
Email Search: whois@proboards.com is associated with about 119 domains

Registered through: GoDaddy.com, LLC (http://www.godaddy.com)
Domain Name: PROBOARDS.COM
Created on: 14-Oct-99
Expires on: 14-Oct-16
Last Updated on: 01-Sep-10

Registrant: ProBoards, 20381 Lake Forest Drive, B2, Lake Forest, California 92630, United States

Administrative Contact: Clinger, Patrick, whois@proboards.com, ProBoards, 20381 Lake Forest Drive, B2, Lake Forest, California 92630, United States

Technical Contact: Clinger, Patrick, whois@proboards.com, ProBoards, 20381 Lake Forest Drive, B2, Lake Forest, California 92630, United States

Domain servers in listed order: NS3.PROBOARDS.COM, NS4.PROBOARDS.COM

Reverse Whois: "ProBoards" owns about 135 other domains
IP Location: Texas - Dallas - Theplanet.com Internet Services Inc.

Whois Directory

abcdefghijklmnopqrstuvwxyz0123456789

ProBoards forum advertisement: Create a Free Forum, Version 5, 5.8k members

Last checked April 29, 2013

WE ARE HIRING: You the smart one? Let us show you the job you dream of

CLUBS DTRU13A .RU ONLY 10-99EUR New + Transfer until 30/06/2013

What's This Domain Worth? FIND OUT AT DOMAININDEX.COM

Country TLDs / General TLDs: Available domains for registration: ProBoards.at, ProBoards.be, ProBoards.ch, ProBoards.de, ProBoards.dk, ProBoards.eu, ProBoards.fi, ProBoards.jp, ProBoards.mx, ProBoards.pl, Register All Selected > Show all (11) >



# Exhibit B

**Alexa** The Web Information Company [Log In](#) or [Create an Account](#) [Help](#)

**Products** **Top Sites** **Site Info** **Toolbar** **Dashboard**

Search for more:

---

**Car Rental 8** [CarRental8.com](#)  
Car Rentals in 125 Countries Major Brands at Discount Prices

**WyoTech® - Official Site** [go.WyoTech.edu](#)  
Get Valuable Technical Training. Request More Information!

**Dating Again & Over 40?** [MatureProfessionalS...](#)  
Do You Want To Meet Professional Santa Rosa Singles? Join Now!

**Download Free File Viewer** [www.Downlomani...](#)  
Open All Your Files With Ease! Works for PDF, Doc, Docx, PSD, XLS.

[AdChoices](#)

**You may be interested in...**

Query	Activity
1 <a href="#">Free Message Board</a>	<div style="width: 100%;"></div>
2 <a href="#">Free Forums</a>	<div style="width: 100%;"></div>
3 <a href="#">Free Forum</a>	<div style="width: 100%;"></div>
4 <a href="#">Free Message Boards</a>	<div style="width: 100%;"></div>
5 <a href="#">Flag Football</a>	<div style="width: 100%;"></div>
6 <a href="#">Book Club</a>	<div style="width: 100%;"></div>
7 <a href="#">Windows 7</a>	<div style="width: 100%;"></div>
8 <a href="#">Guitar</a>	<div style="width: 100%;"></div>
9 <a href="#">Free Bulletin Board</a>	<div style="width: 100%;"></div>
10 <a href="#">Message Boards</a>	<div style="width: 100%;"></div>

---

**proboards.com**  
ProBoards.com

[Add Logo](#)

**Statistics Summary for proboards.com**

There are 1,509 sites with a better three-month global Alexa traffic rank than Proboards.com. Compared with internet averages, the site's audience tends to be Caucasian, they are also disproportionately childless men browsing from home who have no postgraduate education. Search engines refer about 11% of visits to the site, and Proboards.com has been online for more than thirteen years. The site's visitors view 8.1 unique pages each day on average. [Show Less](#)

**Alexa Traffic Rank**

**1,610**  
Global Rank

**663**  
Rank in US

**Reputation**

**26,603**  
Sites Linking in

★★★★★  
5 Reviews

**Did you know?** You can get the most accurate rank possible by certifying your site's metrics. [Find out how.](#)

This site's metrics are not certified

**Is proboards.com your site?**  
Get the most from Alexa with these services!

- [PRO Improve your SEO](#)
- [Get Certified Metrics](#)
- [Claim your site](#)
- [Edit your site listing](#)
- [Build a custom toolbar](#)
- [Get widgets](#)

---

**Traffic Stats** **Search Analytics** **Audience** **Contact Info** **Reviews** **Related Links** **Clickstream**

**Search Traffic**

The percentage of site visits from search engines.

Period	Percent of Site Traffic
Last 30 days	10.9%
Last 7 days	11.7%
Yesterday	13.6%

**Keyword Research Tool - Find More Keywords**  
Identify which keywords are searched for, which keywords drive the most traffic and what the PPC bids are using [Trellian's KeywordDiscovery.com keyword tool](#).

**Search Traffic on the Rise and Decline**

The top queries from search engines driving relatively more/less traffic to proboards.com in the current month than the previous month. Updated monthly.

Search Query	1 Month Increase	Search Query	1 Month Decline
1 <a href="#">grass cutter farming pdf</a>	0.71%	1 <a href="#">timejobs clone</a>	0.25%
2 <a href="#">john.cena.razor</a>	0.27%	2 <a href="#">adfocus</a>	0.19%
3 <a href="#">sika.getstart</a>	0.23%	3 <a href="#">small farming in kenya</a>	0.17%
4 <a href="#">aradur.genocide</a>	0.17%	4 <a href="#">ssl.http://www.sl.static.com/</a>	0.17%
5 <a href="#">http://www.mvportail</a>	0.16%	5 <a href="#">sesame seed production in nigeria</a>	0.17%
6 <a href="#">http://allabout-cigarettes.proboards.com/</a>	0.15%	6 <a href="#">lukwaa</a>	0.16%
7 <a href="#">side door elevator varco</a>	0.10%	7 <a href="#">thestrailz</a>	0.13%
		8 <a href="#">yolledtalk</a>	0.10%
		9 <a href="#">republicofmanc.proboards</a>	0.09%

**Search Advertising Metrics Highlights**

Data provided by iSpionage. Visit iSpionage to discover additional information metrics for proboards.com.

Last Month Stats (Estimated)	
PPC Budget	\$3,297 - \$4,556
Last Month Clicks	2,575 - 2,856
Avg. Ad Position	3
Google PPC Keywords	51
Yahoo PPC Keywords	1

**High Impact Search Queries for proboards.com**

Popular queries that are relevant to this site and are actively targeted by competitors advertising on search engines. Click on queries below to discover who is advertising for these queries.

Query	Impact Factor	Query Popularity	Competition
<a href="#">lukwaa</a>	31.49	42	10
<a href="#">grass cutter</a>	7.58	26	35
<a href="#">sword art online</a>	4.89	51	26
<a href="#">forum hosting</a>	3.52	30	54
<a href="#">a-92 scooter club</a>	2.25	28	20
<a href="#">john.cena.razor</a>	1.84	22	10
<a href="#">art online</a>	1.81	24	34
<a href="#">arokai</a>	1.81	20	30
<a href="#">adfocus</a>	1.51	43	10
<a href="#">sword art online game</a>	1.44	30	10
<a href="#">message board</a>	1.41	27	17
<a href="#">free forum hosting</a>	1.24	28	26

**Top Queries from Search Traffic**

The top queries driving traffic to proboards.com from search engines. Updated monthly.

Query	Percent of Search Traffic
1 <a href="#">lukwaa</a>	4.60%
2 <a href="#">grass cutter farming pdf</a>	0.71%
3 <a href="#">proboards</a>	0.35%
4 <a href="#">john.cena.razor</a>	0.27%
5 <a href="#">nitra message board</a>	0.24%
6 <a href="#">sika.getstart</a>	0.23%
7 <a href="#">adfocus</a>	0.22%
8 <a href="#">sword art online game</a>	0.21%
9 <a href="#">sesame seed production in nigeria</a>	0.21%
10 <a href="#">adamtopia</a>	0.19%

**High Impact Search Queries for Proboards.com**

Query	Impact
1 <a href="#">lukwaa</a>	High
2 <a href="#">grass cutter</a>	High
3 <a href="#">sword art online</a>	Medium
4 <a href="#">forum hosting</a>	Medium
5 <a href="#">a-92 scooter club</a>	Medium
6 <a href="#">john.cena.razor</a>	Low
7 <a href="#">art online</a>	Low

[View the complete Search Analytics](#)

Choose the solutions that work for your business.

---

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Nokai Hawaii.com  
1-800-996-6167

DOWNLOAD THE OFFICIAL MOLOKA'I TRAVEL GUIDE

**High Impact Search Queries for proboards.com**

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<a href="#">forum hosting</a>	3.52	30	54
<a href="#">a-92 scooter club</a>	2.25	28	20
<a href="#">john.cena.razor</a>	1.84	22	10
<a href="#">art online</a>	1.81	24	34
<a href="#">arokai</a>	1.81	20	30
<a href="#">adfocus</a>	1.51	43	10
<a href="#">sword art online game</a>	1.44	30	10
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5 <a href="#">nitra message board</a>	0.24%
6 <a href="#">sika.getstart</a>	0.23%
7 <a href="#">adfocus</a>	0.22%

[View the complete Search Analytics](#)

**iSpionage**  
YOUR SEARCH MARKETING STARTS HERE

Advertiser: **proboards.com**

[View More](#)

Query	SEM opportunity	Query Popularity	QCI
<a href="#">qocn money matters</a>	1.22	23	10
<a href="#">free forum</a>	1.12	34	18
<a href="#">selena gomez</a>	1.07	63	20
<a href="#">money matters</a>	1.04	31	19
<a href="#">scooter club</a>	1.00	14	20
<a href="#">john cena</a>	0.82	55	17
<a href="#">problems of afghan proletariat</a>	0.81	24	10
<a href="#">best free forum</a>	0.79	19	16
<a href="#">my ads</a>	0.77	16	30
<a href="#">free message boards</a>	0.75	17	23
<a href="#">free discussion forum</a>	0.71	12	50
<a href="#">big</a>	0.71	37	18
<a href="#">importance of apiculture in nigeria</a>	0.69	28	10
<a href="#">free forum sites</a>	0.67	20	15
<a href="#">smashwords</a>	0.66	42	24
<a href="#">robert and holly message board</a>	0.58	23	10
<a href="#">success quotes</a>	0.56	48	14
<a href="#">forum directory</a>	0.55	23	10

Wayback Machine  
See how Proboards.com looked in the past

Lite proboards.com? Download the Alexa toolbar and access exclusive analytics content.

**Search Engine Marketing (SEM) Activity by proboards.com**

Ads for proboards.com have appeared on major search engines when people performed the queries below. Click on the queries below to discover more information.

Query	SEM Activity	Query	SEM Activity
1 <a href="#">google</a>	Medium	<a href="#">Install the free Alexa Toolbar to join our information community and get access to this feature.</a>	Medium
2 <a href="#">nfl power rankings</a>	Medium		
3 <a href="#">iphone</a>	Medium	<a href="#">Install the Toolbar Now</a>	Medium
4 <a href="#">yankees</a>	Medium		
5 <a href="#">affiliate</a>	High	10 <a href="#">kdan gratis</a>	High

**Search Engine Marketing (SEM) Opportunities for proboards.com**

Queries that provide opportunities for this site to advertise through Search Engine Marketing (SEM) to get more traffic. They are popular queries that are relevant to the site, and have low competition in search engine marketing. [Learn More](#)

Query	SEM opportunity	Query Popularity	QCI
<a href="#">google wave</a>	0.54	77	11
<a href="#">badjojo</a>	0.51	67	10
<a href="#">2012</a>	0.51	73	32
<a href="#">feliz navidad</a>	0.51	10	12
<a href="#">tony hsieh</a>	0.51	20	20
<a href="#">quick start</a>	1.23	25	15
<a href="#">clarks</a>			45
<a href="#">yellow pages</a>	0.50	68	27
<a href="#">free music</a>	0.49	52	59
<a href="#">radio stations</a>	0.48	44	55
<a href="#">songs</a>	0.46	50	47
<a href="#">new songs</a>	0.46	44	33
<a href="#">betsey johnson</a>	1.11	44	37
<a href="#">jack spade</a>	1.09	36	34
<a href="#">time in</a>	4.74	22	10
<a href="#">statistics for</a>	4.12	2	10
<a href="#">tutorial</a>	3.59	49	12
<a href="#">episodes</a>	3.46	33	18
<a href="#">digitalpoint</a>	3.29	50	12
<a href="#">ip whais</a>	3.21	49	12
<a href="#">counter strike</a>	2.87	58	17
<a href="#">concepts</a>	2.87	47	12
<a href="#">concepts</a>	2.87	47	12



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# Exhibit C

SOCIAL

- Comment 2
- Like 24
- Tweet 294
- Share 18
- +1 3

**DISRUPT NY 2013** April 27 to May 1 New York City

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## ProBoards Upgrades Its Forum-Building Tools With A New Dashboard And Live Search

ANTHONY HA

Monday, April 29th, 2013

2 Comments



Is it still possible to do something new with online forums? The answer is yes, according to Patrick Clinger, founder of ProBoards — he's launching a new version of the company's forum-building software today.

Clinger told me that today's launch is the company's first big update since 2008. The company was founded in 2000, and in the beginning, he said ProBoards "actually did have the best software," but he said that over the years it has been overtaken by other companies (one of the latest competitors is the recently announced Discourse).

"It's been a little bit of a game of catch up," Clinger said — and he argued that with ProBoards version 5 (which was already in public beta testing), the company has taken the lead again.

During a recent trip to San Francisco, Clinger gave me a demonstration of the major new features. He seemed proudest of a new "live search" feature, which brings up search results as you type. That might not seem like much more than a nice tweak, but Clinger said, "One of the biggest problems with forums right now is search" — a clunky search experience makes it tough for users to find conversations that are relevant to them.

There's also a dashboard that allows users to track their activity across multiple forum accounts, a new theme system for administrators to customize the look of their forums, a WYSIWYG editor that makes it easier for anyone see what a post will look like before they hit publish, and notifications to track any thread that someone has participated in — users can get someone's attention via "@USERNAME" tagging that we've become so accustomed to on social networks.



**ProBoards Support** support.proboards.com

demo demo 1 Messages 3 Notifications 3 Participated 4 Bookmarks

Welcome from <<Melody2>> Apr 9, 2013 at 8:30pm

Version 5 looks great! from Ricky Zyvokoski Apr 4, 2013 at 2:10pm

---

**Demo Forum 1** demo-forum.proboards.com

Admin admin 2 Messages 0 Notifications 1 Participated 0 Bookmarks

demo demo 0 Messages 0 Notifications 0 Participated 0 Bookmarks

---

**Forum** demo-forum2.proboards.com

Patrick admin 1 Messages 0 Notifications 0 Participated 0 Bookmarks

Speaking of social networks, I asked Clinger if they've taken the place of forums in some ways. He said they have, but "it's been for the better," because most of the general conversation among friends has moved to Facebook and Twitter, allowing forums to become more focused on "very topic-based discussions."

ProBoards has been used to create 3.5 million forums, Clinger added, and he estimated that about 1.2 million of them are still active, in the sense that they're still getting "a pageview every now and then."

As for today's update, Clinger said all new forums created on ProBoards will be on version 5, and admins of existing forums can also sign-up to be placed in the upgrade queue.

### CRUNCHBASE

#### PROBOARDS

Company: **ProBoards**

Website: [proboards.com](http://proboards.com)

Launch Date: January 1, 1998

ProBoards' award winning service has provided free hosting to the world's largest community of online forums for over 12 years. Our service allows you to build a successful online community and join the millions of happy conversationalists who use ProBoards forums each month.

→ LEARN MORE



PREVIOUS STORY  
TechStars Boston Alum Placester Raises \$2.5 Million For Its Professional Website Builder For Realtors

NEXT STORY  
Benchmark's Bill Gurley: Late-Stage Market Is "Most Frothy" Since The Late 1990s

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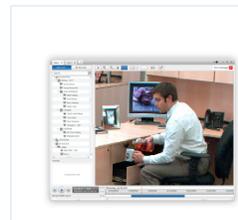
Build a beautiful website today.  
FREE TRIAL **VIRB**

**FREESTRUCTURE**  
San Francisco  
July 16-18, 2013

Hassle-Free Invoicing  
**PDF INVOICE**

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- R

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- Garrett Camp Launches Expa**
- The Big Takeaway From Facebook Earnings**
- New York Startup Scene Shines At Disrupt NY**
- Philz Coffee Raises Eight-Figure Round**
- Taxi e-hailing NYC blocked**
- And The Winner Of TechCrunch Disrupt NY 2013**
- LinkedIn Stock Dips 10% On Q2 Forecast Of**
- Instagram Now Lets Anyone Tag You [Or Brands]**
- Redfin Takes On Zillow's Zestimates**
- Google And Others Put \$125M Into Peer To Peer**

### WHAT YOU MISSED

- Is Google Getting Serious About Gaming? Noah...**
- Shenzhen's Huangjiangbei Sellers Are Struggling...**
- China Is Investing \$810M In Beidou, A...**
- Stylish Office Products & Furnishing E-Tailer...**
- Instagram Now Lets Anyone Tag You [Or Brands]...**

### UPCOMING EVENTS

- 05/30/13 **Austin Meetup** Austin, TX
- 07/18/13 **Seattle Meetup** Seattle, WA

2 comments

Sign in

Sign in form with fields for email and password, and social media icons for LinkedIn, Twitter, and Facebook.

Newest | Oldest | Popular

RaymondLyle 7 hours ago
Great to see! Patrick has been in this space for a long time and I am sure he will continue to evolve and grow ProBoards!

MomoLevi 3 days ago
nice article !

Like Reply

Like Reply

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Advertisement for TechCrunch, Sourcebits, and New Relic.

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09/07/13 Disrupt SF 2013 San Francisco, CA
10/26/13 Disrupt Europe:Berlin 2013 Berlin Germany

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BlackBerry® 10. Find out more about the new BlackBerry 10 smartphone.
3 FREE Credit Scores. View your latest Credit Scores from All 3 bureaus in 60 seconds for \$0!

Buy a link here

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Walk The Floor With Us At TechCrunch Disrupt NY 2013's Startup Alley
David Tisch Is Bored With His Smartphone's Apps

More on TechCrunch TV

LATEST IN GADGETS

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With A Widespread Launch Looming, Mozilla Rolls Out Firefox OS Simulator 1.0
The FitBark Pet Activity Monitor Is A Reasonable Device For Pet Owners
Snapzoom Gives You A Smartphone Camera Mount That Turns Binoculars Into A Super Zoom Lens
A Walk Through Hardware Alley At TC Disrupt

More in Gadgets

ALSO ON AOL TECH

- 360intersect inspires techies without getting technical
HPS: More people spending more time gaming online
Drafts 3.0 adds archiving, improves organization, more
WoW Moviewatch: Lich King Does Orphan Week
Next Borderlands 2 DLC is 'Tiny Tina's Assault on Dragon Keep,' coming June 25

More on Engadget, TUAW, Joystiq, HuffPost Tech

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- Web page addresses and e-mail addresses turn into links automatically.
- Allowed HTML tags: <a> <em> <strong> <img> <code> <ul> <ol> <li> <dl> <dt> <dd>
- Lines and paragraphs break automatically.
- You can enable syntax highlighting of source code with the following tags: <code>, <pre>.
- You may quote other posts using [quote] tags.
- **Textual smilies** will be replaced with graphical ones.

More information about formatting options

Save

Preview

Top

Free & Open Source PHP Forums			Commercial PHP	Forum Hosting	Java / JEE	Microsoft .Net			
AEF	IceBB	Quicksilver	XennoBB	FusionBB	WebBB	Answerbase	NitPick 2011	JavaBB	Comm100 Forum
bbPress	Joomla Forum	SEO-Board		IP.Board	XenForo	BulletinBoards	ProBoards	JForum	NearForums
Beehive Forum	MiniBB	Simple Machines 1.1		MesDiscussions		ForumCommunity	Tal.ki	JGeep	YAF.NET
Drupal Forum	MyBB	Simple Machines 2		SocialEngine		Forumotion	Twelvestone	JForum	Perl
esoTalk	MyProBB	UNB		UBB.threads		FreeForums	Website Toolbox	MVN Forum	
XMB	Phorum	UseBB		UltraBB		Google Groups	ZetaBoards	Nemesis Forum	S-BBB
FluxBB	PhpBB 2	Vanilla Forums		vBulletin 3.8		Lefora	Zoho	SForum	YABB
Forumotion	PhpBB 3	Visacha		vBulletin 4		Nabble		Yazd	
RUDForum	PunBB	Wikid Forum		Burning Board		Ninja Post			

### Who are we?

FSR is an independent resource helping you for choosing the right community software matching your expectations and, of course, those from your Internet community.



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forum n. pl. fo-rums also fo-ra. A public meeting place for open discussion.

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What's Coming Next? See Next Reviews.



Answer the 10-Question Quiz to Pick your Forum.

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