

ESTTA Tracking number: **ESTTA565191**

Filing date: **10/16/2013**

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	Anoni, Inc.
Granted to Date of previous extension	10/16/2013
Address	66 Starbuck Drive Muir Beach, CA 94965 UNITED STATES

Correspondence information	Anoni, Inc. 66 Starbuck Drive Muir Beach, CA 94965 UNITED STATES devans.sf@gmail.com Phone:4155056099
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Applicant Information

Application No	85674367	Publication date	06/18/2013
Opposition Filing Date	10/16/2013	Opposition Period Ends	10/16/2013
Applicant	LittleInc Labs Inc. 27 S Park St. San Francisco, CA 94107 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 035. All goods and services in the class are opposed, namely: Advertising services; online advertising on electronic and optical communications networks and on wireless and electronic mobile devices; promoting the goods and services of others by placing advertisements and promotional displays in an electronic site accessed through electronic or optical communications networks and on wireless and electronic mobile devices; advertising and promotion of websites for others; providing on-line directory information services featuring information regarding the wireless communications and social networking services of others; computerized database management; providing electronic processing of electronic funds transfer, ACH, credit card, debit card, electronic check and electronic payments provided via an electronic or optical communications network and on wireless and electronic mobile devices</p>
<p>Class 038. All goods and services in the class are opposed, namely: Providing multiple-user access to computer networks for the transfer and dissemination of a wide range of information; electronic transmission of data, messages, images, and documents; providing on-line chat rooms and electronic bulletin boards for transmission of messages among users with other electronic or optical communications network and wireless and electronic mobile device in the field of general interest; Communications services, namely, providing temporary use of a web-based, software-based facilities for communications among users via a personalized webpage and wireless and electronic mobile device interface</p>

concerning topics of interest relating to topics of general interest

Class 042.

All goods and services in the class are opposed, namely: Computer services, namely, computer software development of web applications for internet and wireless and electronic mobile device users; providing temporary use of on-line non-downloadable software for assisting in website development; providing temporary use of non-downloadable software for use in search engine optimization; providing temporary use of non-downloadable software for use in analyzing online and wireless and electronic mobile device user behavior; searching and retrieving information, sites, and other resources available on electronic and optical communications networks and via wireless and electronic mobile devices for others; designing, creating, hosting, and maintenance of websites for others; Application service provider, namely, providing temporary use of a web-based software application featuring technology that allows for communications among users via a personalized webpage and via wireless and electronic mobile device interface

Class 045.

All goods and services in the class are opposed, namely: Online social networking services

Grounds for Opposition

Other	Deception, priority and likelihood of confusion, false suggestion of connection, as described in attached pleading.
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Attachments	Statement of Opposition.pdf(64995 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	/Douglas B Evans/
Name	Anoni, Inc.
Date	10/16/2013

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

In the matter of trademark application Serial No. 85674367

For the mark MESSAGEME (service mark)

Published in the Official Gazette on June 18, 2013

Anoni, Inc,

v.

LittleInc Labs Inc.

NOTICE OF OPPOSITION

Opposer Information:

Anoni, Inc.
66 Starbuck Drive
Muir Beach, CA 94965
devans.sf@gmail.com
tel: 415-505-6099
fax: 415-282-0709

Applicant Information:

LittleInc Labs Inc.
27 S. Park St.
San Francisco, CA 94107
Attorney of Record: Julia Spoor Gard
jgard@btlaw.com
tel: 317-231-1313

Goods/Services Affected by Opposition

Class IC 035. All goods and services are opposed.

Class IC 038. All goods and services are opposed.

Class IC 042. All goods and services are opposed.

Class IC 045. All goods and services are opposed.

NOTICE OF OPPOSITION

Commission for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3514

Madam:

Anoni Inc., a Delaware corporation, located and doing business at 66 Starbuck Drive, Muir Beach, CA 94965 (“Opposer”), believes it will be damaged by registration by LittleInc Labs Inc. (“Applicant”) of the mark MESAGEME shown in Application Serial No. 85674367 and hereby oppose the same.

1. Applicant filed a trademark application serial no. 85674367 in the United States Patent and Trademark Office (“PTO”) on July 11, 2012 (“the Application”) to register the mark MESSAGEME (“the Applicant’s Mark) for use in connection with the following services (collectively, “the Applicant’s Services”):

IC 035. US 100 101 102. G & S: Advertising services; online advertising on electronic and optical communications networks and on wireless and electronic mobile devices; promoting the goods and services of others by placing advertisements and promotional displays in an electronic site accessed through electronic or optical communications networks and on wireless and electronic mobile devices; advertising and promotion of websites for others; providing on-line directory information services featuring information regarding the wireless communications and social

networking services of others; computerized database management; providing electronic processing of electronic funds transfer, ACH, credit card, debit card, electronic check and electronic payments provided via an electronic or optical communications network and on wireless and electronic mobile devices

IC 038. US 100 101 104. G & S: Providing multiple-user access to computer networks for the transfer and dissemination of a wide range of information; electronic transmission of data, messages, images, and documents; providing on-line chat rooms and electronic bulletin boards for transmission of messages among users with other electronic or optical communications network and wireless and electronic mobile device in the field of general interest; Communications services, namely, providing temporary use of a web-based, software-based facilities for communications among users via a personalized webpage and wireless and electronic mobile device interface concerning topics of interest relating to topics of general interest

IC 042. US 100 101. G & S: Computer services, namely, computer software development of web applications for internet and wireless and electronic mobile device users; providing temporary use of on-line non-downloadable software for assisting in website development; providing temporary use of non-downloadable software for use in search engine optimization; providing temporary use of non-downloadable software for

use in analyzing online and wireless and electronic mobile device user behavior; searching and retrieving information, sites, and other resources available on electronic and optical communications networks and via wireless and electronic mobile devices for others; designing, creating, hosting, and maintenance of websites for others; Application service provider, namely, providing temporary use of a web-based software application featuring technology that allows for communications among users via a personalized webpage and via wireless and electronic mobile device interface

IC 045. US 100 101. G & S: Online social networking services

2. The Application filed by Applicant on July 11, 2012 (“the Applicant’s Filing Date”) was based on Applicant’s intent to use the Applicant’s Mark for the various services described in Application Serial No. 85674367. Applicant’s constructive date of first use for the purpose of trademark priority is July 11, 2012 (“Applicant’s Constructive First Use Date”).
3. On information and belief, Opposer asserts that Applicant has either assigned or granted an exclusive license to the Applicant’s Mark to MessageMe, Inc., a Delaware company that was founded on April 15, 2012. According to the MessageMe, Inc. website and Facebook page at www.messageme.com and <https://www.facebook.com/MessageMe>, Applicant (acting through MessageMe, Inc.) launched their service under the name “MessageMe” on the

iTunes app store in March of 2013, for use in association with mobile phones or tablet computer devices. In this launch message, they say they spent the last year building the MessageMe application. As such, Applicant's actual date of first use in commerce was not sooner than March of 2013 ("Applicant's Actual First Use Date").

3. The Application for Applicant's Mark was published for opposition in the *Official Gazette* on June 18, 2013. On July 18, 2013, the Opposer timely filed a request for a 90-day extension of time to oppose the Application for Applicant's Mark, which was granted until October 16, 2013 (Tracking No: ESTTA549101).
4. The Opposer has since at least February 26, 2012, operated a service under the name "MessageMe" (the "Opposer's Mark") that provides messaging among multiple users via computer and cellular networks, facilitates payments processing, enables on-line advertising services, enables search and retrieval of online information, sites, and other resources, and that provides on-line social networking services in conjunction with mobile phones or tablet computer devices ("the Opposer's Services").
5. Opposer offered the MessageMe anonymous conversation thread link as part of its Anoni mobile application. The MessageMe anonymous conversation link was up and running as part of the Anoni mobile application on or before February 26, 2012. Opposer's use of the mark was actual use in commerce, not

just “pre-sales” use. Hence, Opposer claims February 26, 2012 as its first use date (“Opposers First Use Date”). The the domain name “message.me” was transferred to Opposer on June 11, 2012, and Opposer launched its MessageMe service through the website www.message.me on July 7, 2012.

6. The Opposer has used the Opposer’s Mark in association with the Opposer’s Services in commerce since at least as early as February 26, 2012, and the Opposer’s Mark is currently in use in commerce with the Opposer’s Services.
7. The Opposer’s First Use Date for the Opposer’s Mark is earlier than Applicant’s Constructive First Use Date of July 11, 2012 and Applicant’s Actual First Use Date in March of 2013.
8. The Opposer’s First Use Date for the Opposer’s Mark is earlier than Applicant’s Filing Date of July 11, 2012.
9. Applicant’s mark “MESSAGEME” is identical or nearly identical to the Opposer’s Mark “MessageMe.” The Applicant’s MESSAGEME Mark is confusingly similar in sound, meaning, and appearance to the Opposer’s “MessageMe” Mark. The Applicant’s registration and use of the MESSAGEME Mark would likely create confusion, mistake, or deception in the minds of prospective purchasers and users as to the origin or source of the Opposer’s Services associated with the MessageMe mark.

10. The Applicant's Services are closely related to and/or are in the nature zone of expansion of the Opposer's Services. The Applicant's Services are offered via mobile phones and tablet computer devices and provide the same or substantial similar capabilities and functionality for messaging, advertising, payments processing, search and retrieval, and social networking.
11. The Opposer's Services and the Applicant's Services travel in the same channels of trade and are viewed by the same customers. Applicant's Services are therefore substantially similar to the Opposer's Services with which the Opposer's Mark is used.
12. Consumers familiar with the Opposer's Services are likely to mistakenly believe that the Applicant's Services are sponsored, authorized, endorsed, affiliated with or otherwise approved by the Opposer because the MESSAGEME Mark sought to be registered by the Applicant is identical to or confusingly similar to the Opposer's MessageMe Mark.
13. For the foregoing reason, the registration sought by the Applicant is contrary to the provisions of Section 2 of the Latham Act, and the Opposer believes that it would be damaged thereby.
14. On information and belief, at the time Applicant filed the Application, Applicant did not have actual use of the Applicant's Mark as a trademark with each of Applicant's Services.

15. Applicant's Application should not be granted because it was not filed based on Applicant's first use of Applicant's Mark as a trademark with each and every one of Applicant's Services, and on information and belief, Applicant failed to satisfy the requirements of Trademark Act Section 1(a) and related Trademark Rules and Regulations.
16. For the foregoing reasons, the registration sought by Applicant is contrary to the provisions of Section 2 of the Latham Act, and the Opposer believes that it would be damaged thereby.
17. WHEREFORE, the Opposer respectfully requests that the registration of the mark shown in Application Serial No. 85674367 be refused and that this Opposition be sustained in favor of Opposer.

Dated: October 16, 2013

Anoni, Inc.
66 Starbuck Drive
Muir Beach, CA 94965
Attn: Douglas B. Evans
Tel: 415-505-6099
Fax: 415-282-0709

Douglas B. Evans
Anoni, Inc.