

ESTTA Tracking number: **ESTTA594337**

Filing date: **03/24/2014**

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	Automattic, Inc.
Granted to Date of previous extension	03/23/2014
Address	132 Hawthorne Street San Francisco, CA 94107 UNITED STATES

Attorney information	Mary L. Shapiro Mary L. Shapiro Law, PC 244 California Street, Suite 507 San Francisco, CA 94111-4354 UNITED STATES iplaw@maryshapiro.com Phone:415-398-3141
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Applicant Information

Application No	85817071	Publication date	09/24/2013
Opposition Filing Date	03/24/2014	Opposition Period Ends	03/23/2014
Applicant	Jetpack Marketing, LLC 330 Main Street Seal Beach, CA 90740 CANADA		

Goods/Services Affected by Opposition

<p>Class 009. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Downloadable Software In The Nature Of A Mobile Application For Viewing And Interacting With Digital Business Services Via The Internet And Wireless Devices Featuring Marketing Development, Marketing Counsel, And Marketing Implementation, Public Relations Development, Public Relations Counsel, And Public Relations Implementation, Strategic Product Marketing, Strategic Product Branding, Direct Marketing, Sales Promotion, Internet-Based Marketing, And Technology-Enabled Business Development</p>
<p>Class 035. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Business Services, Namely, Marketing Development, Marketing Counsel, And Marketing Implementation, Public Relations Development, Public Relations Counsel, And Public Relations Implementation, Strategic Product Marketing, Strategic Product Branding, Direct Marketing, Sales Promotion, Internet-Based Marketing, And Technology-Enabled Business Development; Public Relations Services In The Field Of Media Relations, Event Marketing, Event Planning, Marketing, Employee Communications, Market Research And Analysis, Competitive Business Intelligence, Training And Performance Improvement, And Collateral Design And Production</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/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	JETPACK		
Goods/Services	Application service provider for a specific and identifiable blogging and content management system used to facilitate blogging and editing, modifying, and maintaining a website		

Attachments	Notice of Opposition JETPACK (Ser. No. 85817071) JetPack Marketing , LLC.pdf(2184679 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	/Mary L. Shapiro/
Name	Mary L. Shapiro
Date	03/24/2014

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

Automatic, Inc.,

Opposer,

v.

Jetpack Marketing, LLC,

Applicant.

Opposition No. _____

Mark: JETPACK

Appl. Ser. No. 85/817,071

Publication Date: September 24, 2013

NOTICE OF OPPOSITION

Automatic, Inc. (“Opposer”), a corporation organized and existing under the laws of the State of Delaware, having a business address at 132 Hawthorne Street, San Francisco, California 94107, believes it is being or may be damaged by the registration of the alleged mark JETPACK (the “Applied-For Mark”), as shown in Application No. 85/817,071 (the “Application”), for all services categorized and described in Class 9, filed on behalf of Jetpack Marketing, LLC, (“Applicant”), believed to be a corporation organized under the laws of the State of California, having a business address at 330 Main Street, Seal Beach, California 90740, and hereby files this Notice of Opposition to oppose same and prevent registration of the afore-mentioned application.

As grounds for opposition, Opposer alleges

1. Opposer timely files this Notice of Opposition to the Application, which was published September 24, 2013, after timely filing a request with the TTAB for an extension of time to oppose the application at issue on October 24, 2013 and a further extension on January 21, 2014.
2. Opposer is an Internet company that provides development, design and support for WordPress[®], the leading online publishing platform that powers millions of websites.
3. Since March 2011, Opposer has offered software under the JETPACK mark that is used to optimize WordPress websites to facilitate and optimize internet publishing, including blogging and content management platforms.

4. Based on its continuous use of the JETPACK mark in interstate commerce, Opposer has accrued common law rights in the mark in the U.S.
5. Opposer's JETPACK mark serves to identify Opposer as the source of its goods.
6. Applicant filed an application for the Applied-For Mark, the subject of the Application (Serial No. 85/817,071) on January 7, 2013, stating an intent-to-use the mark.
7. Applicant describes its goods in Class 9 as "Downloadable software in the nature of a mobile application for viewing and interacting with digital business services via the internet and wireless devices featuring marketing development, marketing counsel, and marketing implementation, public relations development, public relations counsel, and public relations implementation, strategic product marketing, strategic product branding, direct marketing, sales promotion, internet-based marketing, and technology-enabled business development."
8. Applicant describes its services in Class 35 as "Business services, namely, marketing development, marketing counsel, and marketing implementation, public relations development, public relations counsel, and public relations implementation, strategic product marketing, strategic product branding, direct marketing, sales promotion, internet-based marketing, and technology-enabled business development; public relations services in the field of media relations, event marketing, event planning, marketing, employee communications, market research and analysis, competitive business intelligence, training and performance improvement, and collateral design and production."
9. Opposer asserts priority in its JETPACK mark over Applicant's priority date for its Applied-For Mark.
10. Opposer submits that Applicant's Applied-For Mark is confusingly similar in sound, sight, appearance and commercial impression to Opposer's mark.
11. Opposer submits that Applicant seeks to register goods, namely software, which overlaps with, or is at least highly related to, the goods offered by Opposer under the mark at issue.
12. Opposer asserts that Applicant's registration of the mark at issue is likely to cause confusion, to cause mistake, and to deceive customers, potential customers, and others as to the source of its goods. Such confusion will cause harm to Opposer and the consuming public.
13. Person's familiar with Opposer's marks may purchase Applicant's software as goods offered by Opposer. Any defect, objection, or fault found with Applicant's goods marketed under the Applied-For Mark would likely reflect upon and injure Opposer and the reputation of the quality of services offered under Opposer's mark.

14. Accordingly, for the reasons stated above, Opposer believes that it will be damaged by registration of Application No. 85/817,071 protested herein.

WHEREFORE, Opposer prays that the opposition to Application No. 85/817,071 be granted and that the subject application be refused.

Respectfully submitted,

By: 

Mary L. Shapiro, Esq.
Attorneys for Automattic, Inc.

Dated: March 24, 2014

Mary L. Shapiro Law, PC
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San Francisco, CA 94111-4354
Telephone: 415- 398-3141
Email: iplaw@maryshapiro.com

PROOF OF SERVICE BY MAIL
C.C.P. 1013a

I declare that I am a resident of or employed in the County of San Francisco, California. I am over the age of 18 years and not a party to the within entitled cause. The name and address of my business is: Mary L. Shapiro Law, PC, 244 California Street, Suite 507, San Francisco, California 94111-4354.

I am readily familiar with the ordinary practice of the business of collecting, processing and depositing correspondence in the United States Postal Service and that the correspondence will be deposited the same day with postage thereon fully prepaid.

On March 24, 2014, I served the NOTICE OF OPPOSITION on the parties listed below by placing a true copy thereof enclosed in a sealed envelope for collection and mailing in the United States Postal Service following ordinary business practices at San Francisco, California addressed as follows:

Jeff P. Thennisch, Esq.
Ingrassia, Fisher & Lorenz, PC
7010 E Cochise Road
Scottsdale, Arizona 85253

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on March 24, 2014 at San Francisco, California.



Eddie Shine