

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
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RK/kk

Mailed: January 21, 2015

Opposition No. **91215726**

Starz Entertainment, LLC

v.

Shazam Entertainment Limited

**Yong Oh (Richard) Kim, Interlocutory Attorney:**

On October 23, 2014, Applicant filed a proposed amendment to its application Serial No. 85630799, with Opposer's consent.<sup>1</sup>

By the proposed amendment, Applicant seeks to delete the services in International Class 38 and to amend the identifications of goods and services in International Classes 9, 35, 41 and 42 as follows (added terms bolded):

**From:** Software providing entertainment or information internet links; software providing entertainment or information internet links in response to specified audio/visual content; software providing a viewer of radio, television or streaming programmes, cinematic films or other audio/visual entertainment content, upon request, with internet links to relevant goods, services or information including, other audio/visual entertainment or information content, retail services providers and offers or competitions; software providing, in response to specified audio/visual content, a viewer of radio, television or streaming programmes, cinematic films or other audio/visual entertainment content

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<sup>1</sup> Since the Board presumes that this amendment is intended to supercede the amendment filed by Applicant on October 21, 2014, the earlier filing has been given no consideration.

with internet links to relevant goods, services or information including, other audio/visual entertainment or information content, retail services providers and offers or competitions; software enabling a viewer of audio/visual entertainment to access interactive audio/visual entertainment or information content; software enabling a viewer of audio/visual or media content to access entertainment or information; software enabling a viewer of audio/visual or media content to access retail services providers; software enabling a viewer of radio, television or streaming programmes, cinematic films or other audio/visual entertainment or information content to access, online or via mobile phone, interactive audio/visual entertainment or information content, offers or competitions and/or retail services providers; software enabling a viewer of DVDs, or other optical media, to access interactive audio/visual entertainment or information content; software enabling a viewer of films or radio, television or streaming programmes or other audio/visual entertainment to access interactive audio/visual entertainment or information content; software for recognition of audio/visual content; software for identification of audio/visual content; software which recognizes specified audio/visual entertainment content and, in response, provides access to interactive audio/visual entertainment or information content; software which recognizes specified audio/visual content and, in response, provide access to entertainment or information and/or retail services providers and/or offers or competitions; software for music recognition; software for recognition of images; software for music identification; software for accessing information relating to music and audio/visual recordings; software for searching information from a global computer network or the Internet; databases of recorded music files, downloadable and recorded on computer media; databases of recorded music, downloadable and recorded on computer media; downloadable electronic wallpaper, graphics, music computer games, ring tones via the Internet and wireless devices; in International Class 9.

The rental of advertising space; the receipt of orders from consumers for entertainment-related goods or services and the transfer of said orders to retailers of entertainment-related goods or services; the receipt of orders from consumers for entertainment performance tickets and the transfer of said orders to retailers of entertainment

performance tickets; the receipt of orders from consumers for music and the transfer of said orders to retailers of music; the receipt of orders from consumers for entertainment information and the transfer of said orders to retailers of entertainment information; the receipt of orders from consumers for pre-recorded music and the transfer of said orders to retailers of pre-recorded music; the receipt of orders from consumers for ring tones and the transfer of said orders to ring tone providers; the receipt of orders from consumers for electronic wallpaper or other graphical images and the transfer of said orders to electronic wallpaper providers; the receipt of orders from consumers for audio/video recordings of performances by musical artists and the transfer of said orders to retailers of audio/video recordings of performances by musical artists; the receipt of orders from consumers for pre-recorded audio/visual entertainment content and the transfer of said orders to retailers of pre-recorded audio/visual entertainment content; procurement, namely, purchasing tickets to entertainment events for others; retail store services in the field of musical sound recordings; the bringing together, for the benefit of others, of a variety of goods being audio recordings, ring tones, electronic wallpaper or other graphical images, and audio/video recordings of performances by musical artists, enabling customers to conveniently view, purchase and download those goods from an Internet website specializing in the marketing of audio recordings, ring tones, electronic wallpaper or other graphical images, and audio/video recordings of performances by musical artists; the bringing together, for the benefit of others, of a variety of goods being pre-recorded audio/visual entertainment content enabling customers to conveniently view, purchase and/or download those goods from an Internet website specializing in the marketing of audio/visual entertainment content; information and advisory services relating to each of the aforesaid services; in International Class 35.

Providing online journals, namely, blogs featuring entertainment information and audio/visual entertainment content; Provision of information relating to audio/visual entertainment content; provision of information relating to music via telephone or mobile phone or via the Internet; provision of information relating to music, entertainment and other entertainment and music related information via

telephone or mobile phone where said music is relayed to the information provider via telephone or mobile phone; provision of location based information, relating to entertainment, to telephone or mobile phone users; information and advisory services relating to each of the aforesaid services; in International Class 41.

Providing temporary use of online, non-downloadable software that provides audio/visual content recognition services; providing temporary use of online non-downloadable software that provides audio/visual content identification services; Providing temporary use of online, non-downloadable software that provides music recognition services; Providing temporary use of online, non-downloadable software that provides music identification services; Providing temporary use of online, non-downloadable software that recognizes specified audio/visual entertainment content and, in response, provides access to interactive audio/visual entertainment or information content; Providing temporary use of online, non-downloadable software that recognizes specified audio/visual entertainment content and, in response, provides access to entertainment or information, offers or competitions and/or retail services providers; information and advisory services relating to each of the aforesaid services; in International Class 42.

**To:** Software providing **music** or information internet links; software providing **music** or information internet links in response to specified audio content; software providing a viewer of radio, television or streaming programmes, cinematic films or other audio/visual entertainment content, upon request, with internet links to relevant goods, services or information including, audio or information content, retail services providers and offers or competitions; software providing, in response to specified audio/visual content, a viewer of radio, television or streaming programmes, cinematic films or other audio/visual entertainment content with internet links to relevant goods, services or information including audio or information content, retail services providers and offers or competitions; software enabling a viewer of audio/visual entertainment to access interactive audio entertainment or information content; software enabling a viewer of audio/visual or media content to access

**music** or information; software enabling a viewer of audio/visual or media content to access retail services providers; software enabling a viewer of radio, television or streaming programmes, cinematic films or other audio/visual entertainment or information content to access, online or via mobile phone, interactive audio or information content, offers or competitions and/or retail services providers; software enabling a viewer of DVDs, or other optical media, to access interactive audio or information content; software enabling a viewer of films or radio, television or streaming programmes or other audio to access interactive audio or information content; software for recognition of audio/visual content; software for identification of audio/visual content; software which recognizes specified audio/visual entertainment content and, in response, provides access to interactive audio entertainment or information content; software which recognizes specified audio/visual content and, in response, provide access to **music** or information and/or retail services providers and/or offers or competitions; software for music recognition; software for recognition of images; software for music identification; software for accessing information relating to music and audio/visual recordings; software for searching information from a global computer network or the Internet; databases of recorded music files, downloadable and recorded on computer media; databases of recorded music, downloadable and recorded on computer media; downloadable electronic wallpaper, graphics, music computer games, ring tones via the Internet and wireless devices; in International Class 9.

The rental of advertising space; the receipt of orders from consumers for entertainment-related goods or services and the transfer of said orders to retailers of entertainment-related goods or services; the receipt of orders from consumers for entertainment performance tickets and the transfer of said orders to retailers of entertainment performance tickets; the receipt of orders from consumers for music and the transfer of said orders to retailers of music; the receipt of orders from consumers for entertainment information and the transfer of said orders to retailers of entertainment information; the receipt of orders from consumers for pre-recorded music and the transfer of said orders to retailers of pre-recorded music; the receipt of orders from consumers for ring tones and the transfer of said orders

to ring tone providers; the receipt of orders from consumers for electronic wallpaper or other graphical images and the transfer of said orders to electronic wallpaper providers; the receipt of orders from consumers for audio recordings of performances by musical artists and the transfer of said orders to retailers of audio recordings of performances by musical artists; the receipt of orders from consumers for pre-recorded audio entertainment content and the transfer of said orders to retailers of pre-recorded audio entertainment content; procurement, namely, purchasing tickets to entertainment events for others; retail store services in the field of musical sound recordings; the bringing together, for the benefit of others, of a variety of goods being audio recordings, ring tones, electronic wallpaper or other graphical images, and audio recordings of performances by musical artists, enabling customers to conveniently view, purchase and download those goods from an Internet website specializing in the marketing of audio recordings, ring tones, electronic wallpaper or other graphical images, and audio recordings of performances by musical artists; the bringing together, for the benefit of others, of a variety of goods being pre-recorded audio entertainment content enabling customers to conveniently view, purchase and/or download those goods from an Internet website specializing in the marketing of audio/visual entertainment content; information and advisory services relating to each of the aforesaid services; in International Class 35.

Providing online journals, namely, blogs featuring audio content; Provision of information relating to audio content; provision of information relating to music via telephone or mobile phone or via the Internet; provision of information relating to music and music related information via telephone or mobile phone where said music is relayed to the information provider via telephone or mobile phone; provision of location based information, relating to **music**, to telephone or mobile phone users; information and advisory services relating to each of the aforesaid services; in International Class 41.

Providing temporary use of online, non-downloadable software that provides audio content recognition services; providing temporary use of online non-downloadable software that provides audio content identification services;

Providing temporary use of online, non-downloadable software that provides music recognition services; Providing temporary use of online, non-downloadable software that provides music identification services; Providing temporary use of online, non-downloadable software that recognizes specified audio entertainment content and, in response, provides access to interactive audio or information content; Providing temporary use of online, non-downloadable software that recognizes specified audio content and, in response, provides access to offers or competitions and/or retail services providers; information and advisory services relating to each of the aforesaid services; in International Class 42.

Inasmuch as the amendment is clearly limiting in nature, as required by Trademark Rule 2.71(a), and because Opposer has provided its consent thereto, the amendment is **APPROVED** and entered. *See* Trademark Rule 2.133(a).

As to the deletion of International Class 38, in an opposition to an application having multiple classes, where an applicant files a request to amend the application to delete an opposed class, the request for amendment is, in effect, an abandonment of the application with respect to that class and is governed by Trademark Rule 2.135. TBMP § 605.03(b) (2014). In view thereof, **application Serial No. 85630799 stands abandoned as to the opposed services in International Class 38.**

If this resolves the dispute herein, Opposer is allowed until **FEBRUARY 16, 2015**, to file a withdrawal of the opposition, **failing which the opposition will go forward on the application as amended in accordance with the schedule as last reset on January 7, 2015.** That schedule is reproduced below:

Time to Answer	3/8/2015
Deadline for Discovery Conference	4/7/2015
Discovery Opens	4/7/2015

Initial Disclosures Due	<b>5/7/2015</b>
Expert Disclosures Due	<b>9/4/2015</b>
Discovery Closes	<b>10/4/2015</b>
Plaintiff's Pretrial Disclosures Due	<b>11/18/2015</b>
Plaintiff's 30-day Trial Period Ends	<b>1/2/2016</b>
Defendant's Pretrial Disclosures Due	<b>1/17/2016</b>
Defendant's 30-day Trial Period Ends	<b>3/2/2016</b>
Plaintiff's Rebuttal Disclosures Due	<b>3/17/2016</b>
Plaintiff's 15-day Rebuttal Period Ends	<b>4/16/2016</b>

IN EACH INSTANCE, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

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