

ESTTA Tracking number: **ESTTA622049**

Filing date: **08/18/2014**

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

Proceeding	91215811
Party	Defendant KeepSafe Software, Inc.
Correspondence Address	JOHN W. CRITTENDEN COOLEY LLP 1299 PENNSYLVANIA AVE NW STE 700 WASHINGTON, DC 20004-2400  ahiscott@cooley.com, trademarks@cooley.com
Submission	Answer
Filer's Name	Ariana G. Hiscott
Filer's e-mail	trademarks@cooley.com, ahiscott@cooley.com, jcrittenden@cooley.com
Signature	/Ariana G. Hiscott/
Date	08/18/2014
Attachments	Answer to Opposition - KEEPSAFE - August 18 2014.pdf(19068 bytes )

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

j2 Global, Inc.,  
Opposer,  
v.  
KeepSafe Software, Inc.,  
Applicant

OPPOSITION NUMBER: 91215811

Trademark: KEEPSAFE

U.S. Serial No: [85906972](#)

Filed: Apr. 17, 2013

Published: Dec. 10, 2013

Goods: Computer application software for mobile phones, namely, software for importing, hiding and locking photo images, videos and sms messages, in International Class 09

**APPLICANT’S ANSWER AND AFFIRMATIVE DEFENSES**

KeepSafe Software, Inc., (“Applicant”), for its Answer to the Notice of Opposition filed by j2 Global, Inc. against Applicant’s application for KEEPSAFE, Serial No. [85906972](#) (the “Mark”) pleads and avers as follows:

Answering the introductory paragraph of the Notice of Opposition, Applicant is without information or belief sufficient to admit or deny the allegations concerning Opposer’s incorporation, location, or beliefs, and, on that basis, denies those allegations and demands proof thereof.

1. Applicant is without information or belief sufficient to admit or deny the allegations in Paragraph 1 of the Notice of Opposition, and on that basis, denies those allegations and demands proof thereof.
2. Applicant is without information or belief sufficient to admit or deny the allegations in Paragraph 2 of the Notice of Opposition, and on that basis, denies those allegations and demands proof thereof.

3. Applicant is without information or belief sufficient to admit or deny the allegations in Paragraph 3 of the Notice of Opposition, and on that basis, denies those allegations and demands proof thereof.
4. Applicant is without information or belief sufficient to admit or deny the allegations in Paragraph 4 of the Notice of Opposition, and on that basis, denies those allegations and demands proof thereof.
5. Applicant is without information or belief sufficient to admit or deny the allegations in Paragraph 5 of the Notice of Opposition, and on that basis, denies those allegations and demands proof thereof.
6. Applicant is without information or belief sufficient to admit or deny the allegations in Paragraph 6 of the Notice of Opposition, and on that basis, denies those allegations and demands proof thereof.
7. Applicant admits it filed application serial number 85/906,972 for “KEEPSAFE” on April 17, 2013 for “Computer application software for mobile phones, namely, software for importing, hiding and locking photo images, videos and sms messages” in International Class 09. Except as expressly admitted, Applicant denies the allegations in Paragraph 7 of the Notice of Opposition.
8. Applicant admits the allegations in Paragraph 8 of the Notice of Opposition.
9. Applicant denies the allegations in Paragraph 9 of the Notice of Opposition.
10. Applicant denies the allegations in Paragraph 10 of the Notice of Opposition.
11. Applicant denies the allegations in Paragraph 11 of the Notice of Opposition.
12. Applicant denies the allegations in Paragraph 12 of the Notice of Opposition.
13. Applicant denies the allegations in Paragraph 13 of the Notice of Opposition.

14. Applicant denies the allegations in Paragraph 14 of the Notice of Opposition.

### **AFFIRMATIVE DEFENSES**

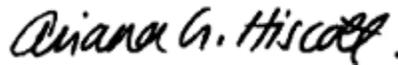
In asserting the following affirmative defenses, Applicant does not concede that it has the burden of proof as to each of them:

1. Opposer fails to state a claim upon which relief can be granted.
2. Opposer lacks standing to oppose registration of the Mark in that Opposer is not likely to be damaged by the registration of the Mark.
3. Opposer lacks standing to oppose registration of the Mark in that Opposer does not have rights in its mark, superior or otherwise, sufficient to sustain the Opposition.

Respectfully submitted,

Attorneys for Applicant KeepSafe Software, Inc.,

COOLEY LLP



Date: August 18, 2014

John W. Crittenden, Esq.

Ariana G. Hiscott, Esq.

Cooley LLP

101 California St., Floor 5

San Francisco, CA 94117

Telephone: 415-683-2171

Facsimile: 415- 693-2222

Email: [trademarks@cooley.com](mailto:trademarks@cooley.com);

[jcrittenden@cooley.com](mailto:jcrittenden@cooley.com); [ahiscott@cooley.com](mailto:ahiscott@cooley.com);

## CERTIFICATE OF TRANSMITTAL AND SERVICE

I hereby certify that this **APPLICANT'S ANSWER AND AFFIRMATIVE DEFENSES** is being electronically transmitted in PDF format to the Trademark Trial and Appeal Board through the Electronic System for Trademark Trials and Appeals (ESTTA) on the date indicated below. I hereby further certify that on the date indicated below, a true and correct copy of this **APPLICANT'S ANSWER AND AFFIRMATIVE DEFENSES** has been served on Applicant by e-mailing said copy on August 18, 2014 to Opposer's Attorneys of Record, Robert W. Zelnick and Bess Morgan to the following addresses by agreement: [rzelnick@mwe.com](mailto:rzelnick@mwe.com), [bmorgan@mwe.com](mailto:bmorgan@mwe.com), [dcipit@mwe.com](mailto:dcipit@mwe.com) and [ksandacz@mwe.com](mailto:ksandacz@mwe.com)

Date: August 18, 2014



Ariana G. Hiscott