

ESTTA Tracking number: **ESTTA616434**

Filing date: **07/18/2014**

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	Google Inc.
Granted to Date of previous extension	07/20/2014
Address	1600 Amphitheatre Parkway Mountain View, CA 94043 UNITED STATES

Attorney information	Matthew J. Snider Dickinson Wright PLLC International Square 1875 Eye Street N.W.Suite 1200 Washington, DC 20006 UNITED STATES trade- mark@dickinsonwright.com,google@dickinson-wright.com,jnishi@dickinsonwright.com,msnider@dickinsonwright.com Phone:734-623-1909
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Applicant Information

Application No	85674801	Publication date	01/21/2014
Opposition Filing Date	07/18/2014	Opposition Period Ends	07/20/2014
Applicant	Hanginout, Inc. 2712 Jefferson Street Carlsbad, CA 92008 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 009. First Use: 2012/06/06 First Use In Commerce: 2012/06/06 All goods and services in the class are opposed, namely: Computer application software for mobile devices for sharing information, photos, audio and video content in the field of telecommunications and social networking services</p>
<p>Class 038. First Use: 2012/06/06 First Use In Commerce: 2012/06/06 All goods and services in the class are opposed, namely: Telecommunications services, namely, providing online and telecommunication facilities for real-time and on-demand interaction between and among users of computers, mobile and handheld computers, and wired and wireless communication devices; audio, text and video broadcasting services over the Internet or other communications networks, namely, electronically transmitting audio clips, text and video clips; electronic messaging services enabling individuals to send and receive messages via email, instant messaging or a website on the Internet in the field of general interest; providing online forums for communication on topics of general interest; providing an online forum for users to share information, photos, audio and video content to engage in social networking</p>

Grounds for Opposition

Other	Priority and the Examining Attorney of Opposer's mark has asserted a likelihood of confusion with Applicant's mark
Related Proceedings	Opposer has also filed a Notice of Opposition against Applicant's application serial number 85/674,799 for HANGINOUT & Design. Applicant has initiated a civil action against Opposer concerning the marks the subject of application serial numbers 85/674,801 and 85/674,799 in the United States District Court for the Southern District of California.
Attachments	ANNARBOR- #176568-v1-Notice_of_Opposition_re_HANGINOUT_(85674801).pdf(106524 bytes)

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	/Matthew J. Snider/
Name	Matthew J. Snider
Date	07/18/2014

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

*In re U.S. Trademark Application Serial No. 85/674,801 for
HANGINOUT International Classes 9 and 38; filed July 12, 2012*

Google Inc.,

Opposer,

v.

TTAB No:

Hanginout, Inc.,

Applicant.

NOTICE OF OPPOSITION

Opposer Google Inc., a Delaware corporation having its principal place of business at 1600 Amphitheatre Parkway, Mountain View, CA 94043 (“Opposer”), believes that it will be damaged by registration of the mark shown in Application Serial No. 85/674,801 in International Classes 9 and 38, and opposes the same. As grounds for the opposition, Opposer alleges as follows:

1. Opposer is the owner of the mark HANGOUTS, which it has used and uses for, *inter alia*, a platform for facilitating live interactions among its users, including instant messaging and real-time video conferencing, since at least as early as June 28, 2011.

2. Opposer filed Application Serial No. 85/916,316 (“316 Application”) for the mark HANGOUTS on April 26, 2013 in International Classes 9, 38, 41, and 42 for the following goods and services:

- Downloadable software for publishing and sharing digital media and information via global computer and communication network; instant messaging software; communications software for electronically exchanging voice, data, video and graphics accessible via computer, mobile, wireless, and telecommunication networks;

computer software for processing images, graphics, audio, video, and text; computer software development tools; computer software for use in developing computer programs; video and audio conferencing software, in Class 9;

- Telecommunications services, namely, electronic transmission of data and digital messaging via global computer and communication networks; providing online forums, chat rooms and electronic bulletin boards for transmission of messages among users in the field of general interest; digital multimedia broadcasting services over the Internet, namely, posting, displaying, and electronically transmitting data, audio and video; providing access to computer databases in the fields of general interest; instant messaging services; voice over ip (VOIP) services; video and audio conferencing services conducted via the web, telephone, and mobile devices; communications by computer terminals; local and long distance telephone services; mobile telephone communication services, in Class 38;
- Entertainment services, namely, providing temporary use of non-downloadable interactive multiplayer and single player games played via global computer and communication networks, in Class 41; and
- Providing temporary use of on-line non-downloadable software for publishing and sharing digital media and information via global computer and communication networks; Providing temporary use of on-line non-downloadable software development tools; Providing temporary use of on-line non-downloadable software for use as an application programming interface (API); Providing a web hosting platform for others for organizing and conducting meetings, social events and interactive text, audio, and video discussions; Providing an on-line network environment that features technology that enables users to share data; computer software consulting; application service provider (ASP) services featuring computer software for transmission of text, data, images, audio, and video by wireless communication networks and the Internet; application service provider (ASP) services featuring computer software for electronic messaging and wireless digital messaging, in Class 42.

3. Upon information and belief, Applicant Hanginout, Inc. is a Delaware corporation domiciled in Carlsbad, California (“Applicant”).

4. On or about July 12, 2012, Applicant filed Application Serial No. 85/674,801 (“801 Application”) for the mark HANGINOUT in International Classes 9 and 38 for

- Computer application software for mobile devices for sharing information, photos, audio and video content in the field of telecommunications and social networking services, in Class 9, with a date of first use anywhere and in commerce of June 6, 2012; and

- Telecommunications services, namely, providing online and telecommunication facilities for real-time and on-demand interaction between and among users of computers, mobile and handheld computers, and wired and wireless communication devices; audio, text and video broadcasting services over the Internet or other communications networks, namely, electronically transmitting audio clips, text and video clips; electronic messaging services enabling individuals to send and receive messages via email, instant messaging or a website on the Internet in the field of general interest; providing online forums for communication on topics of general interest; providing an online forum for users to share information, photos, audio and video content to engage in social networking, in Class 38, with a date of first use anywhere and in commerce of June 6, 2012.

5. In a Suspension Notice issued during the PTO's ex parte examination of Opposer's '316 Application, the Examining Attorney cited Applicant's '801 Application, as well as Application Serial No. 85/674,799 (also owned by Applicant and filed on or about July 12, 2012), and stated that the effective filing dates of the pending applications precede the filing date of Opposer's '316 Application, and if one or more of the referenced applications registers, Opposer's "mark may be refused registration under Section 2(d) because of a likelihood of confusion with that registered mark." The '801 Application is the subject application herein opposed. Application Serial No. 85/674,799 is also owned by Applicant, and Opposer is concurrently filing a Notice of Opposition against that application as well.

6. On information and belief, Opposer's use of its mark HANGOUTS for a platform for facilitating live interactions among its users, including instant messaging and real-time video conferencing precedes both the filing date of the '801 Application and Applicant's use of HANGINOUT for the goods and services for which Applicant seeks to register its mark.

7. On information and belief, Opposer has priority in the use of its mark HANGOUTS vis-à-vis Applicant's use of HANGINOUT.

8. If, as the Examining Attorney for the '801 Application contends, Opposer's mark so resembles Applicant's mark as to be likely to cause confusion when applied to Opposer's goods and services, then Opposer, having priority of use, will be damaged by the registration of

Applicant's mark, pursuant to Section 2(d), and the '801 Application should be refused registration.

WHEREFORE, Opposer believes that it will be damaged by registration of the mark shown in Application Serial No. 85/674,801 in International Classes 9 and 38, and opposes registration thereof on the grounds set forth above. Opposer further prays that Application Serial No. 85/674,801 be rejected, and that registration of Applicant's mark be refused.

The \$600 fee for two classes required under 2.6(a)(17) is enclosed herewith.

DICKINSON WRIGHT, PLLC

July 18, 2014

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