

ESTTA Tracking number: **ESTTA623746**

Filing date: **08/27/2014**

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

Proceeding	91217437
Party	Defendant Hanginout, Inc.
Correspondence Address	ANDREW D. SKALE MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND 3580 CARMEL MOUNTAIN RD STE 300 SAN DIEGO, CA 92130-6768  adskale@mintz.com
Submission	Answer
Filer's Name	Andrew D. Skale
Filer's e-mail	adskale@mintz.com, blwagner@mintz.com, jddib@mintz.com
Signature	/Andrew D. Skale/
Date	08/27/2014
Attachments	Answer to Notice of Opposition - HANGINOUT437.pdf(11828 bytes )

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

In the matter of Trademark Application No. 85/674801 for the mark HANGINOUT  
Published in the Official Gazette January 21, 2014

Google Inc.	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. 91217437
	)	
Hanginout, Inc.	)	
	)	
Applicant.	)	
	)	

**ANSWER AND AFFIRMATIVE DEFENSES TO NOTICE OF OPPOSITION**

Applicant HANGINOUT, INC. (“Applicant”), by its undersigned counsel, hereby files its Answer and Affirmative Defenses to the Notice of Opposition as follows:

**ANSWER**

1. Applicant is without information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1, and, therefore, all such allegations are denied.
2. Applicant admits the allegations set forth in Paragraph 2 of the Notice of Opposition.
3. Applicant admits the allegations set forth in Paragraph 3 of the Notice of Opposition.
4. Applicant admits the allegations set forth in Paragraph 4 of the Notice of Opposition.
5. Applicant admits the allegations set forth in Paragraph 5 of the Notice of Opposition.
6. Applicant denies the allegations in Paragraph 6.
7. Applicant denies the allegations in Paragraph 7.

8. Applicant denies the allegations in Paragraph 8.

**AFFIRMATIVE DEFENSES**

1. The Notice of Opposition should be dismissed for failure to state a claim upon which relief can be granted.

2. Applicant has priority of use of its Mark over Opposer's mark and, therefore, Opposer's Opposition should be dismissed and Applicant's Mark should be granted registration.

3. Opposer's claims are barred as it does not have priority in the alleged mark over Applicant.

4. Opposer lacks standing to assert the claims in this Opposition.

5. Opposer's claims are barred by its unclean hands.

6. Opposer's Opposition is barred by principles of equity and fairness, including estoppel and/or laches.

7. Opposer's claims are barred by the doctrine of acquiescence.

8. This Opposition is still in its preliminary stages, and Applicant reserves all further Affirmative Defenses that are or may become available.

WHEREFORE, the Notice of Opposition in this matter should be denied and Applicant's application should proceed through prosecution to registration.

Respectfully submitted,

Dated: August 27, 2014

By: /Andrew D. Skale/  
Andrew D. Skale  
Mintz, Levin, Cohn, Ferris,  
Glovsky, and Popeo, P.C.  
3580 Carmel Mountain Road, Ste 300  
San Diego, CA. 92130  
Tel: 858-314-1506  
Fax: 858-314-1501  
E-mail: adskale@mintz.com  
*Attorneys for Applicant*  
HANGINOUT, INC.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing ANSWER AND AFFIRMATIVE DEFENSES TO NOTICE OF OPPOSITION was served by U.S. mail, first class, postage prepaid, on this 27<sup>th</sup> day of August, 2014 on the following:

Matthew J. Snider  
Dickinson Wright PLLC  
International Square 1875 Eye Street N.W. Suite 1200  
Washington, DC 20006

*Attorneys for Opposer*  
Google Inc.

\_\_\_\_\_  
*/Sharon Wester/*  
Sharon Wester