

ESTTA Tracking number: **ESTTA635200**

Filing date: **10/27/2014**

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

Proceeding	91218382
Party	Defendant GetClouder, Ltd.
Correspondence Address	EVAN BROWN INFOLAWGROUP, LLP 225 W WASHINGTON STE 2200 CHICAGO, IL 60606-3561 ebrown@infolawgroup.com
Submission	Answer
Filer's Name	Diana T. Huang
Filer's e-mail	dhuang@choate.com, tadmin@choate.com
Signature	/Diana T. Huang/
Date	10/27/2014
Attachments	GetClouder Answer.pdf(17794 bytes)

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

In the Matter of Application:
Serial No.: 86225572
Filed: March 19, 2014
Applicant: GetClouder, Ltd.
Mark: GETCLOUDER
Published in the Official Gazette of September 16, 2014

Cloudera, Inc.,)	
)	
Opposer,)	
)	
v.)	Opposition No. 91218382
)	
GetClouder, Ltd.,)	
)	
Applicant.)	
)	

ANSWER TO NOTICE OF OPPOSITION

Applicant, GetClouder, Ltd. (“Applicant” or “GetClouder”), answers the Notice of Opposition filed by Opposer, Cloudera, Inc. (“Opposer”), as follows. Each of the following numbered paragraphs refers to the corresponding numbered paragraph in Opposer’s Notice of Opposition. Capitalized terms not otherwise defined herein shall have the definitions given to them in Opposer’s Notice of Opposition.

I. PARTIES

1. Admitted, upon information and belief.
2. Admitted.

II. OPPOSER’S MARK

3. Applicant incorporates by reference the preceding responses of this Answer to Notice of Opposition.

4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 4 of the Opposition, and therefore denies such averments.

5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 5 of the Opposition, and therefore denies such averments.

6. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 6 of the Opposition, and therefore denies such averments.

7. Applicant states that the referenced USPTO records and registrations speak for themselves. Applicant is otherwise without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 7 of the Opposition, and therefore denies such averments.

8. Applicant states that the referenced USPTO records and registrations speak for themselves. In addition, Applicant denies the averments in Paragraph 8 to the extent that “Opposer’s Goods and Services” expand on or are different than the goods and services specified in the registrations. Applicant is otherwise without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 8 of the Opposition, and therefore denies such averments.

9. Applicant denies that Applicant’s Mark can be construed as a “form of Opposer’s Mark.” Applicant is otherwise without knowledge or information sufficient to form a belief as to the truth of the remaining averments contained in Paragraph 9 of the Opposition, and therefore denies such averments.

III. APPLICANT'S MARK

10. Applicant incorporates by reference the preceding responses of this Answer to Notice of Opposition.

11. Admitted.

12. Applicant states that the referenced USPTO records and application speak for themselves.

13. Applicant states that the referenced USPTO records and application speak for themselves. Applicant is otherwise without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 13 of the Opposition, and therefore denies such averments.

IV. PRIORITY

14. Applicant incorporates by reference the preceding responses of this Answer to Notice of Opposition.

15. Applicant denies the averments in Paragraph 15, and in particular denies such averments with respect to Opposer's Application.

16. Applicant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 16 of the Opposition, and therefore denies such averments.

17. Applicant states that the referenced USPTO records and registrations speak for themselves. Applicant is otherwise without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 17 of the Opposition, and therefore denies such averments.

V. CLAIMS

A. Likelihood of Confusion

18. Applicant incorporates by reference the preceding responses of this Answer to Notice of Opposition.

19. Applicant denies the Opposer's characterization of Applicant's Mark, which is comprised of the unique, coined term "GETCLOUDER." To the extent that Paragraph 19 states any other factual averments, Applicant denies such averments.

20. Denied.

21. Denied.

22. Denied.

23. Paragraph 23 states a legal conclusion which Applicant denies. To the extent that Paragraph 23 states any factual averments, Applicant denies such averments.

24. Paragraph 24 states a legal conclusion which Applicant denies. To the extent that Paragraph 24 states any factual averments, Applicant denies such averments.

B. False Representation of Origin, Endorsement or Association

25. Applicant incorporates by reference the preceding responses of this Answer to Notice of Opposition.

26. Denied.

27. Denied.

28. Denied.

29. Paragraph 29 states a legal conclusion which Applicant denies. To the extent that Paragraph 29 states any factual averments, Applicant denies such averments.

DEFENSES AND PLEADINGS

1. Opposer is not entitled to the relief it seeks because Applicant's mark GETCLOUDER is so dissimilar to Opposer's marks that registration of Applicant's mark is not likely to cause confusion, to cause mistake and/or to deceive.

2. Opposer is not entitled to the relief it seeks because it has not been nor will it be harmed by registration of Applicant's mark GETCLOUDER.

3. Opposer is not entitled to the relief it seeks because it has failed to and cannot show any valid basis for claiming a likelihood of confusion between Applicant's mark GETCLOUDER and any of Opposer's marks, including without limitation:

- (a) the similarities of the marks in their entireties as to appearance, sound, concept, and commercial impression
- (b) any similarity or relatedness between Applicant's goods and services described in the Applicant's application and Opposer's goods and services described in Opposer's Registrations and Application (and Applicant submits that no similarity or relatedness in fact exists);

4. Opposer is not entitled to the relief it seeks with respect to a claim of likelihood of confusion with Opposer's Application, as such application was filed based on an intent to use the mark in commerce after the filing date of Applicant's application. Accordingly, Opposer's Application does not have priority over Applicant's application, and is therefore irrelevant to the claim of likelihood of confusion in this case and this opposition.

5. Applicant reserves the right to assert additional defenses that may become known during discovery or otherwise, including but not limited to inequitable conduct.

WHEREFORE, Applicant prays that this Opposition be dismissed.

Date: October 27, 2014

Respectfully submitted,

GetClouder, Inc.

By its attorneys,

/s/ Diana T. Huang _____

Daniel C. Winston

Diana T. Huang

Choate, Hall & Stewart LLP

Two International Place

Boston, MA 02110

Tel: (617) 248-5000

Fax: (617) 248-4000

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of this Answer to Notice of Opposition has been served upon counsel of record for the Opposer, by First Class Mail postage prepaid, on October 27, 2014 at:

Patchen Haggerty
Caroline Camp
Perkins Coie LLP
1201 Third Avenue, 49th Floor
Seattle, Washington 98101-3099

/s/ Diana T. Huang
Diana T. Huang