

ESTTA Tracking number: **ESTTA652189**

Filing date: **01/26/2015**

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	Datura, LLC
Granted to Date of previous extension	01/25/2015
Address	P.O. Box 498 Howell, MI 48844-0498 UNITED STATES

Attorney information	Elizabeth K. Brock Harness, Dickey & Pierce, P.L.C. 5445 Corporate Drive, Ste. 200 Troy, MI 48098 UNITED STATES ebrock@hdp.com, docketingTM@hdp.com, tjcomparoni@hdp.com Phone:(248) 641-1600
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Applicant Information

Application No	86227701	Publication date	07/29/2014
Opposition Filing Date	01/26/2015	Opposition Period Ends	01/25/2015
Applicant	Datera, Inc. 2570 W. El Camino Rd, Ste 380 Mountain View, CA 94040 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. First Use: 2013/06/10 First Use In Commerce: 2013/06/22 All goods and services in the class are opposed, namely: Computer hardware and software for use in the storage, transmission, processing, and management of data over computer networks within the field of data storage
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Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	86239716	Application Date	04/02/2014
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	DATURA
Design Mark	
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2009/02/22 First Use In Commerce: 2009/02/22 Computer software featuring prepackaged data structures for use in database management; computer software for use in database management

Attachments	86239716#TMSN.png(bytes) 86227701 DATERA Notice of Opposition.PDF(212457 bytes)
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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	/ekb/
Name	Elizabeth K. Brock
Date	01/26/2015

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

Datura, LLC)	
Opposer,)	
)	Opposition No. _____
v.)	Serial No. 86/227,701
)	Mark: DATERA
Datera, Inc.)	Published: July 29, 2014
Applicant.)	
_____)	

NOTICE OF OPPOSITION

Datura, LLC, a Michigan limited liability company with a business address of P.O. Box 498, Howell, Michigan 48844-0498 and, its predecessors, affiliated and related entities and licensees, (hereinafter “Opposer”) hereby Opposes registration of the mark DATERA that is the subject of Application Serial No. 86/227,701 in International Class 9, published in the *Official Gazette* of July 29, 2014, and requests that registration to Applicant be refused.

As grounds in support of its Opposition, Opposer asserts as follows:

1. Opposer, for many years, and well prior to the date of first use claimed by Applicant in its application, has adopted and continuously used the term DATURA as a trademark for a wide range of goods and services, including goods in Class 9.

2. Opposer is the owner of the following pending United States trademark application:

Mark	Serial No./ Filed	Date of First Use	Goods/Services
DATURA	86/239,716 04/02/2014	02/22/2009	Class 9: Computer software featuring prepackaged data structures for use in database management; computer software for use in database management.

(“Opposer’s Mark” and “Opposer’s Goods). This application is valid, subsisting, unrevoked, and has not been abandoned.

3. Applicant has filed the following use based application:

Mark	Serial No./ Filed	Date of First Use	Goods
DATERA	86/227,701 03/20/2014	06/10/2013	Class 9: Computer hardware and software for use in the storage, transmission, processing, and management of data over computer networks within the field of data storage.

(“Applicant’s Mark” and “Applicant’s Goods”).

4. Applicant’s use of Applicant’s Mark in connection with the goods in the opposed Application Serial No. 86/227,701 falsely suggests a connection with Opposer within the meaning of Section 2(a) of the Trademark Act, 15 U.S.C. 1052(a) since Applicant’s Mark has the same look and similar pronunciation as Opposer’s Mark. Opposer would thereby be injured by the granting to Applicant of a certificate of registration for Applicant’s mark.

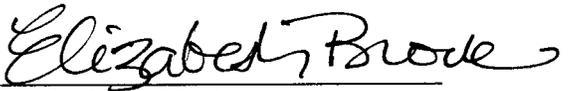
5. Applicant’s Mark so resembles Opposer’s Mark as to be likely, when applied to the goods set forth in Applicant’s application, to cause confusion, mistake, or deception within the meaning of Section 2(d) of the Trademark Act, 15 U.S.C. 1052(d). Additionally, as a result of the similarity of the goods, the United States Patent and Trademark Office has already found Opposer’s Mark to be confusingly similar to Applicant’s mark; namely, Opposer’s later filed application for registration of Opposer’s Mark has been suspended pending the outcome of Applicant’s application to register Applicant’s Mark. As a result of the foregoing, Opposer would be injured by the granting to Applicant of a certificate of registration for Applicant’s mark.

WHEREFORE, Opposer prays that this Opposition be sustained and that registration to Applicant be refused.

Respectfully Submitted,

Datura, LLC

Dated: January 26, 2015

By: 

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Attorney for Opposer, Datura, LLC

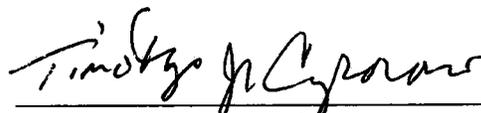
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Datura, LLC)	
Opposer,)	
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v.)	Serial No. 86/227,701
)	Mark: DATERA
Datera, Inc.)	Published: July 29, 2014
Applicant.)	
)	
)	

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **Notice of Opposition** has been served on Applicant Datera, Inc., by mailing said copy to the correspondent address of record with the United States Patent and Trademark Office and the Trademark Trial and Appeal Board, on January 26, 2015, via First Class Mail, postage prepaid, to:

Julia Spoor Gard
Barnes & Thornburg LLP
11 South Meridian Street
Indianapolis, IN 46204-3535



Timothy J. Comparoni