

ESTTA Tracking number: **ESTTA667965**

Filing date: **04/21/2015**

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	Tapp Media, LLC
Granted to Date of previous extension	04/22/2015
Address	P.O. Box 1032 Mount Kisco, NY 10549 UNITED STATES
Attorney information	Cathleen E. Stadecker Downs Rachlin Martin PLLC 199 Main Street, P.O. Box 190 Burlington, VT 05402 UNITED STATES tmip@drm.com

Applicant Information

Application No	86353074	Publication date	12/23/2014
Opposition Filing Date	04/21/2015	Opposition Period Ends	04/22/2015
Applicant	Gnade, William 8 Brook Hollow Court Hawthorne, NJ 07506 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Computer application software for mobile devices, namely, software for social networking

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	86508358	Application Date	01/20/2015
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	TAPP		

Design Mark	<h1>TAPP</h1>
Description of Mark	NONE
Goods/Services	<p>Class 009. First use: First Use: 2014/03/20 First Use In Commerce: 2014/03/20 Software for streaming video, audiovisual and multimedia content to mobile digital electronic devices; computer software to enable accessing, posting, displaying, tagging, blogging, streaming, linking, sharing or otherwise providing electronic media or information via computer and communication networks</p> <p>Class 035. First use: First Use: 2013/09/11 First Use In Commerce: 2013/09/11 Advertising, marketing and promotion services; advertising services for others, namely, providing internet marketing, online advertising, search engine marketing, social media marketing, and marketing analysis in the nature of collection and analysis of consumer data for third parties; subscriptions to internet-based channels featuring video, audiovisual and multimedia content</p> <p>Class 036. First use: First Use: 2013/09/11 First Use In Commerce: 2013/09/11 Payment processing services</p> <p>Class 038. First use: First Use: 2014/03/20 First Use In Commerce: 2014/03/20 Subscription-based video broadcasting services; video on demand transmission services; broadcasting services, namely, provision of access to video, audiovisual and multimedia content provided via a video on demand service; streaming of video, audiovisual and multimedia content; providing an online forum where users can post ratings, reviews, and recommendations of video, audiovisual and multimedia content</p> <p>Class 041. First use: First Use: 2013/09/11 First Use In Commerce: 2013/09/11 Entertainment services in the nature of development, production, post-production and distribution of video, audiovisual and multimedia content; consulting services in the field of video-on-demand programming strategy; entertainment services, namely, providing non-downloadable video, audiovisual and multimedia content via a video-on-demand service, as well as information, reviews, and recommendations regarding video, audiovisual and multimedia content; providing a website featuring non-downloadable video, audiovisual and multimedia content, as well as information, reviews, and recommendations regarding video, audiovisual and multimedia content; providing a website to enable accessing, posting, displaying, tagging, blogging, streaming, linking, sharing or otherwise providing electronic media or information via computer and communication networks</p> <p>Class 042. First use: First Use: 2013/09/11 First Use In Commerce: 2013/09/11 Computer software development in the field of mobile applications</p>

Attachments	86508358#TMSN.png(bytes) Notice of Opposition TAPP and Design.pdf(95988 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	/cathleen e stadecker/
Name	Cathleen E. Stadecker
Date	04/21/2015

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

In the Matter of Application Serial No. 86/353,074 for TAPP and Design
Published in the *Official Gazette* of December 23, 2014

-----X
: Tapp Media, LLC :
: :
: Opposer, :
: :
: v. : Opposition No.:
: :
: William Gnade :
: Applicant. :
-----X

NOTICE OF OPPOSITION

Tapp Media, LLC, a Delaware corporation with an address at P.O. Box 1032, Mount Kisco, New York 10549 (hereinafter, “Opposer”), believes that it will be damaged by the registration of the TAPP and Design mark, which is set forth in Application Serial No. 86/353,074, owned by William Gnade, an individual with an address at 8 Brook Hollow Court, Hawthorne, New Jersey 07506 (hereinafter, “Applicant”), and hereby opposes registration of the same.

As grounds for opposition, Opposer alleges as follows:

1. Opposer has used the mark TAPP since at least as early as March 20, 2014 in connection with various goods and services including providing a website and related software for mobile devices that allows users to stream, access, post, tag, and share entertainment content via social media networks (the “TAPP Mark”).

2. Opposer is the owner of U.S. Application Serial No. 86/508,358 for the TAPP mark for goods and services in Classes 9, 35, 36, 38, 41 and 42. This application was filed on January 20, 2015 based on Opposer's use of the mark in commerce since at least as early as March 20, 2014. A true and correct copy of a printout from the website of the United States Patent and Trademark Office ("USPTO") setting forth the details of the TAPP Application is attached as **Exhibit A**.

3. On July 30, 2014, Applicant filed an application to register the mark TAPP and Design, Application Serial No. 86/353,074, based on Applicant's stated intent to use the mark in commerce in connection with "computer application software for mobile devices, namely, software for social networking," in International Class 9 (such mark is referred to as the "TAPP and Design Mark"). A true and correct printout from the website of the USPTO setting forth the details of the TAPP and Design Application is attached as **Exhibit B**.

4. On information and belief, Opposer's TAPP Mark has been in continuous use in commerce since before any use by Applicant of the TAPP and Design Mark.

5. Opposer contacted Applicant regarding its concerns by letter dated February 9, 2015, but has not received any response from Applicant.

6. In view of the fact that Applicant's TAPP and Design Mark is virtually identical to Opposer's TAPP Mark, and that Opposer's goods as described in the application are highly related to goods offered under Opposer's TAPP Mark, Applicant's TAPP and Design Mark is likely to cause confusion, or to cause mistake, or to deceive within the meaning of Section 2(d) of the Trademark Act. Opposer will thereby be injured by the registration of Application Serial No. 86/353,074.

WHEREFORE, Opposer asks that this Notice of Opposition be sustained and judgment be entered in favor of Opposer.

Respectfully submitted,

DOWNS RACHLIN MARTIN PLLC
Attorneys for Opposer

Date: April 21, 2015
Burlington, Vermont

By: 

Cathleen E. Stadecker, Esq.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that true and complete copies of the foregoing document entitled Notice of Opposition has been served on Applicant by mailing said copies from Burlington, Vermont on April 21, 2015, via First Class Mail, postage prepaid to:

William Gnade
8 Brook Hollow Court
Hawthorne, New Jersey 07506-2258
United States



Jennifer Parent

EXHIBIT A

PTO Form 1478 (Rev 9/2006)
 OMB No. 0651-0009 (Exp 02/28/2018)

Trademark/Service Mark Application, Principal Register

Serial Number: 86508358

Filing Date: 01/20/2015

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86508358
MARK INFORMATION	
*MARK	TAPP
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	TAPP
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Tapp Media, LLC
*STREET	P.O. Box 1032
*CITY	Mount Kisco
*STATE (Required for U.S. applicants)	New York
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	10549
LEGAL ENTITY INFORMATION	
TYPE	limited liability company

STATE/COUNTRY WHERE LEGALLY ORGANIZED	Delaware
GOODS AND/OR SERVICES AND BASIS INFORMATION	
INTERNATIONAL CLASS	009
* IDENTIFICATION	Software for streaming video, audiovisual and multimedia content to mobile digital electronic devices; computer software to enable accessing, posting, displaying, tagging, blogging, streaming, linking, sharing or otherwise providing electronic media or information via computer and communication networks
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 03/20/2014
FIRST USE IN COMMERCE DATE	At least as early as 03/20/2014
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT16\IMAGEOUT 16\865\083\86508358\xml1\RFA0003.JPG
SPECIMEN DESCRIPTION	image of Ipad and Iphone displaying mark in connection with software
INTERNATIONAL CLASS	035
* IDENTIFICATION	Advertising, marketing and promotion services; advertising services for others, namely, providing internet marketing, online advertising, search engine marketing, social media marketing, and marketing analysis in the nature of collection and analysis of consumer data for third parties; subscriptions to internet-based channels featuring video, audiovisual and multimedia content
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 09/11/2013
FIRST USE IN COMMERCE DATE	At least as early as 09/11/2013
SPECIMEN FILE NAME(S)	
ORIGINAL PDF FILE	SPE0123450-44911274-20150120105107056879 . TAPP - About Us.pdf
CONVERTED PDF FILE(S)	\\TICRS\EXPORT16\IMAGEOUT16\865\083\86508358\xml1\RFA0004.JPG

(3 pages)	
	\\TICRS\EXPORT16\IMAGEOUT16\865\083\86508358\xml1\RFA0005.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\865\083\86508358\xml1\RFA0006.JPG
SPECIMEN DESCRIPTION	screenshot of applicant's website
INTERNATIONAL CLASS	036
* IDENTIFICATION	Payment processing services
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 09/11/2013
FIRST USE IN COMMERCE DATE	At least as early as 09/11/2013
SPECIMEN FILE NAME(S)	
ORIGINAL PDF FILE	SPE0123450-1-44911274-20150120105107056879 _ TAPP _ About Us.pdf
CONVERTED PDF FILE(S) (3 pages)	\\TICRS\EXPORT16\IMAGEOUT16\865\083\86508358\xml1\RFA0007.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\865\083\86508358\xml1\RFA0008.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\865\083\86508358\xml1\RFA0009.JPG
SPECIMEN DESCRIPTION	screenshot of applicant's website
INTERNATIONAL CLASS	038
* IDENTIFICATION	Subscription-based video broadcasting services; video on demand transmission services; broadcasting services, namely, provision of access to video, audiovisual and multimedia content provided via a video on demand service; streaming of video, audiovisual and multimedia content; providing an online forum where users can post ratings, reviews, and recommendations of video, audiovisual and multimedia content
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 03/20/2014
FIRST USE IN COMMERCE DATE	At least as early as 03/20/2014

SPECIMEN FILE NAME(S)	
JPG FILE(S)	\\TICRS\EXPORT16\IMAGEOUT16\865\083\86508358\xml1\RFA0013.JPG
ORIGINAL PDF FILE	SPE0123450-44911274-20150120105107056879 . TAPP - Our Channels.pdf
CONVERTED PDF FILE(S) (3 pages)	\\TICRS\EXPORT16\IMAGEOUT16\865\083\86508358\xml1\RFA0010.JPG
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	\\TICRS\EXPORT16\IMAGEOUT16\865\083\86508358\xml1\RFA0012.JPG
SPECIMEN DESCRIPTION	screenshot of applicant's website
INTERNATIONAL CLASS	041
* IDENTIFICATION	Entertainment services in the nature of development, production, post-production and distribution of video, audiovisual and multimedia content; consulting services in the field of video-on-demand programming strategy; entertainment services, namely, providing non-downloadable video, audiovisual and multimedia content via a video-on-demand service, as well as information, reviews, and recommendations regarding video, audiovisual and multimedia content; providing a website featuring non-downloadable video, audiovisual and multimedia content, as well as information, reviews, and recommendations regarding video, audiovisual and multimedia content; providing a website to enable accessing, posting, displaying, tagging, blogging, streaming, linking, sharing or otherwise providing electronic media or information via computer and communication networks
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 09/11/2013
FIRST USE IN COMMERCE DATE	At least as early as 09/11/2013
SPECIMEN FILE NAME(S)	
ORIGINAL PDF FILE	SPE0123450-2-44911274-20150120105107056879 . TAPP - About Us.pdf
CONVERTED PDF FILE(S) (3 pages)	\\TICRS\EXPORT16\IMAGEOUT16\865\083\86508358\xml1\RFA0014.JPG
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	\\TICRS\EXPORT16\IMAGEOUT16\865\083\86508358\xml1\RFA0016.JPG
SPECIMEN	

DESCRIPTION	screenshot of applicant's website
INTERNATIONAL CLASS	042
* IDENTIFICATION	Computer software development in the field of mobile applications
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 09/11/2013
FIRST USE IN COMMERCE DATE	At least as early as 09/11/2013
SPECIMEN FILE NAME(S)	
ORIGINAL PDF FILE	SPE0123450-3-44911274-20150120105107056879 . TAPP - About Us.pdf
CONVERTED PDF FILE(S) (3 pages)	\\TICRS\EXPORT16\IMAGEOUT16\865\083\86508358\xml1\RFA0017.JPG
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	\\TICRS\EXPORT16\IMAGEOUT16\865\083\86508358\xml1\RFA0019.JPG
SPECIMEN DESCRIPTION	screenshot of applicant's website
ATTORNEY INFORMATION	
NAME	Cathleen E. Stadecker
ATTORNEY DOCKET NUMBER	14957-003UST1
FIRM NAME	Downs Rachlin Martin PLLC
STREET	199 Main Street, P.O. Box 190
CITY	Burlington
STATE	Vermont
COUNTRY	United States
ZIP/POSTAL CODE	05402-0190
PHONE	802-863-2375
FAX	802-862-7512
EMAIL ADDRESS	tmip@drm.com
AUTHORIZED TO	

COMMUNICATE VIA EMAIL	Yes
OTHER APPOINTED ATTORNEY	Lawrence H. Meier and Peter Kunin
CORRESPONDENCE INFORMATION	
NAME	Cathleen E. Stadecker
FIRM NAME	Downs Rachlin Martin PLLC
STREET	199 Main Street, P.O. Box 190
CITY	Burlington
STATE	Vermont
COUNTRY	United States
ZIP/POSTAL CODE	05402-0190
PHONE	802-863-2375
FAX	802-862-7512
*EMAIL ADDRESS	tmip@drm.com
*AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
APPLICATION FILING OPTION	TEAS RF
NUMBER OF CLASSES	6
FEE PER CLASS	275
*TOTAL FEE DUE	1650
*TOTAL FEE PAID	1650
SIGNATURE INFORMATION	
SIGNATURE	/JonathanKlein/
SIGNATORY'S NAME	Jon Klein
SIGNATORY'S POSITION	CEO
SIGNATORY'S	917-864-3601

PHONE NUMBER	
DATE SIGNED	01/20/2015

EXHIBIT B

PTO Form 1478 (Rev 9/2006)
 OMB No. 0651-0009 (Exp 12/31/2014)

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 86353074

Filing Date: 07/30/2014

*NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.*

The table below presents the data as entered.

Input Field	Entered
TEAS Plus	YES
MARK INFORMATION	
*MARK	\\TICRS\EXPORT16\IMAGEOUT16\863\530\86353074\xml1\FTK0002.JPG
*SPECIAL FORM	YES
USPTO-GENERATED IMAGE	NO
LITERAL ELEMENT	tapp
*COLOR MARK	NO
*COLOR(S) CLAIMED (If applicable)	
*DESCRIPTION OF THE MARK (and Color Location, if applicable)	The mark consists of the word "tapp," and an arrow where the tail goes from left to right and then up into an arrow.
PIXEL COUNT ACCEPTABLE	YES
PIXEL COUNT	795 x 393
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Gnade, William
*STREET	8 Brook Hollow Court
*CITY	Hawthorne

*STATE (Required for U.S. applicants)	New Jersey
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	07506
PHONE	973-508-4255
EMAIL ADDRESS	gnade21@gmail.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
LEGAL ENTITY INFORMATION	
*TYPE	INDIVIDUAL
* COUNTRY OF CITIZENSHIP	United States
GOODS AND/OR SERVICES AND BASIS INFORMATION	
*INTERNATIONAL CLASS	009
*IDENTIFICATION	Computer application software for mobile devices , namely, software for social networking
*FILING BASIS	SECTION 1(b)
ADDITIONAL STATEMENTS SECTION	
*TRANSLATION (if applicable)	
*TRANSLITERATION (if applicable)	
*CLAIMED PRIOR REGISTRATION (if applicable)	
* CONSENT (NAME/LIKENESS) (if applicable)	
* CONCURRENT USE CLAIM (if applicable)	
CORRESPONDENCE INFORMATION	
*NAME	Gnade, William
*STREET	8 Brook Hollow Court
*CITY	Hawthorne
*STATE (Required for U.S. applicants)	New Jersey
*COUNTRY	United States
*ZIP/POSTAL CODE	07506

PHONE	973-508-4255
*EMAIL ADDRESS	gnade21@gmail.com
*AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
NUMBER OF CLASSES	1
FEE PER CLASS	275
*TOTAL FEE PAID	275
SIGNATURE INFORMATION	
* SIGNATURE	/William Gnade/
* SIGNATORY'S NAME	William Gnade
* SIGNATORY'S POSITION	Owner
SIGNATORY'S PHONE NUMBER	973-508-4255
* DATE SIGNED	07/30/2014
* SIGNATURE	/Vincent Paventa/
* SIGNATORY'S NAME	Vincent Paventa
* SIGNATORY'S POSITION	Owner
SIGNATORY'S PHONE NUMBER	973-508-4255
* DATE SIGNED	07/30/2014

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 86353074

Filing Date: 07/30/2014

To the Commissioner for Trademarks:

MARK: tapp (stylized and/or with design, see [mark](#))

The literal element of the mark consists of tapp.

The mark consists of the word "tapp," and an arrow where the tail goes from left to right and then up into an arrow.

The applicant, William Gnade, a citizen of United States, having an address of

8 Brook Hollow Court
Hawthorne, New Jersey 07506
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 009: Computer application software for mobile devices, namely, software for social networking

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

The applicant's current Correspondence Information:

Gnade, William
8 Brook Hollow Court
Hawthorne, New Jersey 07506
973-508-4255(phone)
gnade21@gmail.com (authorized)

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

Declaration

The signatory believes that: if the applicant is filing the application under 15 U.S.C. Section 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant or the applicant's related company or licensee is using the mark in commerce on or in connection with the goods/services in the application, and such use by the applicant's related company or licensee inures to the benefit of the applicant; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. Section 1051(b), Section 1126(d), and/or Section 1126(e), the applicant is entitled to use the mark in commerce; the applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other person has the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Signature: /William Gnade/ Date Signed: 07/30/2014

Signatory's Name: William Gnade

Signatory's Position: Owner

Signature: /Vincent Paventa/ Date Signed: 07/30/2014

Signatory's Name: Vincent Paventa

Signatory's Position: Owner

RAM Sale Number: 86353074

RAM Accounting Date: 07/31/2014

Serial Number: 86353074

Internet Transmission Date: Wed Jul 30 21:28:26 EDT 2014

TEAS Stamp: USPTO/FTK-208.30.2.66-201407302128268747

80-86353074-5009a5bcc5e867d7eb697c1ad9ab

d22198c9fc2b05acabcbd12d88213d230c349-DA

-7471-20140722230349305604

↑ tapp