

ESTTA Tracking number: **ESTTA682557**

Filing date: **07/08/2015**

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	LinkedIn Corporation
Granted to Date of previous extension	07/08/2015
Address	2029 Stierlin Court Mountain View, CA 94043 UNITED STATES

Attorney information	Judd D. Lauter Cooley LLP 1299 Pennsylvania Ave. NW, Suite 700 Washington, DC, DC 20004 UNITED STATES jlauter@cooley.com, jcullum@cooley.com, aanderson@cooley.com, trademarks@cooley.com Phone:720-470-7535
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Applicant Information

Application No	86347954	Publication date	03/10/2015
Opposition Filing Date	07/08/2015	Opposition Period Ends	07/08/2015
Applicant	LinkMERight 8610 N Alaska ST TAMPA, FL 33604 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 035. First Use: 2014/05/27 First Use In Commerce: 2014/07/21 All goods and services in the class are opposed, namely: Advertising agencies specializing in optimizing our client's business networking profile; Advertising agency specializing in the design and execution of word of mouth, viral, buzz and experiential marketing programs; Advertising and marketing consultancy; Advertising and marketing services provided by means of indirect methods of marketing communications, namely, social media, search engine marketing, inquiry marketing, internet marketing, mobile marketing, blogging and other forms of passive, sharable or viral communications channels; Advertising and marketing services, namely, promoting the goods and services of others; Advertising services, namely, promoting and marketing the goods and services of others in the fields of retail, medicine, restaurants, information technology, finance and businesses via print and electronic media; Advertising services, namely, promoting and marketing the goods and services of others through all public communication means; Advertising services, public relations and marketing services, namely, promoting and marketing the goods and services of others through all public communication means</p>
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3074241	Application Date	05/05/2003
Registration Date	03/28/2006	Foreign Priority Date	NONE
Word Mark	LINKEDIN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2003/05/05 First Use In Commerce: 2003/05/05 Online business networking services		

U.S. Registration No.	3074242	Application Date	05/05/2003
Registration Date	03/28/2006	Foreign Priority Date	NONE
Word Mark	LINKEDIN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2003/05/05 First Use In Commerce: 2003/05/05 Online business networking services		

U.S. Registration No.	3959413	Application Date	07/16/2009
Registration Date	05/10/2011	Foreign Priority Date	NONE
Word Mark	LINKEDIN		

Design Mark	
Description of Mark	The mark consists of the word "LINKED" next to a square with a shaded background containing the word "IN".
Goods/Services	Class 035. First use: First Use: 2008/07/00 First Use In Commerce: 2008/07/00 Advertising and marketing services, namely, promoting goods and services for businesses; providing an online searchable database featuring employment and career opportunities and business, employment and professional queries and answers; job placement services, human resources consulting services; business research and survey services; promoting the goods and services of others via a global computer network; advertising, marketing and promotional services related to all industries for the purpose of facilitating networking and socializing opportunities for business purposes; charitable services, namely, promoting public awareness about community service; providing online career networking services and information in the fields of employment, recruitment, job resources, and job listings; personnel recruitment and placement services; electronic commerce services, namely, providing information about products and services via telecommunication networks for advertising and sales purposes; providing networking opportunities for individuals seeking employment; on-line professional networking opportunities; providing online computer databases and online searchable databases in the fields of business and professional networking

U.S. Registration No.	3963244	Application Date	07/16/2009
Registration Date	05/17/2011	Foreign Priority Date	NONE
Word Mark	LINKEDIN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2008/07/00 First Use In Commerce: 2008/07/00 Advertising and marketing services, namely, promoting goods and services for businesses; providing an online searchable database featuring employment and career opportunities and business, employment and professional queries and answers; job placement services, human resources consulting services; business research and survey services; promoting the goods and services of others via a global computer network; advertising, marketing and promotional services related to all industries for the purpose of facilitating networking and socializing opportunities for business purposes; charitable services, namely, promoting public awareness about community service; providing online career networking services		

	and information in the fields of employment, recruitment, job resources, and job listings; personnel recruitment and placement services; electronic commerce services, namely, providing information about products and services via telecommunication networks for advertising and sales purposes; providing networking opportunities for individuals seeking employment; on-line professional networking opportunities; providing online computer databases and online searchable databases in the fields of business and professional networking
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U.S. Registration No.	4067996	Application Date	07/16/2009
Registration Date	12/06/2011	Foreign Priority Date	NONE
Word Mark	LINKEDIN		
Design Mark			
Description of Mark	The mark consists of the word "LINKED" next to a square with a shaded background containing the word "IN".		
Goods/Services	Class 035. First use: First Use: 2010/11/00 First Use In Commerce: 2010/11/00 providing information all relating to consumer products, services, events and activities in a particular geographic region		

U.S. Registration No.	4158263	Application Date	07/16/2009
Registration Date	06/12/2012	Foreign Priority Date	NONE
Word Mark	LINKEDIN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2010/11/00 First Use In Commerce: 2010/11/00 providing information all relating to consumer products, services, events and activities in a particular geographic region; organizing and conducting job fairs; providing online interactive employment counseling		

U.S. Registration No.	3967561	Application Date	07/16/2009
Registration Date	05/24/2011	Foreign Priority Date	NONE

Word Mark	LINKEDIN
Design Mark	
Description of Mark	NONE
Goods/Services	Class 042. First use: First Use: 2008/07/00 First Use In Commerce: 2008/07/00 Computer services, namely, hosting electronic facilities for others for organizing and conducting meetings, events and interactive discussions via the Internet; computer services, namely, creating an on-line community for registered users to organize groups, events, participate in discussions, share information and resources, and engage in social, business and community networking; providing temporary use of on-line non-downloadable software for allowing web site users to communicate information of general interest for purposes of social, business and community networking, marketing, recruitment and employment; providing a website featuring temporary use of non-downloadable software enabling users to search, locate and communicate with others via electronic communications networks to network, conduct surveys, track online reference to job opportunities and business topics; computer services in the nature of customized web pages featuring user-defined information, personal profiles, audio and images; scientific and industrial research in the fields of business and online social networking; providing a web site featuring temporary use of non-downloadable software allowing web site users to post and display online videos and photos for sharing with others for entertainment purposes; computer services, namely, creating an on-line community for registered users to participate in discussions, get feedback from their peers, form virtual communities, and engage in social networking featuring social media including photos, audio and video content on general topics of social interest

U.S. Registration No.	3979174	Application Date	07/16/2009
Registration Date	06/14/2011	Foreign Priority Date	NONE
Word Mark	LINKEDIN		
Design Mark			
Description of Mark	The mark consists of the word "LINKED" next to a square with a shaded background containing the word "IN".		
Goods/Services	Class 042. First use: First Use: 2008/07/00 First Use In Commerce: 2008/07/00 Computer services, namely, hosting electronic facilities for others for organizing and conducting meetings, events and interactive discussions via the Internet; computer services, namely, creating an on-line community for registered users to		

	organize groups, events, participate in discussions, share information and resources, and engage in social, business and community networking; providing temporary use of on-line non-downloadable software for allowing web site users to communicate information of general interest for purposes of social, business and community networking, marketing, recruitment and employment; providing a website featuring temporary use of non-downloadable software enabling users to search, locate and communicate with others via electronic communications networks to network, conduct surveys, track online reference to job opportunities and business topics; computer services in the nature of customized web pages featuring user-defined information, personal profiles, and images; scientific and industrial research in the fields of business and online social networking; providing a web site featuring temporary use of non-downloadable software allowing web site users to post and display online videos and photos for sharing with others for entertainment purposes; computer services, namely, creating an on-line community for registered users to participate in discussions, get feedback from their peers, form virtual communities, and engage in social networking featuring social media including photos, audio and video content on general topics of social interest
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Attachments	78245639#TMSN.png(bytes) 78245676#TMSN.png(bytes) 77981556#TMSN.png(bytes) 77981606#TMSN.png(bytes) 77982578#TMSN.png(bytes) 77982924#TMSN.png(bytes) 77981731#TMSN.png(bytes) 77981780#TMSN.png(bytes) LinkedIn - LNKMERIGHT Notice_of_Opposition.pdf(117258 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	/Judd D. Lauter/
Name	Judd D. Lauter
Date	07/08/2015

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

In the matter of application Serial No. 86/347,954
For the Trademark **ABOUT US @ LINKMERIGHT and Design**
Published in the Official Gazette
on March 10, 2015

LINKEDIN CORPORATION,)	Opposition No.
)	
Opposer,)	
)	
v.)	
)	
LINKMERIGHT, LLC,)	
)	
Applicant.)	
_____)	

NOTICE OF OPPOSITION

Opposer LinkedIn Corporation (“LinkedIn”), a Delaware corporation having its principal place of business at 2029 Stierlin Court, Mountain View, California 94043, believes that it will be damaged by the issuance of a registration for the mark ABOUT US @ LINKMERIGHT and Design (the “LINKMERIGHT Mark”) in Application Serial No. 86/347,954 filed July 25, 2014 (the “Application”), by LinkMERight, LLC, a Florida limited liability company having a place of business at 8610 N. Alaska Street, Tampa, Florida 33604 (“Applicant”). LinkedIn hereby opposes Applicant’s application pursuant to Section 13 of the United States Trademark Act, as amended, 15 U.S.C. §1063.

As grounds for opposition, LinkedIn alleges that:

1. LinkedIn operates the world’s largest professional and business network on the Internet with more than 300 million members in over 200 countries and territories. LinkedIn continues to grow at a rate of approximately two new members every second. LinkedIn’s

networking services facilitate the ability of its users to build and maintain relationships within an online community. LinkedIn's members include a wide range of individuals seeking to engage in social and community networking and to exchange information and resources across a spectrum of topics. LinkedIn members, both individuals and companies, have the opportunity to create profiles which reflect the member's experience, education, skills and interest. Indeed, many companies and individuals participate in LinkedIn's network in order to promote and market their businesses by establishing profile pages on the network which describe the business and its product and service offerings. Members also may create and/or join interest groups, each of which is centered on a particular subject. Groups offer members a more focused network within which to provide and exchange information, promote services, develop personal and professional connections, and share resources. Because LinkedIn reaches a broad demographic of users across the United States and internationally, creating profiles and participating in groups allow members to promote and market their talents and offerings via a large network. . LinkedIn also offers users a variety of advanced marketing solutions (the "LinkedIn Marketing Solutions") designed to build professional relationships and reach targeted, high-quality audiences. In addition, LinkedIn offers a broad array of information of interest to its members including in the fields of marketing, promotion, networking, and career and professional development.

2. Since its launch in 2003, LinkedIn has continuously used the marks LINKEDIN and LINKEDIN and Design (collectively the "LINKEDIN Marks") in interstate commerce in the United States in connection with its services.

3. LinkedIn is the owner of numerous U.S. registrations and applications for the marks LINKEDIN and LINKEDIN and Design on the Principal Register. LinkedIn's registrations and applications cover a wide array of services, including for example: U.S.

Registration Nos. 3,074,241 and 3,074,242 issued on March 28, 2006 and covering “[o]nline business networking services” in Class 35; U.S. Registration Nos. 3,959,413 and 3,963,244 issued on May 10, 2011 and May 17, 2011, respectively, and covering, *inter alia*, “advertising and marketing services, namely, promoting goods and services for businesses; ... promoting the goods and services of others via a global computer network; advertising, marketing and promotional services related to all industries for the purpose of facilitating networking and socializing opportunities for business purposes; ... electronic commerce services, namely, providing information about products and services via telecommunication networks for advertising and sales purposes; providing networking opportunities for individuals seeking employment; on-line professional networking opportunities; providing online computer databases and online searchable databases in the fields of business and professional networking” in Class 35; U.S. Registration No. 4,067,996 issued on December 6, 2011 and covering “providing information all relating to consumer products, services, events and activities in a particular geographic region” in Class 35; U.S. Registration No. 4,158,263 issued on June 12, 2012 and covering, *inter alia*, “providing information all relating to consumer products, services, events and activities in a particular geographic region...” in Class 35; and U.S. Registration Nos. 3,967,561 and 3,979,174 issued on May 24, 2011 and June 14, 2011, respectively, and covering, *inter alia*, “computer services, namely, hosting electronic facilities for others for organizing and conducting meetings, events and interactive discussions via the Internet; computer services, namely, creating an on-line community for registered users to organize groups, events, participate in discussions, share information and resources, and engage in social, business and community networking; providing temporary use of on-line non-downloadable software for allowing web site users to communicate information of general interest for purposes of social,

business and community networking, marketing, recruitment and employment; providing a website featuring temporary use of non-downloadable software enabling users to search, locate and communicate with others via electronic communications networks to network, conduct surveys, track online reference to job opportunities and business topics; ...computer services, namely, creating an on-line community for registered users to participate in discussions, get feedback from their peers, form virtual communities, and engage in social networking featuring social media including photos, audio and video content on general topics of social interest” in Class 42.

4. LinkedIn also owns common law rights in the LINKEDIN Marks for a broad array of services and has continually used these marks in connection with its services offerings since 2003.

5. LinkedIn has expended considerable effort and expense in promoting the LINKEDIN Marks and the services offered in connection with these marks, both in the United States and internationally, and the LINKEDIN Marks embody the substantial and valuable reputation and goodwill that LinkedIn has earned in the marketplace for its high quality services.

6. In addition to its own advertising efforts, LinkedIn has been the subject of thousands of unsolicited stories in the media, highlighting LinkedIn’s innovative and successful online networking and marketing services. LinkedIn has also received awards and recognitions for its innovative offerings.

7. As a result of LinkedIn’s widespread use of the LINKEDIN Marks worldwide, extensive advertising and promotion and continuous and unsolicited media coverage, as well as the high degree of consumer recognition of the LINKEDIN Marks, the strong and loyal base of customers that LinkedIn enjoys for its services, and LinkedIn’s trademark registrations, among

other factors, the LINKEDIN Marks are famous within the meaning of Section 43(c) of the United States Trademark Act, 15 U.S.C. §1125(c).

APPLICANT AND ITS PENDING APPLICATIONS

8. Applicant seeks to register the LINKMERIGHT Mark in connection with “[a]dvertising agencies specializing in optimizing our client’s business networking profile; Advertising agency specializing in the design and execution of word of mouth, viral, buzz and experiential marketing programs; Advertising and marketing consultancy; Advertising and marketing services provided by means of indirect methods of marketing communications, namely, social media, search engine marketing, inquiry marketing, internet marketing, mobile marketing, blogging and other forms of passive, sharable or viral communications channels; Advertising and marketing services, namely, promoting the goods and services of others; Advertising services, namely, promoting and marketing the goods and services of others in the fields of retail, medicine, restaurants, information technology, finance and businesses via print and electronic media; Advertising services, namely, promoting and marketing the goods and services of others through all public communication means; Advertising services, public relations and marketing services, namely, promoting and marketing the goods and services of others through all public communication means” in Class 35.

9. The Application was published in the *Official Gazette* on March 10, 2015. LinkedIn filed an extension of time to oppose on April 8, 2015, which was granted on April 8, 2015 extending the time to oppose to July 8, 2015. This Opposition is therefore timely filed.

10. The LINKMERIGHT Mark is substantially similar to the LINKEDIN Marks in sight, sound, connotation and overall commercial impression.

11. The services allegedly offered under the LINKMERIGHT Mark are substantially overlapping with and related to the services provided by LinkedIn. Specifically the Application covers services to assist users in “optimizing” online business networking profiles and to engage in marketing via online channels including social media. As noted above, under the LINKEDIN Marks, LinkedIn is one of the world’s largest business and social networks, and offers members the opportunity to create profiles for the purpose of advertising and promoting their talents and offerings. LinkedIn also provides a substantial volume of information directed to educating and assisting its members to maximize the effectiveness of their online profiles and connections and to engage in online marketing. For example, the LinkedIn Pulse service has recently offered articles identify marketing steps for success, search engine optimization, creating posts likely to be widely shared, and designing marketing campaigns. Significantly, LinkedIn’s website also provides businesses with tools to market products and services, build brands, and target potential customers. These tools include, but are not limited to, LinkedIn’s Lead Accelerator, sponsored updates, sponsored InMail, display ads, and text ads.

12. Due to the similarities in commercial impression with the LINKEDIN Marks and the direct overlap in services, the LINKMERIGHT Mark is likely to create consumer confusion.

13. On information and belief, Applicant selected the LINKMERIGHT Mark with knowledge of the LINKEDIN Marks.

14. On information and belief, Applicant deliberately adopted the term LINKMERIGHT, and the LINKMERIGHT Mark so as to imitate and thereby trade on the LINKEDIN Marks, cause confusion in the marketplace, and/or create a false association between Applicant’s goods and services and LinkedIn’s goods and services.

15. LinkedIn is not affiliated or connected with Applicant or its services; nor has LinkedIn endorsed or sponsored Applicant or its services.

16. There is no issue as to priority of use. LinkedIn began using its LINKEDIN Marks, and enjoys priority as a result of the filing dates of its trademark registrations, well prior to Applicant's claimed first use date of July 21, 2014 for the LINKMERIGHT Mark.

**FIRST GROUND FOR OPPOSITION
LIKELIHOOD OF CONFUSION**

17. LinkedIn incorporates by reference paragraphs 1 through 16, inclusive, as if fully set forth here.

18. The LINKMERIGHT Mark Applicant proposes to register is confusingly similar to the LINKEDIN Marks in appearance, sound, meaning, and commercial impression because its dominant component—"LINKMERIGHT"—incorporates the term "LINK" as a verb followed by a two letter word, "ME," and a generic term, "RIGHT." In addition, the LINKMERIGHT Mark displays the term "RIGHT" set off from "LINKME" against a blue rectangular shape with rounded corners, which is highly similar to the manner in which the term "IN" is displayed in the LINKEDIN & Design mark.

19. The services offered by Applicant are closely related to and overlapping with the services offered by LinkedIn. According to the identification of services in the Application, Applicant allegedly uses the LINKMERIGHT Mark in connection with "advertising agencies specializing in optimizing our client's business networking profile" among other advertising and marketing services. Because LinkedIn is the world's largest professional and business networking site, it is highly likely that Applicant will direct its services to LinkedIn members.

Use of name LINKMERIGHT in connection with services that are similar to and overlapping with LinkedIn's services, and are likely to be offered to LinkedIn members, is likely to lead to confusion as to whether Applicant's services are offered by or sponsored or approved by LinkedIn.

20. On information and belief, Applicant was aware of the LINKEDIN marks when Applicant selected its Mark.

21. LinkedIn is not affiliated or connected with Applicant or its services; nor has LinkedIn endorsed or sponsored Applicant or its services.

22. Registration of Applicant's Mark will injure LinkedIn by causing the public to be confused or mistaken into believing that the services provided by Applicant are endorsed or sponsored by LinkedIn. LinkedIn has no control over the nature and quality of the services offered by Applicant under the LINKMERIGHT Mark, and LinkedIn's reputation and goodwill will be damaged and the value of the LINKEDIN Marks jeopardized, all to LinkedIn's detriment.

23. Accordingly, registration of the mark herein opposed will damage LinkedIn because Applicant's mark is likely, when used on or in connection with the services described in the opposed application, to cause confusion, or to cause mistake or to deceive. Thus Applicant's Mark is unregistrable under Sections 2(d) and 3 of the United States Trademark Act, as amended, 15 U.S.C. §§1052 and 1053, and should be refused registration.

**SECOND GROUND FOR OPPOSITION
DILUTION OF A FAMOUS MARK**

24. LinkedIn incorporates by reference paragraphs 1 through 23, inclusive, as if fully set forth here.

- 25.** The LINKEDIN Marks are highly distinctive of LinkedIn's services.
- 26.** LinkedIn has used the LINKEDIN Marks since at least 2003 for online business services and related services, including marketing services, as alleged.
- 27.** LinkedIn has extensively advertised and promoted the LINKEDIN Marks. LinkedIn and the LINKEDIN Marks have also enjoyed extensive media attention.
- 28.** As a result of the considerable publicity afforded the LINKEDIN Marks, and the strong and loyal base of customers that LinkedIn enjoys for its services, the LINKEDIN Marks have a high degree of consumer recognition.
- 29.** LinkedIn is the owner of U.S. registrations for the LINKEDIN Marks.
- 30.** Apart from unauthorized infringing uses of such marks, LinkedIn is not aware of any material use of any highly similar mark by others.
- 31.** Accordingly, when the public encounters the term "LINKEDIN," it immediately associates the term with LinkedIn, and thus the LINKEDIN Marks are famous.
- 32.** The LINKEDIN Marks became famous before Applicant filed its application for the LINKMERIGHT Mark, and, on information and belief, before Applicant began any use of its mark.
- 33.** The LINKMERIGHT Mark is similar to the LINKEDIN Marks, and it is likely to cause dilution of the famous LINKEDIN Marks, including dilution by blurring, all to LinkedIn's damage.
- 34.** Registration of the mark herein opposed is likely to dilute LinkedIn's famous LINKEDIN Marks by creating an association between the marks that impairs the distinctiveness of the LINKEDIN Marks. Thus, Applicant's Mark is unregistrable pursuant to Sections 2(a)(d), 3, 13, and 43(c) of the United States Trademark Act.

35. Wherefore, LinkedIn prays that this Opposition be sustained, and that Application Serial No. 86/347,954 be refused.

Please recognize the following as attorneys for LinkedIn in this proceeding: Janet L. Cullum, Anne H. Peck, Peter J. Willsey, and Judd D. Lauter (members of the Bar of the States of New York, California or Virginia), and the firm of Cooley LLP, 1114 Avenue of the Americas, New York, New York 10036-7798.

Please address all communications to Janet L. Cullum at the address below.

In accordance with 37 C.F.R. §§ 2.101 and 2.6(a)(17), the fees for one International Class for the opposed application are submitted herewith.

Respectfully submitted,
COOLEY LLP
Janet L. Cullum

Date: July 8, 2014

By: /Janet L. Cullum/
Janet L. Cullum
Attorneys for Opposer
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Washington, DC 20004
(212) 479-6500

CERTIFICATE OF SERVICE

I hereby certify that on **July 8, 2015**, a true and correct copy of the foregoing **NOTICE OF OPPOSITION** has been served by mailing said copy on July 8, 2015, via First Class Mail, postage prepaid to Applicant LinkMERight, LLC at the following address:

LinkMERight, LLC
8610 N Alaska St.
Tampa, FL 33604-1718

Date: July 8, 2015

/Judd D. Lauter/
Judd D. Lauter
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