

ESTTA Tracking number: **ESTTA682608**

Filing date: **07/09/2015**

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	Sandhills Publishing Company		
Entity	Corporation	Citizenship	Nebraska
Address	120 W. Harvest Dr. Lincoln, NE 68521 UNITED STATES		

Attorney information	Troy S. Kirk Rembolt Ludtke LLP 3 Landmark Centre 1128 Lincoln Mall, Suite 300 Lincoln, NE 68508 UNITED STATES tkirk@remboltlawfirm.com, ccassiday@remboltlawfirm.com, mcowan@remboltlawfirm.com, apollock@remboltlawfirm.com Phone:402.475.5100		
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Applicant Information

Application No	86486142	Publication date	06/09/2015
Opposition Filing Date	07/09/2015	Opposition Period Ends	07/09/2015
Applicant	Sand Hill UX Inc. PO Box 620305 Woodside, CA 94062 UNITED STATES		

Goods/Services Affected by Opposition

Class 042. First Use: 2014/06/01 First Use In Commerce: 2014/06/01 All goods and services in the class are opposed, namely: Design and consulting services related thereto in the field of user experience software; Design and development of computer software for others in the field of graphical user interfaces, on-line and off-line software user interfaces and experiences, and user interaction design
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Grounds for Opposition

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

U.S. Registration No.	2219951	Application Date	01/27/1997
Registration Date	01/26/1999	Foreign Priority Date	NONE
Word Mark	SANDHILLS PUBLISHING		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 1997/02/21 First Use In Commerce: 1997/02/21 publishing services, namely, the publication of magazines and newspapers Class 042. First use: First Use: 1997/02/21 First Use In Commerce: 1997/02/21 computer services, namely, providing on-line magazines and newspapers in the field of computer use, computer equipment, heavy machinery sales, heavy truck sales and airplane sales

U.S. Application No.	86271481	Application Date	05/05/2014
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark SANDHILLS SYSTEM



Description of Mark NONE

Goods/Services Class 009. First use: First Use: 2012/07/00 First Use In Commerce: 2012/07/00
A proprietary software platform consisting of high-level application programming tools that provide self-documenting task and workflow management, project management, application-level security, and enterprise-class application integration

U.S. Application No.	86271470	Application Date	05/05/2014
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark SANDHILLS SYSTEM



Description of Mark The mark consists of a starburst design comprised of circles connected by short-lines and the stylized wording "SANDHILLS SYSTEM".

Goods/Services Class 009. First use: First Use: 2012/07/00 First Use In Commerce: 2012/07/00
A proprietary software platform consisting of high-level application programming tools that provide self-documenting task and workflow management, project management, application-level security, and enterprise-class application integration

Attachments	86271481#TMSN.png(bytes) 86271470#TMSN.png(bytes) Notice of Opposition, Claims - Sandhills UX 4819-7880-0421, 1.pdf(24309 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	/Troy S. Kirk/
Name	Troy S. Kirk
Date	07/09/2015

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

In the matter of Application Serial No. 86/486,142
For the Mark SANDHILL UX
Published in the Official Gazette on 2015/06/09

SANDHILLS PUBLISHING COMPANY

Opposer,

Opposition No.

-v-

SAND HILL UX INC.

Applicant.

Commissioner of Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

In the Matter of the application of SAND HILL UX INC. (“Applicant”), for the registration of “SANDHILL UX” Application No. 86/486,142 (the “Application”), published in the Official Gazette on June 9, 2015, SANDHILLS PUBLISHING COMPANY, a Nebraska corporation with its principal place of business at 120 W. Harvest Dr., Lincoln, Nebraska 68521 (“Opposer”), believes that it would be damaged by the registration of the mark shown in the Application and hereby opposes the same. As grounds of opposition, it is alleged that:

1. Opposer is a corporation which has been engaged in the business of serving the trucking, agriculture, construction, heavy machinery, aviation, and technology industries with a diverse range of products and services from well-established trade publications and websites to hosted technology services customized to meet the evolving needs of its customers, including products and services related to user experience software, design and development of computer software in the field of graphical user interfaces, on-line and off-line software user interfaces and experiences, and user interaction design (hereinafter referred to as “Sandhills Goods and Services”) since as early as 1978.

2. Since long prior to December 19, 2014, the filing date of the Application, Opposer has continuously used in commerce the designation SANDHILLS as well as other trademarks in association with Sandhills Goods and Services.

3. By reason of the adoption and continuous use of the SANDHILLS marks, the designations have a distinctive quality and have acquired special and particular significance and valuable goodwill as identifying Opposer and its Sandhills Goods and Services.

4. Consequently, through such usage and recognition, Opposer has acquired common law rights in the SANDHILLS designations as proprietary trademarks, which common law rights extend, without limitation, to the exclusive right to use such designations in conjunction with Sandhills Goods and Services throughout the United States.

5. Opposer is also the owner of several trademark registrations, including, among others, registration for SANDHILLS PUBLISHING® (U.S. Service Mark Registration No. 2,219,951 issued January 26, 1999) in International Class 042 in connection with “Computer services, namely, providing on-line magazines and newspapers in the field of computer use,

computer equipment, heavy machinery sales, heavy truck sales and airplane sales” and in International Class 041 in connection with “Publishing services, namely, the publication of magazines and newspapers”; and pending applications for SANDHILLS SYSTEM (Application Nos. 86/271,481 and 86/271,470 filed May 5, 2014) both in International Class 009 in connection with “A proprietary software platform consisting of high-level application programming tools that provide self-documenting task and workflow management, project management, application-level security, and enterprise-class application integration.”

6. Through trademark Application Serial No. 86/486,142, Applicant seeks to register the designation SANDHILL UX as a trademark mark in International Class 042 for use in conjunction with "Design and consulting services related thereto in the field of user experience software; Design and development of computer software for others in the field of graphical user interfaces, on-line and off-line software user interfaces and experiences, and user interaction design.”

7. Applicant's SANDHILL UX mark, when used in conjunction with the goods and services listed in the Application, is likely to deceive or cause confusion or mistake among members of the public as to the source or sponsorship of Applicant's goods and services in relation to Opposer. Hence, the Application for registration should be refused on the basis that the SANDHILL UX trademark consists of or comprises, according to 15 U.S.C. § 1052(d): a mark which so resembles a mark registered in the Patent and Trademark Office, or a mark or trade name previously used in the United States by another and not abandoned, as to be likely, when used on or in connection with the goods and services of the Applicant, to cause confusion or to cause mistake, or to deceive.

8. Applicant's SANDHILL UX proposed mark is intended to be applied to goods and services identical and/or closely related to the goods and services offered by Opposer in connection with Opposer's registered and common law marks, and such goods and services are or will be promoted and/or sold to the same consumers, and/or in the same channels of trade, as the goods and services associated with Opposer's marks.

9. Applicant's SANDHILL UX proposed mark is similar in its entirety as to appearance, sound, connotation and commercial impression to Opposer's registered and common law marks identified herein.

10. Accordingly, Opposer asserts, pursuant to 15 U.S.C. § 1063, that it will be damaged by the issuance of a registration for the SANDHILL UX mark to Applicant as sought in trademark Application Serial No. 86/486,142.

WHEREFORE, Opposer prays that the application for registration of SANDHILL UX be rejected, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

Date: July 9, 2015

Respectfully submitted,

/Troy S. Kirk/

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Attorneys for Opposer,
Sandhills Publishing Company

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing NOTICE OF OPPOSITION was sent by ordinary United States mail, first class postage prepaid, on this 9th day of July, 2015, addressed as shown below, to the following:

Sand Hill UX Inc.
PO Box 620305
Woodside, CA 94062

John Salcido
Raj Abhyanker, P.C.
1580 W. El Camino Real
Mountain View, CA 94040

/Troy S. Kirk/
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