

ESTTA Tracking number: **ESTTA683306**

Filing date: **07/13/2015**

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	Life Before Us, Inc.
Granted to Date of previous extension	07/12/2015
Address	78 First St, #300 San Francisco, CA 94105 UNITED STATES
Party who filed Extension of time to oppose	OA Consulting LLC
Relationship to party who filed Extension of time to oppose	Opposer is a successor in interest to OA Consulting LLC, effective as of July 1, 2015, and is in privity with OA Consulting LLC, the party which was granted the previous Requests for Extension of Time to Oppose the Opposed Applications. Therefore, Opposer is a proper party to this Opposition pursuant to TMEP Â§ 206.02.

Attorney information	Jennifer L. Kovalcik STITES & HARBISON, PLLC 401 Commerce Street, Suite 800 Nashville, TN 37219 UNITED STATES jkovalcik@stites.com Phone:615.782.2214
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Applicant Information

Application No	86315400	Publication date	01/13/2015
Opposition Filing Date	07/13/2015	Opposition Period Ends	07/12/2015
Applicant	Xedoc Luxembourg S.A. 19, Rue de Bitbourg Luxembourg, L-1273 LUXEMBOURG		

Goods/Services Affected by Opposition

<p>Class 009. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Apparatus for recording and reproduction of sound, images or data; Communication software for providing access to the Internet; Computer software for communicating with users of hand-held computers; Computer software for interpreting satellite imagery; Computer software to enable the transmission of photographs to mobile telephones; Computer software to enhance the audio-visual capabilities of multimedia applications, namely, for the integration of text, audio, graphics, still images and moving pictures; Downloadable software for communication between mobile devices over a local network; Downloadable software in the nature of a mobile application for social networking, advertising, delivery of information, and facilitation of com-</p>

<p>munication, entertainment, and marketing; LAN (local area network) operating software</p>
<p>Class 035. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Advertising and marketing; Advertising services; Analysis of market research data and statistics; Business data analysis; Business monitoring and consulting services, namely, tracking web sites and applications of others to provide strategy, insight, marketing, sales, operation, product design, particularly specializing in the use of analytic and statistic models for the understanding and predicting of consumers, businesses, and market trends and actions; Business networking; Internet advertising services; On-line advertising services for others; Providing advertising and advertisement services</p>
<p>Class 038. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Audio and video broadcasting services over the Internet; Chat room services for social networking; Digital network telecommunications services; Instant messaging services; Peer-to-peer photo sharing services, namely, electronic transmission of digital photo files among internet users; Providing on-line chat rooms for social networking; Providing virtual chat rooms established via text messaging; Telecommunication services, namely, transmission of voice, data, graphics, images, audio and video by means of telecommunications networks, wireless communication networks, and the Internet; Telecommunication services, namely, transmission of webcasts</p>
<p>Class 041. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Electronic publishing services, namely, publication of text and graphic works of others on the internet featuring user-created text, audio, video, and graphics; Entertainment services, namely, providing games of chance via the Internet; Language interpreter services; Language translation; On-line journals, namely, blogs featuring entertainment, art, humor, politics, fashion, travel, cuisine, news, cultural events; Sign language interpretation</p>
<p>Class 045. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Computer dating services; Dating services, namely, providing an on-line computer database featuring single people interested in meeting other single people; Internet based social networking, introduction, and dating services; Internet-based dating, social introduction and social networking services; Internet-based social networking services; On-line social networking services; Providing a social networking website for entertainment purposes; Providing on-line computer databases and on-line searchable databases in the field of social networking</p>

Applicant Information

Application No	86315415	Publication date	01/13/2015
Opposition Filing Date	07/13/2015	Opposition Period Ends	
Applicant	Xedoc Luxembourg S.A. 19, Rue de Bitbourg Luxembourg, L-1273 LUXEMBOURG		

Goods/Services Affected by Opposition

<p>Class 009. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Apparatus for recording and reproduction of sound, images or data; Communication software for providing access to the Internet; Computer software for communicating with users of hand-held computers; Computer software for the databasing, visualization, manipulation, virtual reality immersion and integration of geographic information with on-line member communities; Computer software for interpreting satellite imagery; Computer software to enable the transmission of photographs to mobile telephones; Computer software to enhance the audio-visual capabilities of multimedia applications, namely, for the integration of text, audio, graphics, still images and moving pictures; Downloadable software for communication between mobile devices over a local network; Downloadable software in the nature of a mobile application for social networking, advertising, delivery of information, and facilitation of communication, entertainment and marketing; LAN (local area network) operating software</p>

Class 035. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Advertising and marketing; Analysis of market research data and statistics; Business data analysis; Business monitoring and consulting services, namely, tracking web sites and applications of others to provide strategy, insight, marketing, sales, operation, product design, particularly specializing in the use of analytic and statistic models for the understanding and predicting of consumers, businesses, and market trends and actions; Business networking; Internet advertising services; On-line advertising and marketing services; On-line advertising services for others; Providing advertising and advertisement services

Class 038. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Audio and video broadcasting services over the Internet; Chat room services for social networking; Digital network telecommunications services; Instant messaging services; Peer-to-peer photo sharing services, namely, electronic transmission of digital photo files among internet users; Providing virtual chat rooms established via text messaging; Telecommunication services, namely, transmission of voice, data, graphics, images, audio and video by means of telecommunications networks, wireless communication networks, and the Internet; Telecommunication services, namely, transmission of webcasts

Class 041. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Electronic publishing services, namely, publication of text and graphic works of others on internet featuring user-created text, audio, video, and graphics; Entertainment services, namely, providing games of chance via the Internet; Language interpreting; On-line journals, namely, blogs featuring entertainment, art, humor, politics, fashion, travel, cuisine, news, cultural events; Sign language interpretation

Class 045. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Computer dating services; Dating services, namely, providing an on-line computer database featuring single people interested in meeting other single people; Internet-based social networking services; On-line social networking services; Providing a social networking website for entertainment purposes; Providing on-line computer databases and on-line searchable databases in the field of 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.	86368420	Application Date	08/15/2014
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	YO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2014/04/01 First Use In Commerce: 2014/04/01 Software to enable transmission, access, organization, and management of text messaging, instant messaging, and weblinks, and other data and information via		

	<p>the Internet and other communications networks; computer software for data communication; software for accessing, sending, and receiving information on a global computer network; software for facilitation of communication and data transmission in the field of social networking and news delivery; software in the nature of a mobile application for use with computers and mobile devices for the facilitation of communication; computer software for communicating with users of computer and mobile devices</p> <p>Class 038. First use: First Use: 2014/04/01 First Use In Commerce: 2014/04/01 Electronic transmission of messages and data; instant messaging services</p>
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Attachments	<p>86368420#TMSN.png(bytes) YO Notice of Opposition.pdf(104563 bytes)</p>
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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	/mari-elise taube/
Name	Mari-Elise Taube
Date	07/13/2015

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

**IN THE MATTER OF TRADEMARK
APPLICATION SERIAL NOS. 86/315,415
AND 86/315,400**

LIFE BEFORE US, INC.)	
)	
Opposer)	
)	
v.)	Opposition No.
)	
XEDOC LUXEMBOURG S.A.)	
)	
Applicant)	
)	

CONSOLIDATED NOTICE OF OPPOSITION

LIFE BEFORE US, INC., a corporation organized under the laws of the Delaware, with a principal address of 78 First St, #300 San Francisco, California 94105 (“Opposer”), believes that it would be damaged by registration of the marks “YO!” (Serial No. 86/315,415) and “YO! LET’S CONNECT” (Serial No. 86/315,400) (collectively the “Opposed Applications”) in the name of **XEDOC LUXEMBOURG S.A.**, a public limited company organized under the laws of Luxembourg with a principal address of 19, Rue de Bitbourg Luxembourg L-1273 (“Applicant”), and Opposer, by its undersigned attorneys, hereby requests that registration of the marks be denied under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d), based on the following:

1. Opposed U.S. Application Serial No. 86/315,415, was filed on June 20, 2014, on an intent-to-use basis under Section 1(b) of the Trademark Act, 15 U.S.C. §1051(b), seeking registration of the alleged mark “YO! (plus design)” in connection with the following goods and services:

- “[a]pparatus for recording and reproduction of sound, images or data; Communication software for providing access to the Internet; Computer software for communicating with users of hand-held computers; Computer software for the databasing, visualization, manipulation, virtual reality immersion and integration of geographic information with on-line member communities; Computer software for interpreting satellite imagery; Computer software to enable the transmission of photographs to mobile telephones; Computer software to enhance the audio-visual capabilities of multimedia applications, namely, for the integration of text, audio, graphics, still images and moving pictures; Downloadable software for communication between mobile devices over a local network; Downloadable software in the nature of a mobile application for social networking, advertising, delivery of information, and facilitation of communication, entertainment and marketing; LAN (local area network) operating software” in International Class 9;
- “[a]dvertising and marketing; Analysis of market research data and statistics; Business data analysis; Business monitoring and consulting services, namely, tracking web sites and applications of others to provide strategy, insight, marketing, sales, operation, product design, particularly specializing in the use of analytic and statistic models for the understanding and predicting of consumers, businesses, and market trends and actions; Business networking; Internet advertising services; On-line advertising and marketing services; On-line advertising services for others; Providing advertising and advertisement services” in International Class 35;
- “[a]udio and video broadcasting services over the Internet; Chat room services for social networking; Digital network telecommunications services; Instant messaging services; Peer-to-peer photo sharing services, namely, electronic transmission of digital photo files among internet users; Providing virtual chat rooms established via text messaging; Telecommunication services, namely, transmission of voice, data, graphics, images, audio and video by means of telecommunications networks, wireless communication networks, and the Internet; Telecommunication services, namely, transmission of webcasts” in International Class 38;
- “[e]lectronic publishing services, namely, publication of text and graphic works of others on internet featuring user-created text, audio, video, and graphics; Entertainment services, namely, providing games of chance via the Internet; Language interpreting; On-line journals, namely, blogs featuring entertainment, art, humor, politics, fashion, travel, cuisine, news, cultural events; Sign language interpretation” in International Class 41; and
- “[c]omputer dating services; Dating services, namely, providing an on-line computer database featuring single people interested in meeting other single people; Internet-based social networking services; On-line social networking services; Providing a social networking website for entertainment purposes;

Providing on-line computer databases and on-line searchable databases in the field of social networking” in International Class 45.

2. Opposed U.S. Application Serial No. 86/315,400, was filed on June 19, 2014, on an intent-to-use basis under Section 1(b) of the Trademark Act, 15 U.S.C. §1051(b), seeking registration of the alleged mark “YO! LET’S CONNECT. (plus design)” in connection with the following goods and services:

- “[a]pparatus for recording and reproduction of sound, images or data; Communication software for providing access to the Internet; Computer software for communicating with users of hand-held computers; Computer software for the databasing, visualization, manipulation, virtual reality immersion and integration of geographic information with on-line member communities; Computer software for interpreting satellite imagery; Computer software to enable the transmission of photographs to mobile telephones; Computer software to enhance the audio-visual capabilities of multimedia applications, namely, for the integration of text, audio, graphics, still images and moving pictures; Downloadable software for communication between mobile devices over a local network; Downloadable software in the nature of a mobile application for social networking, advertising, delivery of information, and facilitation of communication, entertainment and marketing; LAN (local area network) operating software” in International Class 9;
- “[a]dvertising and marketing; Analysis of market research data and statistics; Business data analysis; Business monitoring and consulting services, namely, tracking web sites and applications of others to provide strategy, insight, marketing, sales, operation, product design, particularly specializing in the use of analytic and statistic models for the understanding and predicting of consumers, businesses, and market trends and actions; Business networking; Internet advertising services; On-line advertising and marketing services; On-line advertising services for others; Providing advertising and advertisement services” in International Class 35;
- “[a]udio and video broadcasting services over the Internet; Chat room services for social networking; Digital network telecommunications services; Instant messaging services; Peer-to-peer photo sharing services, namely, electronic transmission of digital photo files among internet users; Providing virtual chat rooms established via text messaging; Telecommunication services, namely, transmission of voice, data, graphics, images, audio and video by means of telecommunications networks, wireless communication networks, and the Internet; Telecommunication services, namely, transmission of webcasts” in International Class 38;
- “[e]lectronic publishing services, namely, publication of text and graphic works of others on internet featuring user-created text, audio, video, and graphics;

Entertainment services, namely, providing games of chance via the Internet; Language interpreting; On-line journals, namely, blogs featuring entertainment, art, humor, politics, fashion, travel, cuisine, news, cultural events; Sign language interpretation” in International Class 41; and

- “[c]omputer dating services; Dating services, namely, providing an on-line computer database featuring single people interested in meeting other single people; Internet-based social networking services; On-line social networking services; Providing a social networking website for entertainment purposes; Providing on-line computer databases and on-line searchable databases in the field of social networking” in International Class 45.

3. Both of the Opposed Applications were published for opposition on January 13, 2015.

4. On February 11, 2015, Opposer’s predecessor in interest, OA Consulting LLC, a limited liability company organized under the laws of the Delaware, with a principal address of 78 First St, #300 San Francisco, California 94105, filed Requests for Extension of Time to Oppose both of the Opposed Applications with the Trademark Trial and Appeal Board. The Trademark Trial and Appeal Board granted these Requests on February 11, 2015.

5. On May 11, 2015, OA Consulting LLC, with Applicant’s consent, filed with the Trademark Trial and Appeal Board second Requests for Extension of Time to Oppose both of the Opposed Applications. The Trademark Trial and Appeal Board granted these Requests on May 11, 2015.

6. Opposer is a successor in interest to OA Consulting LLC, effective as of July 1, 2015, and is in privity with OA Consulting LLC, the party which was granted the previous Requests for Extension of Time to Oppose the Opposed Applications. Therefore, Opposer is a proper party to this Opposition pursuant to TMEP § 206.02.

7. Opposer is the owner of the mark “YO” for use in connection with a mobile messaging app and mobile messaging application services. Opposer has used its mark “YO” in commerce in the United States continuously since at least as early as April 1, 2014, which predates

the filing of the Opposed Applications as well as any use in commerce by Applicant of the opposed marks.

8. Through widespread use of the “YO” mark throughout the United States and through widespread media coverage, Opposer’s “YO” mark has developed considerable good will and customer recognition in connection with mobile messaging services.

9. Opposer is the owner (by assignment¹) of U.S. Application Serial No. 86/368,420, seeking registration of the mark “YO” in standard characters for use in connection with the following goods and services:

- “[s]oftware to enable transmission, access, organization, and management of text messaging, instant messaging, and weblinks, and other data and information via the Internet and other communications networks; computer software for data communication; software for accessing, sending, and receiving information on a global computer network; software for facilitation of communication and data transmission in the field of social networking and news delivery; software in the nature of a mobile application for use with computers and mobile devices for the facilitation of communication; computer software for communicating with users of computer and mobile devices” in International Class 9 and
- “[e]lectronic transmission of messages and data; instant messaging services” in International Class 38.

10. Opposer’s “YO” application was filed on August 15, 2014, based on use in commerce under Section 1(a) of the Trademark Act, 15 U.S.C. §1051(a), with first use at least as early as April 1, 2014, for both classes.

11. Opposer’s mark “YO” was used in commerce in the United States before Applicant filed either of the Opposed Applications and before Applicant later launched use of its mobile messaging app.

12. By Office Action dated December 4, 2014, the United States Patent and Trademark Office refused registration of Opposer’s application to register the mark “YO”, U.S. Serial No.

¹ Opposer submitted the trademark assignment for recordation with the Assignment Division on July 13, 2015, but has not yet received the Reel/Frame number at the time of this submission.

86/368,420, citing in part a potential likelihood of confusion with the Opposed Applications, and further prosecution was suspended on February 5, 2015.

13. Opposer has priority over Applicant as the senior user of the “YO” mark.

14. Applicant was aware of Opposer’s “YO” messaging app when Applicant filed the Opposed Applications.

15. Because the Opposed Applications are for marks that include Opposer’s “YO” mark are seek registration for highly related if not identical goods and services, consumers are likely to be confused as to the source of the products and services and/or mistakenly attribute them to the same source.

16. Any defects, objections or faults found with Applicant’s services sold under its alleged “YO!” and “YO! LET’S CONNECT.” marks could inflict upon and injure the reputation of Opposer and the good will established in its “YO” mark.

17. The grant of registrations to Applicant of its alleged marks “YO!” and “YO! LET’S CONNECT.” would be in derogation of Opposer’s prior rights in its “YO” mark and thereby cause damage and injury to Opposer and cause confusion of the relevant purchasing public, including the inability of Opposer to obtain a federal trademark registration for its “YO” mark.

18. Applicant’s alleged marks “YO!” and “YO! LET’S CONNECT.” so resemble Opposer’s previously used “YO” mark as to be likely, when used in connection with Applicant’s goods, to cause confusion, mistake or deception and thereby fall within the proscription of Section 2(d) of the statute, 15 U.S.C. § 1052(d) and should be denied registration.

WHEREFORE, Opposer believes that it would be damaged by grant to Applicant of registration on both U.S. Application Serial No. 86/315,415 for “YO!” and U.S. Application Serial

No. 86/315,400 for “YO! LET’S CONNECT.” and prays that its opposition be sustained and that registration be denied.

Respectfully submitted,

STITES & HARBISON, PLLC

Dated: July 13, 2015

/s/ Mari-Elise Taube

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Counsel for Opposer Life Before Us, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing NOTICE OF OPPOSITION was served on counsel for Applicant, this 13th day of July, 2015, by sending it via First Class Mail, postage prepaid, to:

Jon K. Peralá
Peralá Law Office
332 S Michigan Ave., Ste. 1032
Chicago, Illinois 60604-4366
United States

*/mari-elise taube/*_____

Mari-Elise Taube