

ESTTA Tracking number: **ESTTA691090**

Filing date: **08/21/2015**

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

Proceeding	91223262
Party	Defendant Twitter, Inc.
Correspondence Address	Joseph Petersen Kilpatrick Townsend & Stockton LLP 1080 Marsh Road Menlo Park, CA 94025 UNITED STATES JPetersen@kiltown.com, aroach@kiltown.com, cgenteman@kiltown.com, agarcia@kiltown.com, tmadmin@kiltown.com
Submission	Answer
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Signature	/Joseph Petersen/
Date	08/21/2015
Attachments	2015-08-21 Answer [Counter Guru v Twitter_ Twitter].pdf(15057 bytes)

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

In re Serial No. 86328428
to register: TWEETSTORM
Filed: July 3, 2014
Published: April 14, 2015

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CONTENT GURU LIMITED,	:	Opposition No. 91223262
	:	
Opposer,	:	ANSWER AND DEFENSES TO
	:	NOTICE OF OPPOSITION
	:	
v.	:	
	:	
TWITTER, INC.,	:	
	:	
Applicant.	:	
-----X	:	

TWITTER, INC. (“Applicant”), a Delaware corporation with a principal place of business at 1355 Market Street, Suite 900, San Francisco, California 94103, answers the Notice of Opposition filed by Content Guru Limited (“Opposer”) as follows:

Applicant admits that it owns U.S. Application Serial No. 86328428 to register the TWEETSTORM mark (“Applicant’s Mark”), and that such application was published for opposition in the Official Gazette on April 14, 2015. Applicant denies Opposer’s allegation that Opposer will be damaged by registration of Applicant’s Mark. Applicant lacks information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in Opposer’s first unnumbered paragraph.

1. Applicant lacks information sufficient to form a belief as to the truth or falsity of the allegations contained in Opposer’s first numbered paragraph and therefore denies the same.
2. Applicant admits that the Trademark Status and Document Retrieval Database (“TSDR”) records of the United States Patent and Trademark Office (“USPTO”) list Opposer as

the owner of record for U.S. Trademark Application Number 77544841, reflect a filing date of August 12, 2008 for that application, and reflect an intent-to-use filing basis for the services currently identified in that application. Applicant lacks information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in Opposer's second numbered paragraph and therefore denies the same.

3. Applicant lacks information sufficient to form a belief as to the truth or falsity of the allegations contained in Opposer's third numbered paragraph and therefore denies the same.

4. Applicant admits that Applicant is the owner of U.S. Trademark Application Number 86328428 for the mark TWEETSTORM, filed July 3, 2014 on an intent-to-use basis and covering the services recited in the application.

5. Applicant admits the allegations contained in Opposer's fifth numbered paragraph.

6. Applicant denies the allegation in Opposer's sixth numbered paragraph that Opposer's "first use date" is determined by the status of U.S. Trademark Application Number 77544841. Applicant also lacks information sufficient to form a belief as to the truth or falsity of the hypothetical allegation contained in Opposer's sixth paragraph and therefore denies the allegations in such paragraph.

7. Applicant lacks information sufficient to form a belief as to the truth or falsity of the allegations contained in Opposer's seventh numbered paragraph and therefore denies the same.

8. Applicant denies the allegations in Opposer's eighth numbered paragraph.

9. Applicant denies the allegations in Opposer's ninth numbered paragraph.

FIRST AFFIRMATIVE DEFENSE

Opposer's Notice of Opposition fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Opposer's Notice of Opposition fails because Applicant has priority based on its rights in its TWEET mark that predate both Opposer's filing date for U.S. Application Serial No. 77544841 and any commercial use of the STORM mark by Opposer in the United States. Applicant's TWEET mark is the subject of Applicant's United States Trademark Registration No. 4338963.

THIRD AFFIRMATIVE DEFENSE

Applicant reserves the right to amend its answer to add other affirmative defenses as may become necessary after a reasonable opportunity for appropriate discovery.

WHEREFORE, Applicant requests dismissal of the Notice with prejudice and that the subject application proceed to registration and for such other and further relief as may be just and appropriate.

Dated: August 21, 2015

Respectfully submitted,

**KILPATRICK TOWNSEND &
STOCKTON LLP**

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v.	:	
	:	
TWITTER, INC.,	:	
	:	
Applicant.	:	
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CERTIFICATION OF SERVICE

This is to certify that a copy of the foregoing ANSWER AND DEFENSES TO NOTICE OF OPPOSITION has been served on Opposer by depositing said copy with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to:

Janet F. Satterthwaite
Venable LLP
PO Box 34385
Washington, DC 20043-9998

Dated: August 21, 2015

/s/ Alberto Garcia
Alberto Garcia