

ESTTA Tracking number: **ESTTA698112**

Filing date: **09/24/2015**

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	Beam Propulsion Lab Inc.		
Entity	Corporation	Citizenship	Canada
Address	23 Hollywood Avenue #1705 Toronto, Ontario, M2N7L8 CANADA		

Attorney information	Amy J Benjamin Currier + Kao LLP 111 East 14th Street Suite 469 New York, NY 10003 UNITED STATES Benjamin@pckip.com, Bormann@pckip.com, Monsegue@pckip.com Phone:212-673-8350		
----------------------	---	--	--

Applicant Information

Application No	86569699	Publication date	08/25/2015
Opposition Filing Date	09/24/2015	Opposition Period Ends	09/24/2015
Applicant	BeMe, Inc. 368 Broadway, 211 New York, NY 10010 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. First Use: 2015/02/11 First Use In Commerce: 2015/02/11 All goods and services in the class are opposed, namely: downloadable mobile applications for creating, uploading, and sending digital photos, videos, images, and text to others via the global computer network

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

Mark Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	BEAM MESSENGER		
Goods/Services	real-time text application for mobile phones		

Attachments	NOTICE OF OPPOSITION.pdf(98354 bytes)
-------------	--

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	/amy j benjamin/
Name	Amy J Benjamin
Date	09/24/2015

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

<p>BEAM PROPULSION LAB INC.,</p> <p style="text-align: center;">Opposer,</p> <p style="text-align: center;">v.</p> <p>BEME, INC.,</p> <p style="text-align: center;">Applicant.</p>

OPPOSITION NO. _____

SERIAL NO. 86/569,699

NOTICE OF OPPOSITION

Opposer, Beam Propulsion Lab Inc. (“Opposer”), a corporation organized under the laws of Canada and having an address of 23 Hollywood Avenue #1705, Toronto, ON, M2N7L8, Canada, through its undersigned attorneys, believes that it will be damaged by the granting of a registration to the mark BEME, shown in Application Serial No. 86/569,699, published on August 25, 2015 in the Official Gazette and filed March 19, 2015 by Applicant, BeMe, Inc. (“Applicant”), a corporation organized under the laws of the State of Delaware, with an address of 368 Broadway, New York, New York 10010, and hereby opposes same.

The grounds for opposition are as follows:

1. Opposer is the developer of a real-time text application for mobile phones which allows people to chat as if they were in person by coming in at any point in the conversation and without waiting for the other person to hit “send.”

2. Opposer's app bears the trademark BEAM MESSENGER and has been available throughout the United States on Android devices since at least as early as September 27, 2014. BEAM MESSENGER is used by more than 100,000 users in the United States and has developed a loyal following. The BEAM MESSENGER app will be available for Apple devices this year.
3. Upon information and belief, on March 19, 2015, Applicant filed U.S. Trademark Application No. 86/569,699 for the mark BEME for "downloadable mobile applications for creating, uploading, and sending digital photos, videos, images, and text to others via the global computer network," in Class 9 ("Applicant's Goods").
4. Upon information and belief, Application No. 86/569,699 for the mark BEME claims a date of first use in commerce of February 11, 2015, after Opposer first began using the BEAM MESSENGER trademark for its real-time text app.
5. Opposer's date of first use for the mark BEAM MESSENGER is at least as early as September 27, 2014 and prior to Applicant's claimed date of first use of February 11, 2015. Accordingly, Opposer is the senior user of the mark BEAM MESSENGER.
6. Upon information and belief, Applicant's Goods on which it uses the mark BEME as described in Application No. 86/569,699 are identical, nearly identical or closely related to Opposer's goods bearing the BEAM MESSENGER trademark.
7. Upon information and belief, Applicant's mark BEME is pronounced in the same manner as Opposer's BEAM.
8. Upon information and belief, Applicant has posted an informational video on its website at www.beme.com and on YouTube in which the founder of Applicant repeatedly pronounces Applicant's mark BEME in the same manner as Opposer's BEAM.
9. Certain media outlets have shortened Opposer's Mark to simply BEAM in their coverage of Opposer.

10. Upon information and belief, the mark BEME is sufficiently similar to BEAM MESSENGER such that confusion is likely when used in connection with Applicant's Goods.
11. Upon information and belief, any use of the mark BEME by Applicant in connection with Applicant's Goods is likely to cause confusion with Opposer's trademark BEAM MESSENGER for the same and related goods in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d). Accordingly, Applicant is not entitled to a registration for the mark BEME.
12. Upon information and belief, the registration of BEME would bestow upon Applicant the right to use a mark which is likely to confuse consumers into mistakenly believing that Applicant's Goods emanate from Opposer when they do not, thereby damaging Opposer.

WHEREFORE, Opposer respectfully request that the Application No. 86/569,699 for the mark BEME be rejected, that no registration be issued thereon to Applicant and that this Opposition be sustained in favor of Opposer.

Date: September 24, 2015

Respectfully submitted,

CURRIER + KAO LLP

By: /Amy J. Benjamin/
Amy J. Benjamin
111 East 14th Street
Suite 469
New York, New York 10003
Tel: (212) 673-8350
Fax: (212) 658-9718
Email: Benjamin@pckip.com

*Attorney for Opposer
Beam Propulsion Lab Inc.*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 24, 2015, a copy of the foregoing NOTICE OF OPPOSITION was caused to be served upon Applicant by first class air mail, postage pre-paid at the address of record as follows:

BeMe, Inc.
368 Broadway #211
New York, NY 10010

/Amy J. Benjamin/