

ESTTA Tracking number: **ESTTA698168**

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	Barracuda Networks Inc.		
Entity	Corporation	Citizenship	Delaware
Address	3175 Winchester Boulevard Campbell, CA 95008 UNITED STATES		

Attorney information	Michelle Hon Donovan Duane Morris LLP 750 B Street Suite 2900 San Diego, CA 92101 UNITED STATES mhdonovan@duanemorris.com, meschulte@duanemorris.com Phone:619-744-2219
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Applicant Information

Application No	86602286	Publication date	09/22/2015
Opposition Filing Date	09/24/2015	Opposition Period Ends	10/22/2015
Applicant	IDEA POTENT, INC. 340 S. LEMON ST. WALNUT, CA 91789 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 018. First Use: 2014/10/30 First Use In Commerce: 2015/04/14 All goods and services in the class are opposed, namely: Backpacks; Backpacks; Backpacks compatible with personal hydration systems, sold empty; Backpacks for pets; Backpacks with rolling wheels; Backpacks, book bags, sports bags, bum bags, wallets and handbags; Bullet-proof backpacks to protect the contents of the backpack; Document suitcases; Duffel bags for travel; Fitted protective covers for handbags, briefcases, valises, suitcases, and briefcase-like portfolios; Garment bags for travel; Garment bags for travel made of leather; Leather bags, suitcases and wallets; Luggage; Luggage and trunks; Luggage inserts, namely, packing cubes; Luggage label holders; Luggage tags; Military duffel bags, garment bags for travel, tote bags, shoulder bags and backpacks; Non-motorized, collapsible luggage carts; Overnight suitcases; Plastic luggage labels; Pouches and bags sold empty for attachment to backpacks; Protective fitted liners for backpacks and luggage; Sack packs, namely, drawstring bags used as backpacks; Schoolchildren's backpacks; Shoe bags for travel; Small backpacks; Small suitcases; Suitcase handles; Suitcases; Travel bags; Traveling bags; Travelling bags; Trunks and suitcases</p>

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.	4605554	Application Date	03/14/2014
Registration Date	09/16/2014	Foreign Priority Date	NONE
Word Mark	BARRACUDA		
Design Mark			
Description of Mark	The mark consists of the word "BARRACUDA" with design of teeth.		
Goods/Services	<p>Class 009. First use: First Use: 2013/05/30 First Use In Commerce: 2013/05/30 Computer firewalls; Computer anti-virus software; Computer software for ensuring the security of electronic mail; Computer software for controlling and managing access server applications; Network access server operating software; Network servers, Internet servers, Intranet servers, and Network access server hardware, all related to network security and physical and cloud data archiving and storage</p> <p>Class 041. First use: First Use: 2013/04/01 First Use In Commerce: 2013/05/06 Educational services, namely, providing live and online seminars and training in the field of computer security, application delivery and data protection</p> <p>Class 042. First use: First Use: 2013/04/01 First Use In Commerce: 2013/05/06 Design and development of electronic data security systems; Data encryption services; Data decoding services; Computer security consultancy in the field of electronic data and information; Computer services, namely, providing virtual and non-virtual application servers, web servers, file servers, co-location servers, load balancing servers, redundancy servers, media servers and database servers of variable capacity to third party computing and data storage facilities; Computer services, namely, remote and on-site management of electronic messaging systems of others; Remote computer backup services; Providing temporary use of on-line non-downloadable computer software for use in electronic storage of data and information; Computer virus protection services; Providing virtual computer systems and virtual computer environments through cloud computing; Computer services, namely, providing spam filtering services to protect websites and online applications from receiving unsolicited messages; Computer services, namely, on-line scanning, detecting, quarantining and eliminating of viruses, worms, trojans, spyware, adware, malware and unauthorized data and programs on computers and electronic devices; Electronic storage of documents and archived e-mails, namely, electronic document and e-mail archiving services; Electronic storage of data and information; Electronic storage services for archiving electronic data</p>		
U.S. Registration No.	4715332	Application Date	08/01/2014
Registration Date	04/07/2015	Foreign Priority Date	NONE
Word Mark	BARRACUDA		

Design Mark	BARRACUDA
Description of Mark	NONE
Goods/Services	<p>Class 009. First use: First Use: 2003/10/00 First Use In Commerce: 2003/10/00 Computer firewalls; Computer anti-virus software; Computer software for ensuring the security of electronic mail; Computer software for controlling and managing access server applications; Network access server operating software; Network servers, Internet servers, Intranet servers, and Network access server hardware, all related to network security and physical and cloud data archiving and storage</p> <p>Class 041. First use: First Use: 2002/12/00 First Use In Commerce: 2002/12/00 Educational services, namely, providing live and online seminars and training in the field of computer security, application delivery and data protection</p> <p>Class 042. First use: First Use: 2002/12/00 First Use In Commerce: 2002/12/00 Design and development of electronic data security systems; Data encryption services; Data decoding services; Computer security consultancy in the field of electronic data and information; Computer services, namely, providing virtual and non-virtual application servers, web servers, file servers, co-location servers, load balancing servers, redundancy servers, media servers and database servers of variable capacity to third party computing and data storage facilities; Computer services, namely, remote and on-site management of electronic messaging systems of others; Remote computer backup services; Providing temporary use of on-line non-downloadable computer software for use in electronic storage of data and information; Computer virus protection services; Providing virtual computer systems and virtual computer environments through cloud computing; Computer services, namely, providing spam filtering services to protect websites and online applications from receiving unsolicited messages; Computer services, namely, on-line scanning, detecting, quarantining and eliminating of viruses, worms, trojans, spyware, adware, malware and unauthorized data and programs on computers and electronic devices; Electronic storage of documents and archived e-mails, namely, electronic document and e-mail archiving services; Electronic storage of data and information; Electronic storage services for archiving electronic data</p>

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	BARRACUDA		
Goods/Services	Suitcases and Messenger Bags		

Attachments	86221855#TMSN.png(bytes) 86355055#TMSN.png(bytes) Barracuda Luggage.pdf(103264 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	/Michelle Hon Donovan/
Name	Michelle Hon Donovan
Date	09/24/2015

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

In the matter of Trademark Application Serial No. 86/602,286
For the Mark: BARRACUDA
Filed: Apr. 19, 2015
Published in the Official Gazette on September 22, 2015

BARRACUDA NETWORKS INC. Opposer,	:	
	:	
v.	:	Opposition No. _____
	:	
IDEA POTENT INC. Applicant.	:	
	:	
	:	
	:	

NOTICE OF OPPOSITION

Barracuda Networks Inc. (hereinafter “Opposer”), a corporation organized under the laws of Delaware having a principal place of business at 3175 Winchester Blvd., Campbell, California 95008, believes that it will be damaged by registration of the mark BARRACUDA shown in Serial No. 86/602,286 as applied to the goods listed in Class 018, and hereby opposes registration of same.

As grounds for opposition, Opposer alleges that:

1. Upon information and belief Applicant, Idea Potent Inc. (hereinafter “Applicant”), is a California corporation located at 340 S. Lemon St. #7773, Walnut, California 91789.
2. Upon information and belief Applicant offers “smart luggage” under the BARRACUDA mark, which incorporates technology and software including USB charger and security features such as location tracking and proximity sensors.

3. On April 19, 2015, Applicant filed Application Serial No. 86/602,286 (the “BARRACUDA Application”) to register, on the Principal Register, the mark BARRACUDA (“Applicant’s Mark”) for backpacks; backpacks compatible with personal hydration systems, sold empty; backpacks for pets; backpacks with rolling wheels; backpacks, book bags, sports bags, bum bags, wallets and handbags; bullet-proof backpacks to protect the contents of the backpack; document suitcases; duffel bags for travel; fitted protective covers for handbags, briefcases, valises, suitcases, and briefcase-like portfolios; garment bags for travel; garment bags for travel made of leather; leather bags, suitcases and wallets; luggage; luggage and trunks; luggage inserts, namely, packing cubes; luggage label holders; luggage tags; military duffel bags, garment bags for travel, tote bags, shoulder bags and backpacks; non-motorized, collapsible luggage carts; overnight suitcases; plastic luggage labels; pouches and bags sold empty for attachment to backpacks; protective fitted liners for backpacks and luggage; sack packs, namely, drawstring bags used as backpacks; schoolchildren's backpacks; shoe bags for travel; small backpacks; small suitcases; suitcase handles; suitcases; travel bags; traveling bags; travelling bags; trunks and suitcases in Class 018 (“Applicant’s Goods”).

4. The BARRACUDA Application claims a first use date of October 30, 2014 and a first use in commerce date of April 14, 2015.

5. Applicant’s Mark was published for opposition in the *Official Gazette* on September 22, 2015.

6. Opposer owns U.S. Registration Nos. 4,605,554 and 4,715,332 for BARRACUDA (“BARRACUDA Marks”) on the Principal Register for various goods and services including, but not limited to, computer firewalls; computer anti-virus software; computer software for ensuring the security of electronic mail, educational services, designing

and developing electronic data security systems, data encryption services and computer security consulting services (“Registered Goods”).

7. Opposer has used its BARRACUDA Marks in commerce in connection with the Registered Goods as early as December 2002.

8. Opposer has been affixing its BARRACUDA Marks on luggage items including, but not limited to, suitcases and messenger bags at least as early as 2005.

9. Opposer has engaged in extensive advertising and promotion of the BARRACUDA Marks in connection with its goods and services and, as a result, the BARRACUDA Marks have become identified with and are widely recognized as representing the goods and services of Opposer among the relevant trade and consumers.

10. Upon information and belief Opposer has prior rights to its BARRACUDA Marks in connection with the Registered Goods and luggage items including, but not limited to, suitcases and messenger bags.

11. Applicant’s Mark is similar in sight, sound, meaning, and overall commercial impression to the BARRACUDA Marks.

12. Applicant’s Mark and Opposer’s BARRACUDA Marks identify identical and/or highly-related goods.

13. Applicant’s Mark so resembles Opposer’s BARRACUDA Marks, when used in association with the goods claimed in International Class 018, that such use is likely to cause confusion, to cause mistake, or to deceive within the meaning of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

14. Opposer will be damaged by the registration sought by Applicant in that the registration will be *prima facie* evidence of the validity of the registration and Applicant’s

ownership of and exclusive right to use Applicant's Mark for the goods in the BARRACUDA Application, which are identical and/or highly related to those offered by Opposer under the same mark. Such registration would be a source of damage and injury to Opposer.

15. WHEREFORE, Opposer believes it will be damaged by registration of the Applicant's Mark in Application Serial No. 86/602,286, and respectfully requests that this opposition be sustained and that the registration sought by Applicant be denied.

Respectfully submitted,

BARRACUDA NETWORKS, INC.

Date: September 24, 2015

By: /Michelle Hon Donovan/

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CERTIFICATE OF SERVICE

I hereby certify that on September 24, 2015, the Notice of Opposition is being deposited with the United States Postal Service, with sufficient postage as first class mail addressed to:

Maria Johnson
De Novo Legal PC
2244 Faraday Ave, Suite 103
Carlsbad, CA 92008 USA

and being sent via email to maria@denovopc.com.

/Margaret E. Schulte/
Margaret E. Schulte