

ESTTA Tracking number: **ESTTA715138**

Filing date: **12/16/2015**

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	Xoom Corporation
Granted to Date of previous extension	12/16/2015
Address	425 Market Street, 12th Floor San Francisco, CA 94105 UNITED STATES

Attorney information	Rochelle D. Alpert Morgan, Lewis & Bockius LLP One Market, Spear Street Tower San Francisco, CA 94105 UNITED STATES ralpert@morganlewis.com, shall@morganlewis.com, sfrade- marks@morganlewis.com Phone:415-442-1326
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**Applicant Information**

Application No	86536775	Publication date	08/18/2015
Opposition Filing Date	12/16/2015	Opposition Period Ends	12/16/2015
Applicant	Elisee Ndenga 442 Stone Shadow Dr Blacklick, OH 43004 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 009. First Use: 2015/02/17 First Use In Commerce: 2015/02/17 All goods and services in the class are opposed, namely: Computer software for healthcare management for use in the healthcare field by Individuals, Families, Businesses, Pharmacies
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
Other	Lack of Use as of the Filing Date of the Application.

**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	2909931	Application Date	09/15/2003
Registration Date	12/14/2004	Foreign Priority Date	NONE

Word Mark	XOOM
Design Mark	
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2003/05/07 First Use In Commerce: 2003/05/07 Providing business information, namely on, money transfer services Class 036. First use: First Use: 2003/05/07 First Use In Commerce: 2003/05/07 Money transfer services; electronic funds transfer services; bill payment remittance services; electronic payment, namely, electronic processing and transmission of bill payment data

U.S. Registration No.	4012377	Application Date	01/24/2011
Registration Date	08/16/2011	Foreign Priority Date	NONE
Word Mark	XOOM		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 2003/05/07 First Use In Commerce: 2003/05/07 Providing a web site featuring temporary use of non-downloadable software for providing information on money transfers, and for facilitating money transfers, electronic funds transfers, bill payment remittances and electronic processing and transmission of bill payment data		

U.S. Registration No.	4226418	Application Date	01/24/2011
Registration Date	10/16/2012	Foreign Priority Date	NONE
Word Mark	XOOM		

Design Mark	<h1>XOOM</h1>		
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2012/08/08 First Use In Commerce: 2012/08/08 Computer software for facilitating money transfer services, electronic funds transfer services, bill payment remittanceservices, electronic processing and transmission of payments and payment data		

U.S. Registration No.	4407099	Application Date	02/27/2013
Registration Date	09/24/2013	Foreign Priority Date	NONE

Word Mark	XOOM
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Design Mark	<h1>XOOM</h1>		
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Description of Mark	NONE		
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Goods/Services	<p>Class 035. First use: First Use: 2012/09/26 First Use In Commerce: 2012/09/26 Administration of a customer loyalty and referral program which provides monetary and enhanced service incentives for customers for using or referring others to money transfer services</p> <p>Class 041. First use: First Use: 2007/01/00 First Use In Commerce: 2007/01/00 Providing a website featuring blogs and non-downloadable publications in the nature of articles in the field(s) of current events, sports, entertainment, money transfers, financial matters, immigration, technology and general events in the United states and in countries outside the United States</p> <p>Class 045. First use: First Use: 2008/02/00 First Use In Commerce: 2008/02/00 Internet based social networking</p>		
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U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	XOOM		
Goods/Services	As specified on the attached Notice of Opposition.		

Attachments	76544640#TMSN.png( bytes ) 85225023#TMSN.png( bytes ) 85225008#TMSN.png( bytes ) 85861822#TMSN.png( bytes ) Notice of Opposition (Exs A-D) -- Appl Serial # 86536775 - XOOMIA.pdf(1077211 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	/RDA/
Name	Rochelle D. Alpert
Date	12/16/2015

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

In the matter of application Serial No. 86/536,775  
Filed: February 17, 2015  
For the mark **XOOMIA**  
Published in the OFFICIAL GAZETTE on August 18, 2015

XOOM CORPORATION,

Opposer,

v.

Elisee Ndenga

Applicant.

Opposition No.:

**NOTICE OF OPPOSITION**

Xoom Corporation, having its principal place of business at 425 Market Street, 12th Floor, San Francisco, California (“Xoom”), believes that it will be damaged by the registration of the designation in the application shown in Serial No. 86/536,775 (“Application”), and hereby opposes same.

As grounds for the opposition, Xoom alleges as follows:

1. For over a decade, Xoom has offered products and services under its Xoom trade name and XOOM® mark. Products and services offered under the Xoom name and XOOM® mark include financial services through computers, mobile phones and tablets, allowing users to transmit monies as needed or on a reoccurring basis to family and friends, to reload mobile cards and to pay bills, as well as related services such as a blog on general topics of interest and a loyalty program.
2. Since at least as early as 2003, Xoom has offered consumers access to its financial and other services through its www.xoom.com web site using its distinctive XOOM® mark and

trade name. Through this long use, accessible via computer and, more recently through an app for mobile devices, including smart phones and tablets, Xoom's trade name and the XOOM<sup>®</sup> products and services have become associated among consumers exclusively with Xoom.

3. Xoom owns the following valid, subsisting, uncanceled and unrevoked federal trademark registrations for the XOOM<sup>®</sup> mark:

(a) An incontestable United States trademark registration for XOOM<sup>®</sup> (U.S. Reg. No. 2,909,931) covering "providing business information, namely, on money transfer services," in International Class 35 and "money transfer services; electronic funds transfer services; bill payment remittance services; electronic payment, namely, electronic processing and transmission of bill payment data" in International Class 36. The mark has been in use in commerce by Xoom since at least as early as May 7, 2003, registered on December 14, 2004 and became incontestable with the filing (and acceptance) of Xoom's Section 8 and 15 affidavits demonstrating continuous use of the XOOM<sup>®</sup> mark for five years after registration. A true and correct copy of the TSDR and Assignment Status printout for this mark from the USPTO web site is attached hereto as Exhibit A.

(b) A United States trademark registration for XOOM<sup>®</sup> (U.S. Reg. No. 4,012,377) covering "providing a web site featuring temporary use of non-downloadable software for providing information on money transfers, and for facilitating money transfers, electronic funds transfers, bill payment remittances and electronic processing and transmission of bill payment data," in International Class 42. The mark has been in use in commerce by Xoom since at least as early as May 7, 2003 and registered on August 16, 2011. A true and correct copy of the TSDR and Assignment Status printout for this mark from the USPTO web site is attached hereto as Exhibit B.

(c) A United States trademark registration for XOOM<sup>®</sup> (U.S. Reg. No. 4,226,418) covering “computer software for facilitating money transfer services, electronic funds transfer services, bill payment remittance services, electronic processing and transmission of payments and payment data,” in International Class 9. The mark has been in use in commerce by Xoom since at least as early as August 8, 2012 and registered on October 16, 2012. A true and correct copy of the TSDR and Assignment Status printout for this mark from the USPTO web site is attached hereto as Exhibit C.

(d) A United States trademark registration for XOOM<sup>®</sup> (U.S. Reg. No. 4,407,099) covering “administration of a customer loyalty and referral program which provides monetary and enhanced service incentives for customers for using or referring others to money transfer services” in Class 35; “providing a website featuring blogs and non-downloadable publications in the nature of articles in the field(s) of current events, sports, entertainment, money transfers, financial matters, immigration, technology and general events in the United states and in countries outside the United States” in Class 41; and “Internet based social networking” in Class 45. The mark has been in use in commerce by Xoom since at least as early as January 2007 (for Class 41 services), September 26, 2012 (for Class 35 services), and February 2008 (for Class 45 services) and registered on September 24, 2013. A true and correct copy of the TSDR and Assignment Status printout for this mark from the USPTO web site is attached hereto as Exhibit D.

4. Xoom also has long owned and used the xoom.com domain name.

5. At the website, xoom.com, and elsewhere on the Internet, Xoom features and promotes Xoom’s computer accessible, secure, fast and inexpensive remittance and other financial products and services that allow users to transmit monies through the xoom.com web

site and the XOOM® app. Consumers use XOOM® products and services for remitting and transferring monies and making payments and other financial transactions.

6. Further the XOOM® blog, featured on the xoom.com web site, has published blog entries on topics of general interest, including topics related to health and medical bills, including the transfer of monies for payment of medical bills of family and friends.

7. Xoom promotes and offers its products and services under its XOOM® marks and name to customers throughout the United States. Customers sign up for XOOM® products and services at no cost, paying only through their use of certain XOOM® services.

8. As a result of Xoom's exclusive use of the XOOM® mark and name since at least as early as 2003, the XOOM® mark has become exclusively associated as a designation of source for Xoom's products and services.

9. Elisee Ndenga ("Applicant") seeks to register the designation XOOMIA for "computer software for healthcare management for use in the healthcare field by individuals, Families, businesses, pharmacies" in Class 9 (the "XOOMIA designation").

10. Applicant's application for the XOOMIA designation was filed on February 17, 2015, more than a decade after Xoom filed and obtained a United States trademark registration for its XOOM® mark, and after Xoom first commenced use of its XOOM® mark, name and domain name.

**FIRST GROUND FOR OPPOSITION  
(Likelihood of Confusion)**

11. Xoom realleges the allegations contained in paragraphs 1 through 10 of this Notice of Opposition as if fully set out herein.

12. Applicant's applied-for XOOMIA designation is essentially the same in sight, sound and/or meaning to Xoom's incontestable XOOM® mark and name. The applied-for

XOOMIA designation incorporates in full the XOOM<sup>®</sup> mark. The “XOOM” portion of Applicant’s XOOMIA designation is both visually and phonetically identical to the XOOM<sup>®</sup> mark and name, and is the most prominent aspect of the XOOMIA designation. In fact, when “IA” is added as a suffix to a term, the suffix means according to dictionary definitions “things derived from, relating to, or belonging to.” Using this accepted dictionary definition, the applied for XOOMIA designation means derived from, relating to, or belonging to Xoom. Such a meaning implies an affiliation or association with Xoom, when there is none.

13. On information and belief, Xoom alleges that the computer software for which Applicant seeks to register the XOOMIA designation is related to and/or complementary to Xoom’s products and services, such that the relevant public would consider the Xoomia software to come from, be approved by or associated with Opposer Xoom.

14. On information and belief, Xoom alleges that Applicant intends to direct its services under the XOOMIA designation to the same and/or overlapping consumers that use Xoom’s products and services and to whom Xoom promotes its products and services bearing the XOOM<sup>®</sup> mark and name. Further, on information and belief, Xoom alleges that Applicant and Xoom use or will use the same or overlapping channels of trade to target the same or overlapping prospective customers. On its face, Applicant’s goods description is not limited as to any particular channels of trade but includes consumers generally and all channels of trade.

15. On information and belief, Xoom alleges that you can sign up for the XOOMIA website at no cost, just as you can sign up for use of Xoom’s XOOM<sup>®</sup> software and services at no cost.

16. Accordingly, Xoom believes it will be damaged by registration of Applicant’s XOOMIA designation under Section 13 of the Lanham Act, 15 U.S.C. § 1063, on the ground

that the subject designation so resembles the XOOM<sup>®</sup> mark and trade name as to be likely, when used on or in connection with the goods identified in the application for the XOOMIA designation, to cause confusion, mistake or to deceive consumers, with consequent injury to Xoom and to the public, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

**SECOND GROUND FOR OPPOSITION  
(Lack of Use as of the Filing Date of the Application)**

17. Xoom realleges the allegations contained in paragraphs 1 through 16 of this Notice of Opposition as if fully set out herein.

18. Upon information and belief, Xoom alleges that Applicant does not use the XOOMIA designation for any computer software, let alone computer software for healthcare management, as of the filing of the opposed application. When filing its application, Applicant failed to file a specimen. Applicant's specimen, first submitted on June 16, 2015 to purportedly demonstrate its use of XOOMIA for software, does not refer to software or establish any use of XOOMIA for any type of software—let alone a software product for healthcare management. Rather, the specimen at best evidences use of Xoomia on a website portal, not any computer software of any type, let alone software for healthcare management.

19. Xoom alleges that Applicant was not using the XOOMIA designation for the applied-for computer software falling within International Class 9, which by definition only includes software, not a portal or website, on or before the filing date of the Application, February 17, 2015. With the filing of the Application, no specimen showing use on or in connection with software was submitted. As a result, and pursuant to Section 1(a) of the Lanham Act, 15 U.S.C. §1051(a), because there must be use in commerce made of the applied-for designation on the applied-for goods on or before the filing date of the application, the opposed

application for the XOOMIA designation must be rejected because there was no use for software falling within International Class 9 as of the filing date of the application.

20. Furthermore, Applicant claims first use of the applied-for designation since at least as early as February 17, 2015, but the Xoomia Health Twitter account as of July 30, 2015 (5 months after its supposed first use date as alleged in the Application) states, “Xoomia Health is getting ready to have its official launch. I will keep you updated.” Moreover, all videos Xoomia Health posted on YouTube have dates on or after July 30, 2015. Accordingly, Xoom alleges, on information and belief, that there was no cognizable use in commerce by Applicant of the applied for designation on any product, let alone on “software for healthcare management by individuals, Families, business, pharmacies,” on or before February 17, 2015.

21. In addition, nothing about the specimen submitted as part of the opposed Application identifies the specimen and the use of the XOOMIA designation with Applicant, Elisee Ndenga. Pursuant to Section 1 of the Lanham Act, 15 U.S.C. §1051(a), an application must be filed by the party who is the owner of (or entitled to use) of the mark as of the application filing date, otherwise, the application is void and must be rejected. Upon information and belief, Applicant, Elisee Ndenga, an individual, does not use the XOOMIA designation for any computer software. Applicant’s specimen submitted to purportedly establish Applicant’s use does not reference Elisee Ndenga anywhere on the specimen but only references “Xoomia Health.” Further, a review of the xoomia.com web site identified in Applicant’s specimen does not reference any Elisee Ndenga, any other individual or otherwise establish that Elisee Ndenga is the owner of the applied-for designation or even associated with the website provided as the specimen. As such, the specimen does not support Applicant’s ownership or use of the XOOMIA designation for software.

22. On this basis, Xoom believes that it will be damaged by registration of Applicant's XOOMIA designation under Section 13 of the Lanham Act, 15 U.S.C. § 1063, if the opposed application proceeds to registration despite the apparent lack of use as of the filing date of the opposed application by the Applicant and the apparent deficient specimen in violation of 15 U.S.C. §1051(a), on the ground that Xoom has a legitimate commercial interest in whether the XOOMIA designation proceeds to registration, given Xoom's prior and extensive use of the XOOM<sup>®</sup> mark and name for a wide range of services, including related and complementary goods and services as to those applied for by Applicant in the opposed application.

WHEREFORE, Xoom requests that Application Serial No. 86/536,775 be rejected, that no registration be issued thereon to Applicant, that this opposition be sustained in favor of Xoom, and that such other appropriate and proper relief be entered.

Dated: December 16, 2015

Respectfully submitted,

By: /s/ Rochelle D. Alpert  
Rochelle D. Alpert

Rochelle D. Alpert  
Sharon R. Smith  
Morgan, Lewis & Bockius LLP  
One Market, Spear Street Tower  
San Francisco, CA 94105  
Telephone: (415) 442-1326  
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Email: ralpert@morganlewis.com  
srsmith@morganlewis.com

Attorneys for Opposer Xoom Corporation

# **EXHIBIT A**

Trademark Status and Document Retrieval (TSDR) APIs are currently experiencing technical difficulties and users may be unable to access the database. The problem is being addressed by staff at the USPTO. We sincerely apologize for any inconvenience this may have caused.

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**Mark:** XOOM

# XOOM

**US Serial Number:** 76544640

**Application Filing Date:** Sep. 15, 2004

**US Registration Number:** 2909931

**Registration Date:** Dec. 14, 2004

**Register:** Principal

**Mark Type:** Service Mark

**Status:** The registration has been renewed.

**Status Date:** Mar. 28, 2014

**Publication Date:** Sep. 21, 2004

## Mark Information

**Mark Literal Elements:** XOOM

**Standard Character Claim:** No

**Mark Drawing Type:** 1 - TYPESET WORD(S) /LETTER(S) /NUMBER(S)

## Goods and Services

### Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*...\* identify additional (new) wording in the goods/services.

**For:** Providing business information, namely on, money transfer services

**International Class(es):** 035 - Primary Class

**U.S Class(es):** 100, 101,

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** May 07, 2003

**Use in Commerce:** May 07, 2004

**For:** Money transfer services; electronic funds transfer services; bill payment remittance services; electronic processing and transmission of bill payment data

**International Class(es):** 036 - Primary Class

**U.S Class(es):** 100, 101,

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** May 07, 2003

**Use in Commerce:** May 07, 2003

**Basis Information (Case Level)**

<b>Filed Use:</b> Yes	<b>Currently Use:</b> Yes
<b>Filed ITU:</b> No	<b>Currently ITU:</b> No
<b>Filed 44D:</b> No	<b>Currently 44D:</b> No
<b>Filed 44E:</b> No	<b>Currently 44E:</b> No
<b>Filed 66A:</b> No	<b>Currently 66A:</b> No
<b>Filed No Basis:</b> No	<b>Currently No Basis:</b> No

**Current Owner(s) Information**

**Owner Name:** XOOM CORPORATION

**Owner Address:** 425 Market Street, 12th Floor  
San Francisco, CALIFORNIA UNITED STATES 94105

**Legal Entity Type:** CORPORATION

**State or Country Where Organized:** DELAWARE

**Attorney/Correspondence Information**

**Attorney of Record**

**Attorney Name:** Rochelle D Alpert

**Docket Number:** 061415.20

**Attorney Primary Email Address:** [ralpert@morganlewis.com](mailto:ralpert@morganlewis.com)

**Attorney Email Authorized:** Yes

**Correspondent**

**Correspondent Name/Address:** Rochelle D Alpert

MORGAN, LEWIS & BOCKIUS LLP  
ONE MARKET, SPEAR STREET TOWER  
SAN FRANCISCO, CALIFORNIA UNITED STATES 94105

**Phone:** 415-442-1326

**Fax:** 415-442-1

**Correspondent e-mail:** [ralpert@morganlewis.com](mailto:ralpert@morganlewis.com)

**Correspondent e-mail Authorized:** Yes

**Domestic Representative - Not Found**

**Prosecution History**

<b>Date</b>	<b>Description</b>	<b>Proceeding Number</b>
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Nov. 20, 2014	COUNTERCLAIM OPP. NO. 999999	217374
Aug. 05, 2014	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	88888
Aug. 05, 2014	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Mar. 28, 2014	NOTICE OF ACCEPTANCE OF SEC. 8 & 9 - E-MAILED	
Mar. 28, 2014	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	75461
Mar. 28, 2014	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	75461
Mar. 11, 2014	REGISTERED - COMBINED SECTION 8 (10-YR) & SEC. 9 FILED	75461
Mar. 28, 2014	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	75461
Mar. 11, 2014	TEAS SECTION 8 & 9 RECEIVED	
Aug. 26, 2013	NOTICE OF SUIT	
Jan. 16, 2013	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Jul. 14, 2011	NOTICE OF SUIT	
Dec. 22, 2009	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	70619
Dec. 22, 2009	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	70619
Dec. 14, 2009	TEAS SECTION 8 & 15 RECEIVED	
Jul. 29, 2009	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	88888
Jul. 29, 2009	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Jun. 08, 2005	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Dec. 14, 2004	REGISTERED-PRINCIPAL REGISTER	
Sep. 21, 2004	PUBLISHED FOR OPPOSITION	
Sep. 01, 2004	NOTICE OF PUBLICATION	
Jul. 18, 2004	APPROVED FOR PUB - PRINCIPAL REGISTER	
May 20, 2004	CORRESPONDENCE RECEIVED IN LAW OFFICE	
May 20, 2004	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Sep. 15, 2003	UNRESPONSIVE/DUPLICATE PAPER RECEIVED	
Apr. 21, 2004	FAX RECEIVED	
Apr. 16, 2004	NON-FINAL ACTION E-MAILED	6325
Apr. 05, 2004	ASSIGNED TO EXAMINER	76725

### Maintenance Filings or Post Registration Information

**Affidavit of Continued Use:** Section 8 - Accepted

**Affidavit of Incontestability:** Section 15 - Accepted

**Renewal Date:** Dec. 14, 2014

### **TM Staff and Location Information**

**TM Staff Information - None**

#### **File Location**

**Current Location:** GENERIC WEB UPDATE

**Date in Location:** Mar. 28, 2

**Assignment Abstract Of Title Information - Click to Load**

**Proceedings - Click to Load**



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## Trademark Assignment Abstract of Title

### Total Assignments: 1

**Serial #:** [76544640](#)

**Filing Dt:** 09/15/2003

**Reg #:** [2909931](#)

**Reg. Dt:** 12/14/2004

**Registrant:** Xoom Corporation

**Mark:** XOOM

### Assignment: 1

**Reel/Frame:** [4939/0616](#)

**Recorded:** 01/09/2013

**Pages:** 6

**Conveyance:** MERGER EFFECTIVE 11/19/2012

**Assignor:** [XOOM CORPORATION](#)

**Exec Dt:** 11/19/2012

**Entity Type:** CORPORATION

**Citizenship:** CALIFORNIA

**Entity Type:** CORPORATION

**Citizenship:** DELAWARE

**Assignee:** [XOOM CORPORATION](#)

100 BUSH STREET, SUITE 300

SAN FRANCISCO, CALIFORNIA 94014

**Correspondent:** ROCHELLE D. ALPERT

ONE MARKET, SPEAR STREET TOWER

SAN FRANCISCO, CA 94105

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Web interface last modified: July 25, 2014 v.2.5

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# **EXHIBIT B**

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**Mark:** XOOM

# XOOM

**US Serial Number:** 85225023

**Application Filing Date:** Jan. 24, 2011

**US Registration Number:** 4012377

**Registration Date:** Aug. 16, 2011

**Filed as TEAS Plus:** Yes

**Currently TEAS Plus:** Yes

**Register:** Principal

**Mark Type:** Service Mark

**Status:** Registered. The registration date is used to determine when post-registration maintenance documents are due.

**Status Date:** Aug. 16, 2011

**Publication Date:** May 31, 2011

## Mark Information

**Mark Literal Elements:** XOOM

**Standard Character Claim:** Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

**Mark Drawing Type:** 4 - STANDARD CHARACTER MARK

## Related Properties Information

**Claimed Ownership of US** [2909931](#)

**Registrations:**

## Goods and Services

### Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*...\* identify additional (new) wording in the goods/services.

**For:** Providing a web site featuring temporary use of non-downloadable software for providing information and facilitating money transfers, electronic funds transfers, bill payment remittances and electronic payment data

**International Class(es):** 042 - Primary Class

**U.S Class(es):** 100, 101

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** May 07, 2003

**Use in Commerce:** May 07, 2011

**Basis Information (Case Level)**

<b>Filed Use:</b> Yes	<b>Currently Use:</b> Yes
<b>Filed ITU:</b> No	<b>Currently ITU:</b> No
<b>Filed 44D:</b> No	<b>Currently 44D:</b> No
<b>Filed 44E:</b> No	<b>Currently 44E:</b> No
<b>Filed 66A:</b> No	<b>Currently 66A:</b> No
<b>Filed No Basis:</b> No	<b>Currently No Basis:</b> No

**Current Owner(s) Information**

**Owner Name:** XOOM CORPORATION  
**Owner Address:** 425 Market Street, 12th Floor  
 San Francisco, CALIFORNIA UNITED STATES 94105  
**Legal Entity Type:** CORPORATION  
**State or Country Where Organized:** DELAWARE

**Attorney/Correspondence Information**

**Attorney of Record**

**Attorney Name:** Rochelle D, Alpert  
**Attorney Primary Email:** [ralpert@morganlewis.com](mailto:ralpert@morganlewis.com)  
**Address:**  
**Docket Number:** 061415.2C  
**Attorney Email Authorized:** No

**Correspondent**

**Correspondent Name/Address:** ROCHELLE D, ALPERT  
 MORGAN, LEWIS & BOCKIUS, LLP  
 1 MARKET SPEAR STREET TOWER  
 SAN FRANCISCO, CALIFORNIA UNITED STATES 94105  
**Phone:** 415 442-1326  
**Fax:** 415 442-1326  
**Correspondent e-mail:** [ralpert@morganlewis.com](mailto:ralpert@morganlewis.com)  
**Correspondent e-mail Authorized:** No

**Domestic Representative - Not Found**

**Prosecution History**

<b>Date</b>	<b>Description</b>	<b>Proceeding Number</b>
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Nov. 20, 2014	COUNTERCLAIM OPP. NO. 999999	217374
Aug. 05, 2014	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	88888
Aug. 05, 2014	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Jan. 16, 2013	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Aug. 16, 2011	REGISTERED-PRINCIPAL REGISTER	
May 31, 2011	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
May 31, 2011	PUBLISHED FOR OPPOSITION	
Apr. 19, 2011	APPROVED FOR PUB - PRINCIPAL REGISTER	
Apr. 18, 2011	ASSIGNED TO EXAMINER	76081
Jan. 28, 2011	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Jan. 27, 2011	NEW APPLICATION ENTERED IN TRAM	

**TM Staff and Location Information**

**TM Staff Information - None**

**File Location**

**Current Location:** PUBLICATION AND ISSUE SECTION

**Date in Location:** Aug. 16, 2014

**Assignment Abstract Of Title Information - Click to Load**

**Proceedings - Click to Load**



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**Assignments on the Web > Trademark Query**

## Trademark Assignment Abstract of Title

**Total Assignments: 1**

**Serial #:** [85225023](#)

**Filing Dt:** 01/24/2011

**Reg #:** [4012372](#)

**Reg. Dt:** 08/16/2011

**Registrant:** Xoom Corporation

**Mark:** XOOM

**Assignment: 1**

**Reel/Frame:** [4939/0616](#)

**Recorded:** 01/09/2013

**Pages:** 6

**Conveyance:** MERGER EFFECTIVE 11/19/2012

**Assignor:** [XOOM CORPORATION](#)

**Exec Dt:** 11/19/2012

**Entity Type:** CORPORATION

**Citizenship:** CALIFORNIA

**Entity Type:** CORPORATION

**Citizenship:** DELAWARE

**Assignee:** [XOOM CORPORATION](#)

100 BUSH STREET, SUITE 300

SAN FRANCISCO, CALIFORNIA 94014

**Correspondent:** ROCHELLE D. ALPERT

ONE MARKET, SPEAR STREET TOWER

SAN FRANCISCO, CA 94105

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350. v.2.5  
Web interface last modified: July 25, 2014 v.2.5

Search Results as of: 12/16/2015 07:41 PM

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# **EXHIBIT C**

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**Generated on:** This page was generated by TSDR on 2015-12-16 18:39:25 EST

**Mark:** XOOM

# XOOM

**US Serial Number:** 85225008

**Application Filing Date:** Jan. 24, 2011

**US Registration Number:** 4226418

**Registration Date:** Oct. 16, 2012

**Filed as TEAS Plus:** Yes

**Currently TEAS Plus:** Yes

**Register:** Principal

**Mark Type:** Trademark

**Status:** Registered. The registration date is used to determine when post-registration maintenance documents are due.

**Status Date:** Oct. 16, 2012

**Publication Date:** May 31, 2011

**Notice of Allowance Date:** Jul. 26, 2011

## Mark Information

**Mark Literal Elements:** XOOM

**Standard Character Claim:** Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

**Mark Drawing Type:** 4 - STANDARD CHARACTER MARK

## Related Properties Information

**Claimed Ownership of US** [2909931](#)

**Registrations:**

## Goods and Services

### Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

**For:** Computer software for facilitating money transfer services, electronic funds transfer services, biometric data processing and transmission of payments and payment data

**International Class(es):** 009 - Primary Class

**U.S Class(es):** 021, 023, 024

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Aug. 08, 2012

**Use in Commerce:** Aug. 08, 2012

**Basis Information (Case Level)**

<b>Filed Use:</b> No	<b>Currently Use:</b> Yes
<b>Filed ITU:</b> Yes	<b>Currently ITU:</b> No
<b>Filed 44D:</b> No	<b>Currently 44D:</b> No
<b>Filed 44E:</b> No	<b>Currently 44E:</b> No
<b>Filed 66A:</b> No	<b>Currently 66A:</b> No
<b>Filed No Basis:</b> No	<b>Currently No Basis:</b> No

**Current Owner(s) Information**

**Owner Name:** XOOM CORPORATION

**Owner Address:** 425 Market Street, 12th Floor  
San Francisco, CALIFORNIA UNITED STATES 94105

**Legal Entity Type:** CORPORATION **State or Country Where Organized:** DELAWARE

**Attorney/Correspondence Information**

**Attorney of Record**

**Attorney Name:** Rochelle D. Alpert **Docket Number:** 061415.20

**Attorney Primary Email:** [ralpert@morganlewis.com](mailto:ralpert@morganlewis.com) **Attorney Email Authorized:** No

**Address:**

**Correspondent**

**Correspondent Name/Address:** ROCHELLE D. ALPERT  
MORGAN, LEWIS & BOCKIUS, LLP  
1 MARKET SPEAR STREET TOWER  
SAN FRANCISCO, CALIFORNIA UNITED STATES 94105

**Phone:** 415 442-1326 **Fax:** 415 442-1326

**Correspondent e-mail:** [ralpert@morganlewis.com](mailto:ralpert@morganlewis.com) **Correspondent e-mail Authorized:** Yes

**Domestic Representative - Not Found**

**Prosecution History**

<b>Date</b>	<b>Description</b>	<b>Proceeding Number</b>
Nov. 20, 2014	COUNTERCLAIM OPP. NO. 999999	217374

Aug. 05, 2014	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	88888
Aug. 05, 2014	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Jan. 16, 2013	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Oct. 16, 2012	REGISTERED-PRINCIPAL REGISTER	
Sep. 14, 2012	NOTICE OF ACCEPTANCE OF STATEMENT OF USE E-MAILED	
Sep. 13, 2012	LAW OFFICE REGISTRATION REVIEW COMPLETED	70997
Sep. 13, 2012	ASSIGNED TO LIE	70997
Sep. 04, 2012	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Sep. 04, 2012	STATEMENT OF USE PROCESSING COMPLETE	69302
Aug. 24, 2012	USE AMENDMENT FILED	69302
Aug. 24, 2012	TEAS STATEMENT OF USE RECEIVED	
Jul. 28, 2012	NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED	
Jul. 27, 2012	EXTENSION 2 GRANTED	69302
Jul. 20, 2012	EXTENSION 2 FILED	69302
Jul. 20, 2012	TEAS EXTENSION RECEIVED	
Feb. 18, 2012	NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED	
Feb. 17, 2012	EXTENSION 1 GRANTED	69302
Jan. 23, 2012	EXTENSION 1 FILED	69302
Feb. 17, 2012	CASE ASSIGNED TO INTENT TO USE PARALEGAL	69302
Jan. 23, 2012	TEAS EXTENSION RECEIVED	
Jul. 26, 2011	NOA E-MAILED - SOU REQUIRED FROM APPLICANT	
May 31, 2011	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
May 31, 2011	PUBLISHED FOR OPPOSITION	
Apr. 19, 2011	APPROVED FOR PUB - PRINCIPAL REGISTER	
Apr. 18, 2011	ASSIGNED TO EXAMINER	76081
Jan. 28, 2011	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Jan. 27, 2011	NEW APPLICATION ENTERED IN TRAM	

### TM Staff and Location Information

**TM Staff Information - None**

**File Location**

**Current Location:** PUBLICATION AND ISSUE SECTION

**Date in Location:** Sep. 13, 2

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## Assignments on the Web > Trademark Query

### Trademark Assignment Abstract of Title

**Total Assignments: 1**

**Serial #:** [85225008](#)

**Filing Dt:** 01/24/2011

**Reg #:** [4226418](#)

**Reg. Dt:** 10/16/2012

**Registrant:** Xoom Corporation

**Mark:** XOOM

**Assignment: 1**

**Reel/Frame:** [4939/0616](#)

**Recorded:** 01/09/2013

**Pages:** 6

**Conveyance:** MERGER EFFECTIVE 11/19/2012

**Assignor:** [XOOM CORPORATION](#)

**Exec Dt:** 11/19/2012

**Entity Type:** CORPORATION

**Citizenship:** CALIFORNIA

**Entity Type:** CORPORATION

**Citizenship:** DELAWARE

**Assignee:** [XOOM CORPORATION](#)

100 BUSH STREET, SUITE 300

SAN FRANCISCO, CALIFORNIA 94014

**Correspondent:** ROCHELLE D. ALPERT

ONE MARKET, SPEAR STREET TOWER

SAN FRANCISCO, CA 94105

Search Results as of: 12/16/2015 07:42 PM

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Web interface last modified: July 25, 2014 v.2.5

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# **EXHIBIT D**

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**Generated on:** This page was generated by TSDR on 2015-12-16 18:40:01 EST

**Mark:** XOOM

# XOOM

**US Serial Number:** 85861822

**Application Filing Date:** Feb. 27, 2

**US Registration Number:** 4407099

**Registration Date:** Sep. 24, 2

**Register:** Principal

**Mark Type:** Service Mark

**Status:** Registered. The registration date is used to determine when post-registration maintenance docu

**Status Date:** Sep. 24, 2013

**Publication Date:** Jul. 09, 2013

## Mark Information

**Mark Literal Elements:** XOOM

**Standard Character Claim:** Yes. The mark consists of standard characters without claim to any particular font style, size, or

**Mark Drawing Type:** 4 - STANDARD CHARACTER MARK

## Related Properties Information

**Claimed Ownership of US** [2909931](#), [4012377](#), [4226418](#)

**Registrations:**

## Goods and Services

### Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

**For:** Administration of a customer loyalty and referral program which provides monetary and enhance using or referring others to money transfer services

**International Class(es):** 035 - Primary Class

**U.S Class(es):** 100, 101,

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Sep. 26, 2012

**Use in Commerce:** Sep. 26, 2012

**For:** Providing a website featuring blogs and non-downloadable publications in the nature of articles entertainment, money transfers, financial matters, immigration, technology and general events i outside the United States

**International Class(es):** 041 - Primary Class

**U.S Class(es):** 100, 101,

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Jan. 2007

**Use in Commerce:** Jan. 2007

**For:** Internet based social networking

**International Class(es):** 045 - Primary Class

**U.S Class(es):** 100, 101

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Feb. 2008

**Use in Commerce:** Feb. 2008

**Basis Information (Case Level)**

**Filed Use:** Yes

**Currently Use:** Yes

**Filed ITU:** No

**Currently ITU:** No

**Filed 44D:** No

**Currently 44D:** No

**Filed 44E:** No

**Currently 44E:** No

**Filed 66A:** No

**Currently 66A:** No

**Filed No Basis:** No

**Currently No Basis:** No

**Current Owner(s) Information**

**Owner Name:** Xoom Corporation

**Owner Address:** 425 Market Street, 12th Floor  
San Francisco, CALIFORNIA UNITED STATES 94105

**Legal Entity Type:** CORPORATION

**State or Country Where Organized:** DELAWARE

**Attorney/Correspondence Information**

**Attorney of Record**

**Attorney Name:** Rochelle D. Alpert

**Docket Number:** 061415.21

**Attorney Primary Email:** [ralpert@morganlewis.com](mailto:ralpert@morganlewis.com)

**Attorney Email Authorized:** Yes

**Address:**

**Correspondent**

**Correspondent** ROCHELLE D. ALPERT  
**Name/Address:** MORGAN, LEWIS & BOCKIUS LLP  
 1 MARKET SPEAR STREET TOWER  
 SAN FRANCISCO, CALIFORNIA UNITED STATES 94105

**Phone:** (415) 442-1326

**Fax:** (415) 442-

**Correspondent e-mail:** [ralpert@morganlewis.com](mailto:ralpert@morganlewis.com)

**Correspondent e-mail** Yes  
**Authorized:**

**Domestic Representative - Not Found**

**Prosecution History**

<b>Date</b>	<b>Description</b>	<b>Proceeding Number</b>
Aug. 05, 2014	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	88888
Aug. 05, 2014	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Sep. 24, 2013	REGISTERED-PRINCIPAL REGISTER	
Jul. 09, 2013	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Jul. 09, 2013	PUBLISHED FOR OPPOSITION	
Jun. 19, 2013	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
May 31, 2013	LAW OFFICE PUBLICATION REVIEW COMPLETED	77976
May 24, 2013	ASSIGNED TO LIE	77976
May 23, 2013	APPROVED FOR PUB - PRINCIPAL REGISTER	
May 17, 2013	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
May 16, 2013	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
May 16, 2013	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Mar. 28, 2013	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Mar. 28, 2013	NON-FINAL ACTION E-MAILED	6325
Mar. 28, 2013	NON-FINAL ACTION WRITTEN	82103
Mar. 28, 2013	ASSIGNED TO EXAMINER	82103
Mar. 05, 2013	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Mar. 02, 2013	NEW APPLICATION ENTERED IN TRAM	

**TM Staff and Location Information**

**TM Staff Information - None**

**File Location**

**Current Location:** PUBLICATION AND ISSUE SECTION

**Date in Location:** Sep. 24, 2013

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**Proceedings - Click to Load**

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**Assignments on the Web > Trademark Query**

**No assignment has been recorded at the USPTO**

**For Serial Number: 85861822**

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Web interface last modified: July 25, 2014 v.2.5

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## CERTIFICATE OF SERVICE

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is One Market, Spear Street Tower, San Francisco, CA 94105.

On **December 16, 2015**, I served the within documents:

### **XOOM CORPORATION'S NOTICE OF OPPOSITION (Exhibits A-D)**

by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Francisco, California addressed as set forth below.

**Francis John Ciaramella**  
**RICK RUZ, PLLC**  
**300 Sevilla Avenue, Suite 309**  
**Coral Gables, FL 33134**

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on **December 16, 2015**, at San Francisco, California. I declare under penalty of perjury, under the laws of the United States of America, that the foregoing is true and correct.

  
\_\_\_\_\_  
Yelena Lolua