

ESTTA Tracking number: **ESTTA724029**

Filing date: **02/01/2016**

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 | Cayan LLC |
| Granted to Date of previous extension | 01/31/2016 |
| Address | One Federal Street, Second Floor Boston, MA 02110 UNITED STATES |

| | |
|----------------------|--|
| Attorney information | Jeremy Blackowicz Day Pitney LLP One International Place Boston, MA 02110 UNITED STATES trademarks@daypitney.com, jblackowicz@daypitney.com |
|----------------------|--|

Applicant Information

| | | | |
|------------------------|---|------------------------|------------|
| Application No | 86608582 | Publication date | 08/04/2015 |
| Opposition Filing Date | 02/01/2016 | Opposition Period Ends | 01/31/2016 |
| Applicant | Ahold Licensing Sarl 2 Rue Jean-Petitot Geneva, 1204 SWITZERLAND | | |

Goods/Services Affected by Opposition

Class 009. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Computer application software for mobile phones, namely, software for online grocery ordering

Grounds for Opposition

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

Marks Cited by Opposer as Basis for Opposition

| | | | |
|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 4692776 | Application Date | 05/24/2012 |
| Registration Date | 02/24/2015 | Foreign Priority Date | NONE |
| Word Mark | GENIUS | | |

| | |
|---------------------|---|
| Design Mark |  |
| Description of Mark | NONE |
| Goods/Services | Class 009. First use: First Use: 2013/01/17 First Use In Commerce: 2013/01/17 Computer software for facilitating, processing, and managing financial transactions, namely, providing and processing multiple types of commercial payment and debt transactions via a global computer network or cellular telephone data network; electronic payment terminals for conducting financial transactions Class 036. First use: First Use: 2013/01/17 First Use In Commerce: 2013/01/17 Financial transaction services, namely, providing and processing multiple types of commercial payment and debt transactions; clearing and reconciling financial transactions via global computer and communications networks; electronic payment processing services |

| | | | |
|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 4692780 | Application Date | 05/31/2012 |
| Registration Date | 02/24/2015 | Foreign Priority Date | NONE |

| | |
|---------------------|---|
| Word Mark | GENIUS |
| Design Mark |  |
| Description of Mark | The mark consists of the word "GENIUS" in stylized lettering. |
| Goods/Services | Class 009. First use: First Use: 2013/01/17 First Use In Commerce: 2013/01/17 Computer software for facilitating, processing, and managing financial transactions, namely, providing and processing multiple types of commercial payment and debt transactions via a global computer network or cellular telephone data network; electronic payment terminals for conducting financial transactions Class 036. First use: First Use: 2013/01/17 First Use In Commerce: 2013/01/17 Financial transaction services, namely, providing and processing multiple types of commercial payment and debt transactions; clearing and reconciling financial transactions via global computer and communications networks; electronic payment processing services |

| | |
|-------------|---|
| Attachments | 85634089#TMSN.png(bytes) 85640078#TMSN.png(bytes) Notice of Opposition - ORDER GENIUS.pdf(17961 bytes) |
|-------------|---|

| |
|--|
| Exhibit A to ORDER GENIUS Opposition.pdf(2229090 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 | /s/ Jeremy Blackowicz/ |
| Name | Jeremy Blackowicz |
| Date | 02/01/2016 |

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

| | | |
|-----------------------|---|------------------------|
| _____ |) | |
| CAYAN LLC, |) | |
| |) | |
| Opposer, |) | Opposition No.: |
| |) | |
| v. |) | Mark: ORDER GENIUS |
| |) | |
| AHOLD LICENSING SARL, |) | Serial No.: 86/608,582 |
| |) | Class: 9 |
| Applicant. |) | |
| _____ |) | |

NOTICE OF OPPOSITION

Cayan LLC, a Delaware Limited Liability Company, with an address of One Federal Street, Boston, MA 02110 (hereafter “Opposer” or “Cayan”) believes that it will be damaged by registration of the mark shown in Application Serial No. 86/608,582 for the mark ORDER GENIUS for “Computer application software for mobile phones, namely, software for online grocery ordering,” in International Class 9 on the Principal Register, filed on April 24, 2015 by Ahold Licensing Sarl, a Limited Liability Company organized under the laws of Switzerland with an address of 2 Rue Jean-Petitot, Geneva, Switzerland 1204 (hereafter “Applicant” or “Ahold”), and hereby opposes the same. As grounds for this opposition, Opposer alleges as follows:

FACTS

1. Cayan is known as a premier provider of electronic payment solutions and mobile payment technologies.
2. Cayan’s electronic payment solutions include the provision of the a payment system which is comprised of hardware, custom developed transaction processing software, mobile

applications, and its unmatched customer service to merchants and consumers. This payment system, software and the associated transaction processing services and value-added services, such as coupon redemption, has been branded under the mark GENIUS, which is suggestive of its ability to combine numerous transaction technologies, incorporate emerging payment technologies and security, and merchant services into a single payment processing solution.

3. Cayan's GENIUS payment system is purchased by merchants, retailers and other parties seeking electronic transaction processing. The GENIUS payment terminal and portions of the GENIUS software are consumer-facing and easy to navigate, displaying the multiple payment options alongside the GENIUS branding.

4. Cayan began offering the GENIUS terminal, software and services on or about January 13, 2013.

5. Through its efforts over the years, Opposer has established a strong customer base and is known as a provider of payment and transaction processing goods and services in connection with the GENIUS trademark.

6. The widespread recognition and goodwill associated with Opposer's GENIUS trademark is the result of Opposer's continuous marketing efforts and by virtue of the high quality of Opposer's GENIUS-branded goods and services.

7. Opposer is the owner of the following U.S. Trademark Registrations (the "GENIUS Registrations")(TSDR Records attached hereto as Exhibit A):

Mark: GENIUS

Registration No.: 4692776

Registration Date: February 24, 2015

App. Date: May 24, 2012

Goods and Services:

Class 9 – Computer software for facilitating, processing, and managing financial transactions, namely, providing and processing multiple types of commercial payment

and debt transactions via a global computer network or cellular telephone data network; electronic payment terminals for conducting financial transactions.

Class 36 – Financial transaction services, namely, providing and processing multiple types of commercial payment and debt transactions; clearing and reconciling financial transactions via global computer and communications networks; electronic payment processing services.

Mark: GENIUS & Design
Registration No.: 4692780
Registration Date: February 24, 2015
App. Date: May 31, 2012
Goods and Services:

Class 9 – Computer software for facilitating, processing, and managing financial transactions, namely, providing and processing multiple types of commercial payment and debt transactions via a global computer network or cellular telephone data network; electronic payment terminals for conducting financial transactions.

Class 36 – Financial transaction services, namely, providing and processing multiple types of commercial payment and debt transactions; clearing and reconciling financial transactions via global computer and communications networks; electronic payment processing services.

8. In accordance with Sections 7(b), 22 and 33(a) of the Lanham Trademark Act, Opposer's GENIUS Registrations constitute *prima facie* evidence of the validity of the registered marks and of the registrations thereof, Opposer's ownership of the marks shown in said registrations, and Opposer's exclusive right to use the marks in commerce in connection with the goods named therein, without condition or limitation.

9. Upon information and belief, on April 24, 2015, Applicant filed an intent-to-use Application Serial No. 86/608,582 to register the mark ORDER GENIUS for "Computer application software for mobile phones, namely, software for online grocery ordering" in Class 9.

10. Applicant has disclaimed the term "Order" in Application Serial No. 86/608,582, leaving GENIUS as the distinctive and dominant term.

11. Applicant's ORDER GENIUS mark is similar in appearance, connotation and commercial impression to Opposer's GENIUS trademarks and GENIUS Registrations.

12. Applicant's ORDER GENIUS mark includes and encapsulates the entire of Opposer's GENIUS trademarks and GENIUS Registrations, appending the non-distinctive term ORDER which has been disclaimed by Applicant.

13. Cayan's filing date, registration date, and claimed dates of first use for the goods and services offered under the GENIUS trademarks and GENIUS Registrations are all long prior to any use or application for ORDER GENIUS by Applicant, giving Opposer clear priority.

14. Upon information and belief, Applicant's proposed mobile software for grocery ordering services incorporates payment and financial transaction processing.

15. Applicant's ORDER GENIUS mark as shown in App. Serial No. 86/608,582 is confusingly similar to Opposer's GENIUS trademarks and GENIUS Registrations in appearance, sound and in commercial impression.

16. The services of Applicant to be offered under its ORDER GENIUS mark are related to Opposer's goods and services offered under its GENIUS trademarks and GENIUS Registrations.

17. Applicant's trademark as shown in App. Serial No. 86/608,582 consists of or comprises a mark which so resembles Opposer's previously used and registered GENIUS trademark and GENIUS Registrations as to be likely, when used for the services listed in the subject application to cause confusion, cause mistake or to deceive the public into the belief that the products offered under ORDER GENIUS come from, include, or are otherwise authorized, endorsed, powered-by or sponsored by Cayan in violation of Section 2(d) of the Lanham Act, 15 USC § 1052(d).

18. Based on the foregoing, registration of the mark shown in App. Serial No. 86/608,582 is likely to cause injury and damage to Opposer.

WHEREFORE, the Opposer asserts that it will be damaged by the registration of Applicant's mark ORDER GENIUS and requests that this opposition be sustained and that Trademark App. Serial No. 86/608,582 filed on April 24, 2015 by Ahold Licensing Sarl be rejected and its registration refused.

Respectfully submitted,

CAYAN LLC

/s/ Jeremy Blackowicz/

Jeremy Blackowicz

Day Pitney LLP

One International Place

Boston, MA 02110

Tel: 617-345-4600

E-mail: trademarks@daypitney.com

Dated: February 1, 2016

CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below a true and correct copy of the foregoing NOTICE OF OPPOSITION was served upon the attorney of record for the Opposer by electronic mail as well as by First Class mail, postage pre-paid, as follows:

Michael A. Doctrow, Esq.
McNees Wallace & Nurick
100 Pine Street
Harrisburg, PA 17108
trademarks@mwn.com

Signature: /s/ Jeremy Blackowicz/

By: Jeremy Blackowicz

Date: February 1, 2016

Generated on:

This page was generated by TSDR on 2016-02-01 16:01:29 EST

Mark: GENIUS

GENIUS

US Serial Number: 85634089

Application Filing Date:

May 24, 2012

US Registration Number: 4692776

Registration Date:

Feb. 24, 2015

Register:

Principal

Mark Type:

Trademark, Service Mark

Status:

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

Status Date:

Feb. 24, 2015

Publication Date: Oct. 07, 2014

Notice of Allowance Date:

Dec. 02, 2014

Mark Information

Mark Literal Elements:

GENIUS

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

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, processing, and managing financial transactions, namely, providing and processing multiple types of commercial payment and debt transactions via a global computer network or cellular telephone data network; electronic payment terminals for conducting financial transactions

International Class(es): 009 - Primary Class

U.S Class(es):

021, 023, 026, 036, 038

Class Status:

ACTIVE

Basis:

1(a)

First Use: Jan. 17, 2013

Use in Commerce:

Jan. 17, 2013

For:

Financial transaction services, namely, providing and processing multiple types of commercial payment and debt transactions; clearing and reconciling financial transactions via global computer and communications networks; electronic payment processing services

International Class(es): 036 - Primary Class

U.S Class(es):

100, 101, 102

Class Status:

ACTIVE

Basis:

1(a)

First Use: Jan. 17, 2013

Use in Commerce:

Jan. 17, 2013

Basis Information (Case Level)

| | | |
|---------------------------|-------------------------------|------------------------|
| Filed Use: No | Currently Use: Yes | Amended Use: No |
| Filed ITU: Yes | Currently ITU: No | Amended ITU: No |
| Filed 44D: No | Currently 44D: No | Amended 44D: No |
| Filed 44E: No | Currently 44E: No | Amended 44E: No |
| Filed 66A: No | Currently 66A: No | |
| Filed No Basis: No | Currently No Basis: No | |

Current Owner(s) Information

Owner Name:

CAYAN LLC

Owner Address:

ONE FEDERAL STREET, 2ND FLOOR
BOSTON, MASSACHUSETTS 02110
UNITED STATES

Legal Entity Type: LIMITED LIABILITY COMPANY

**State or Country Where
Organized:**

DELAWARE

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Jeremy Blackowicz

**Attorney Primary Email
Address:** nytrademark@daypitney.com

**Attorney Email
Authorized:**

Yes

Correspondent

**Correspondent
Name/Address:**

JEREMY BLACKOWICZ
DAY PITNEY LLP
One International Place
Boston, MASSACHUSETTS 02110
UNITED STATES

Phone: 617-345-4665

Correspondent e-mail: trademarks@daypitney.com

**Correspondent e-mail
Authorized:**

Yes

Domestic Representative - Not Found

Prosecution History

| Date | Description | Proceeding Number |
|---------------|--|----------------------|
| Sep. 30, 2015 | ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY | |
| Feb. 24, 2015 | REGISTERED-PRINCIPAL REGISTER | |
| Jan. 23, 2015 | NOTICE OF ACCEPTANCE OF STATEMENT OF USE E-MAILED | |
| Jan. 22, 2015 | ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED | |
| Jan. 20, 2015 | STATEMENT OF USE PROCESSING COMPLETE | 65362 |
| Dec. 08, 2014 | USE AMENDMENT FILED | 65362 |
| Jan. 15, 2015 | CASE ASSIGNED TO INTENT TO USE PARALEGAL | 65362 |
| Jan. 14, 2015 | AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP | |
| Dec. 08, 2014 | TEAS STATEMENT OF USE RECEIVED | |
| Dec. 02, 2014 | NOA E-MAILED - SOU REQUIRED FROM APPLICANT | |
| Oct. 07, 2014 | OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED | |
| Oct. 07, 2014 | PUBLISHED FOR OPPOSITION | |

| | | |
|---------------|--|-------|
| Sep. 17, 2014 | NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED | |
| Sep. 02, 2014 | LAW OFFICE PUBLICATION REVIEW COMPLETED | 77976 |
| Aug. 27, 2014 | APPROVED FOR PUB - PRINCIPAL REGISTER | |
| Aug. 11, 2014 | TEAS/EMAIL CORRESPONDENCE ENTERED | 88889 |
| Aug. 11, 2014 | CORRESPONDENCE RECEIVED IN LAW OFFICE | 88889 |
| Aug. 11, 2014 | TEAS RESPONSE TO SUSPENSION INQUIRY RECEIVED | |
| Jun. 18, 2014 | NOTIFICATION OF INQUIRY AS TO SUSPENSION E-MAILED | |
| Jun. 18, 2014 | INQUIRY TO SUSPENSION E-MAILED | |
| Jun. 18, 2014 | SUSPENSION INQUIRY WRITTEN | 82110 |
| Jun. 06, 2014 | LIE CHECKED SUSP - TO ATTY FOR ACTION | 77976 |
| Nov. 21, 2013 | REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED | 77976 |
| Nov. 16, 2013 | ASSIGNED TO LIE | 77976 |
| May 16, 2013 | NOTIFICATION OF LETTER OF SUSPENSION E-MAILED | 6332 |
| May 16, 2013 | LETTER OF SUSPENSION E-MAILED | 6332 |
| May 16, 2013 | SUSPENSION LETTER WRITTEN | 82110 |
| Apr. 19, 2013 | TEAS/EMAIL CORRESPONDENCE ENTERED | 88889 |
| Apr. 18, 2013 | CORRESPONDENCE RECEIVED IN LAW OFFICE | 88889 |
| Apr. 18, 2013 | TEAS RESPONSE TO OFFICE ACTION RECEIVED | |
| Nov. 09, 2012 | NOTIFICATION OF NON-FINAL ACTION E-MAILED | 6325 |
| Nov. 09, 2012 | NON-FINAL ACTION E-MAILED | 6325 |
| Nov. 09, 2012 | NON-FINAL ACTION WRITTEN | 82110 |
| Oct. 05, 2012 | TEAS/EMAIL CORRESPONDENCE ENTERED | 88889 |
| Oct. 04, 2012 | CORRESPONDENCE RECEIVED IN LAW OFFICE | 88889 |
| Oct. 04, 2012 | TEAS RESPONSE TO OFFICE ACTION RECEIVED | |
| Oct. 04, 2012 | TEAS CHANGE OF CORRESPONDENCE RECEIVED | |
| Sep. 21, 2012 | NOTIFICATION OF PRIORITY ACTION E-MAILED | 6326 |
| Sep. 21, 2012 | PRIORITY ACTION E-MAILED | 6326 |
| Sep. 21, 2012 | PRIORITY ACTION WRITTEN | 82110 |
| Sep. 14, 2012 | ASSIGNED TO EXAMINER | 82110 |
| Jun. 27, 2012 | AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP | |
| May 31, 2012 | NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM | |
| May 28, 2012 | 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:

Jan. 22, 2015

Assignment Abstract Of Title Information

Summary

Total Assignments: 4

Registrant:

CAYAN LLC

Assignment 1 of 4

Conveyance:

ASSIGNS THE ENTIRE INTEREST

Reel/Frame: [4807/0377](#)

Pages:

8

Date Recorded: Jun. 25, 2012

Supporting Documents:

[assignment-tm-4807-0377.pdf](#)

Assignor

Name: [MERCHANTWAREHOUSE.COM, INC.](#)

Execution Date:

Jun. 25, 2012

Legal Entity Type: CORPORATION

State or Country Where Organized:

MASSACHUSETTS

Assignee

Name:

MERCHANTWAREHOUSE.COM,LLC

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where
Organized:

DELAWARE

Address:

ONE FEDERAL STREET
2ND FLOOR
BOSTON, MASSACHUSETTS 02110

Correspondent

Correspondent Name:

JEREMY BLACKOWICZ

Correspondent Address:

ONE INTERNATIONAL PLACE
DAY PITNEY LLP
BOSTON, MA 02110

Domestic Representative - Not Found

Assignment 2 of 4

Conveyance:

CHANGE OF NAME

Reel/Frame: [5435/0021](#)

Pages:

5

Date Recorded: Jan. 06, 2015

Supporting Documents:

[assignment-tm-5435-0021.pdf](#)

Assignor

Name: MERCHANTWAREHOUSE.COM,LLC

Execution Date:

Jan. 05, 2015

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where
Organized:

DELAWARE

Assignee

Name:

CAYAN,LLC

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where
Organized:

DELAWARE

Address:

ONE FEDERAL STREET, 2ND FLOOR
BOSTON, MASSACHUSETTS 02110

Correspondent

Correspondent Name:

DAY PITNEY LLP

Correspondent Address:

ONE INTERNATIONAL PLACE
BOSTON, MA 02110

Domestic Representative - Not Found

Assignment 3 of 4

Conveyance:

SECURITY INTEREST

Reel/Frame: [5629/0342](#)

Pages:

7

Date Recorded: Sep. 24, 2015

Supporting Documents:

[assignment-tm-5629-0342.pdf](#)

Assignor

Name: CAYAN,LLC

Execution Date:

Sep. 24, 2015

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where
Organized:

DELAWARE

Assignee

Name:

[NXT CAPITAL, LLC, AS AGENT](#)

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where
Organized:

DELAWARE

Address:

191 NORTH WACKER DRIVE, SUITE 1200
CHICAGO, ILLINOIS 60606

Correspondent

Correspondent Name:

HUMBERTO AQUINO C/O KATTEN MUCHIN

Correspondent Address:

525 WEST MONROE STREET
CHICAGO, IL 60661

Domestic Representative - Not Found

Assignment 4 of 4

Conveyance:

TRADEMARK SECURITY AGREEMENT

Reel/Frame: [5630/0652](#)

Pages:

7

Date Recorded: Sep. 25, 2015

Supporting Documents:

[assignment-tm-5630-0652.pdf](#)

Assignor

Name: [CAYAN LLC](#)

Execution Date:

Sep. 24, 2015

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where
Organized:

DELAWARE

Assignee

Name:

[BUSINESS DEVELOPMENT CORPORATION OF AMERICA](#)

Legal Entity Type: CORPORATION

State or Country Where
Organized:

MARYLAND

Address:

405 PARK AVENUE
15TH FLOOR
NEW YORK, NEW YORK 10022

Correspondent

Correspondent Name:

MOORE & VAN ALLEN PLLC

Correspondent Address:

3015 CARRINGTON MILL BOULEVARD
SUITE 400
MORRISVILLE, NC 27560

Domestic Representative - Not Found

United States of America
United States Patent and Trademark Office

GENIUS

Reg. No. 4,692,776

Registered Feb. 24, 2015

Int. Cls.: 9 and 36

TRADEMARK

SERVICE MARK

PRINCIPAL REGISTER

CAYAN LLC (DELAWARE LIMITED LIABILITY COMPANY)
ONE FEDERAL STREET, 2ND FLOOR
BOSTON, MA 02110

FOR: COMPUTER SOFTWARE FOR FACILITATING, PROCESSING, AND MANAGING FINANCIAL TRANSACTIONS, NAMELY, PROVIDING AND PROCESSING MULTIPLE TYPES OF COMMERCIAL PAYMENT AND DEBT TRANSACTIONS VIA A GLOBAL COMPUTER NETWORK OR CELLULAR TELEPHONE DATA NETWORK; ELECTRONIC PAYMENT TERMINALS FOR CONDUCTING FINANCIAL TRANSACTIONS, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 1-17-2013; IN COMMERCE 1-17-2013.

FOR: FINANCIAL TRANSACTION SERVICES, NAMELY, PROVIDING AND PROCESSING MULTIPLE TYPES OF COMMERCIAL PAYMENT AND DEBT TRANSACTIONS; CLEARING AND RECONCILING FINANCIAL TRANSACTIONS VIA GLOBAL COMPUTER AND COMMUNICATIONS NETWORKS; ELECTRONIC PAYMENT PROCESSING SERVICES, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 1-17-2013; IN COMMERCE 1-17-2013.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 85-634,089, FILED 5-24-2012.

FRED CARL, EXAMINING ATTORNEY



Michelle K. Lee

Deputy Director of the United States
Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*

What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.* See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*

What and When to File:

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

NOTE: A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at <http://www.uspto.gov>.

Generated on:

This page was generated by TSDR on 2016-02-01 16:01:12 EST

Mark: GENIUS



US Serial Number: 85640078

Application Filing Date:

May 31, 2012

US Registration Number: 4692780

Registration Date:

Feb. 24, 2015

Register:

Principal

Mark Type:

Trademark, Service Mark

Status:

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

Status Date:

Feb. 24, 2015

Publication Date: Oct. 07, 2014

Notice of Allowance Date:

Dec. 02, 2014

Mark Information

Mark Literal Elements:

GENIUS

Standard Character Claim:

No

Mark Drawing Type:

3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)

Description of Mark:

The mark consists of the word "GENIUS" in stylized lettering.

Color(s) Claimed:

Color is not claimed as a feature of the mark.

Design Search Code(s):

26.17.01 - Bands, straight; Bars, straight; Lines, straight; Straight line(s), band(s) or bar(s)
26.17.05 - Bands, horizontal; Bars, horizontal; Horizontal line(s), band(s) or bar(s); Lines, horizontal
27.03.01 - Geometric figures forming letters, numerals or punctuation

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, processing, and managing financial transactions, namely, providing and processing multiple types of commercial payment and debt transactions via a global computer network or cellular telephone data network; electronic payment terminals for conducting financial transactions

International Class(es): 009 - Primary Class

U.S Class(es):

021, 023, 026, 036, 038

Class Status:

ACTIVE

Basis:

1(a)

First Use: Jan. 17, 2013

Use in Commerce:

Jan. 17, 2013

For:

Financial transaction services, namely, providing and processing multiple types of commercial payment and debt transactions; clearing and reconciling financial transactions via global computer and communications networks; electronic payment processing services

International Class(es): 036 - Primary Class

U.S Class(es):

100, 101, 102

Class Status:

ACTIVE

Basis:

1(a)

First Use: Jan. 17, 2013

Use in Commerce:

Jan. 17, 2013

Basis Information (Case Level)

Filed Use: No

Currently Use: Yes

Amended Use: No

Filed ITU: Yes

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

Current Owner(s) Information

Owner Name:

CAYAN LLC

Owner Address:

ONE FEDERAL STREET, 2ND FLOOR
BOSTON, MASSACHUSETTS 02110
UNITED STATES

Legal Entity Type: LIMITED LIABILITY COMPANY

**State or Country Where
Organized:**

DELAWARE

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Jeremy Blackowicz

**Attorney Primary Email
Address:** nytrademark@daypitney.com

**Attorney Email
Authorized:**

Yes

Correspondent

**Correspondent
Name/Address:**

JEREMY BLACKOWICZ
DAY PITNEY LLP
One International Place
Boston, MASSACHUSETTS 02110
UNITED STATES

Phone: 617-345-4665

Correspondent e-mail: trademarks@daypitney.com

**Correspondent e-mail
Authorized:**

Yes

Domestic Representative - Not Found

Prosecution History

| Date | Description | Proceeding Number |
|---------------|---|-------------------|
| Sep. 30, 2015 | ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY | |
| Feb. 24, 2015 | REGISTERED-PRINCIPAL REGISTER | |
| Jan. 23, 2015 | NOTICE OF ACCEPTANCE OF STATEMENT OF USE E-MAILED | |
| Jan. 22, 2015 | ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED | |
| Jan. 20, 2015 | STATEMENT OF USE PROCESSING COMPLETE | 65362 |
| Dec. 08, 2014 | USE AMENDMENT FILED | 65362 |

| | | |
|---------------|--|-------|
| Jan. 15, 2015 | CASE ASSIGNED TO INTENT TO USE PARALEGAL | 65362 |
| Jan. 14, 2015 | AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP | |
| Dec. 10, 2014 | AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP | |
| Dec. 08, 2014 | TEAS STATEMENT OF USE RECEIVED | |
| Dec. 02, 2014 | NOA E-MAILED - SOU REQUIRED FROM APPLICANT | |
| Oct. 07, 2014 | OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED | |
| Oct. 07, 2014 | PUBLISHED FOR OPPOSITION | |
| Sep. 17, 2014 | NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED | |
| Sep. 02, 2014 | LAW OFFICE PUBLICATION REVIEW COMPLETED | 77976 |
| Aug. 27, 2014 | APPROVED FOR PUB - PRINCIPAL REGISTER | |
| Aug. 11, 2014 | TEAS/EMAIL CORRESPONDENCE ENTERED | 88889 |
| Aug. 11, 2014 | CORRESPONDENCE RECEIVED IN LAW OFFICE | 88889 |
| Aug. 11, 2014 | TEAS RESPONSE TO SUSPENSION INQUIRY RECEIVED | |
| Jun. 18, 2014 | NOTIFICATION OF INQUIRY AS TO SUSPENSION E-MAILED | |
| Jun. 18, 2014 | INQUIRY TO SUSPENSION E-MAILED | |
| Jun. 18, 2014 | SUSPENSION INQUIRY WRITTEN | 82110 |
| Jun. 06, 2014 | LIE CHECKED SUSP - TO ATTY FOR ACTION | 77976 |
| Nov. 21, 2013 | REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED | 77976 |
| Nov. 16, 2013 | ASSIGNED TO LIE | 77976 |
| May 16, 2013 | NOTIFICATION OF LETTER OF SUSPENSION E-MAILED | 6332 |
| May 16, 2013 | LETTER OF SUSPENSION E-MAILED | 6332 |
| May 16, 2013 | SUSPENSION LETTER WRITTEN | 82110 |
| Apr. 18, 2013 | TEAS/EMAIL CORRESPONDENCE ENTERED | 88889 |
| Apr. 18, 2013 | CORRESPONDENCE RECEIVED IN LAW OFFICE | 88889 |
| Apr. 18, 2013 | TEAS RESPONSE TO SUSPENSION INQUIRY RECEIVED | |
| Nov. 28, 2012 | NOTIFICATION OF LETTER OF SUSPENSION E-MAILED | 6332 |
| Nov. 28, 2012 | LETTER OF SUSPENSION E-MAILED | 6332 |
| Nov. 28, 2012 | SUSPENSION LETTER WRITTEN | 82110 |
| Nov. 09, 2012 | TEAS CHANGE OF CORRESPONDENCE RECEIVED | |
| Nov. 09, 2012 | TEAS/EMAIL CORRESPONDENCE ENTERED | 88889 |
| Nov. 09, 2012 | CORRESPONDENCE RECEIVED IN LAW OFFICE | 88889 |
| Nov. 09, 2012 | TEAS RESPONSE TO OFFICE ACTION RECEIVED | |
| Nov. 09, 2012 | NOTIFICATION OF NON-FINAL ACTION E-MAILED | 6325 |
| Nov. 09, 2012 | NON-FINAL ACTION E-MAILED | 6325 |
| Nov. 09, 2012 | NON-FINAL ACTION WRITTEN | 82110 |
| Sep. 21, 2012 | NOTIFICATION OF PRIORITY ACTION E-MAILED | 6326 |
| Sep. 21, 2012 | PRIORITY ACTION E-MAILED | 6326 |
| Sep. 21, 2012 | PRIORITY ACTION WRITTEN | 82110 |
| Sep. 14, 2012 | ASSIGNED TO EXAMINER | 82110 |
| Jun. 09, 2012 | NOTICE OF DESIGN SEARCH CODE MAILED | |
| Jun. 08, 2012 | NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM | |
| Jun. 04, 2012 | 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:

Jan. 22, 2015

Assignment Abstract Of Title Information

Summary

Total Assignments: 4

Registrant:

CAYAN LLC

Assignment 1 of 4

Conveyance:

NUNC PRO TUNC ASSIGNMENT EFFECTIVE 06/25/2012

Reel/Frame: [5410/0717](#)

Pages:

4

Date Recorded: Dec. 02, 2014

Supporting Documents:

[assignment-tm-5410-0717.pdf](#)

Assignor

Name: [MERCHANTWAREHOUSE.COM, INC.](#)

Execution Date:

Nov. 13, 2014

Legal Entity Type: CORPORATION

State or Country Where Organized:

MASSACHUSETTS

Assignee

Name:

[MERCHANTWAREHOUSE.COM LLC](#)

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized:

DELAWARE

Address:

ONE FEDERAL STREET
2ND FLOOR
BOSTON, MASSACHUSETTS 02110

Correspondent

Correspondent Name:

JEREMY BLACKOWICZ

Correspondent Address:

ONE INTERNATIONAL PLACE
DAY PITNEY LLP
BOSTON, MA 02110

Domestic Representative - Not Found

Assignment 2 of 4

Conveyance:

CHANGE OF NAME

Reel/Frame: [5435/0021](#)

Pages:

5

Date Recorded: Jan. 06, 2015

Supporting Documents:

[assignment-tm-5435-0021.pdf](#)

Assignor

Name: [MERCHANTWAREHOUSE.COM LLC](#)

Execution Date:

Jan. 05, 2015

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized:

DELAWARE

Assignee

Name:

[CAYAN LLC](#)

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized:

DELAWARE

Address:

ONE FEDERAL STREET, 2ND FLOOR
BOSTON, MASSACHUSETTS 02110

Correspondent

Correspondent Name:

DAY PITNEY LLP

Correspondent Address:

ONE INTERNATIONAL PLACE
BOSTON, MA 02110

Domestic Representative - Not Found

Assignment 3 of 4

Conveyance:

SECURITY INTEREST

Reel/Frame: [5629/0342](#)

Pages:

7

Date Recorded: Sep. 24, 2015

Supporting Documents:

[assignment-tm-5629-0342.pdf](#)

Assignor

Name: [CAYAN LLC](#)

Execution Date:

Sep. 24, 2015

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where
Organized:

DELAWARE

Assignee

Name:

[NXT CAPITAL, LLC, AS AGENT](#)

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where
Organized:

DELAWARE

Address:

191 NORTH WACKER DRIVE, SUITE 1200
CHICAGO, ILLINOIS 60606

Correspondent

Correspondent Name:

HUMBERTO AQUINO C/O KATTEN MUCHIN

Correspondent Address:

525 WEST MONROE STREET
CHICAGO, IL 60661

Domestic Representative - Not Found

Assignment 4 of 4

Conveyance:

TRADEMARK SECURITY AGREEMENT

Reel/Frame: [5630/0652](#)

Pages:

7

Date Recorded: Sep. 25, 2015

Supporting Documents:

[assignment-tm-5630-0652.pdf](#)

Assignor

Name: [CAYAN LLC](#)

Execution Date:

Sep. 24, 2015

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where
Organized:

DELAWARE

Assignee

Name:

[BUSINESS DEVELOPMENT CORPORATION OF AMERICA](#)

Legal Entity Type: CORPORATION

State or Country Where
Organized:

MARYLAND

Address:

405 PARK AVENUE
15TH FLOOR
NEW YORK, NEW YORK 10022

Correspondent

Correspondent Name:

MOORE & VAN ALLEN PLLC

Correspondent Address:

3015 CARRINGTON MILL BOULEVARD
SUITE 400
MORRISVILLE, NC 27560

Domestic Representative - Not Found

United States of America
United States Patent and Trademark Office

GENIUS

Reg. No. 4,692,780

Registered Feb. 24, 2015

Int. Cls.: 9 and 36

TRADEMARK

SERVICE MARK

PRINCIPAL REGISTER

CAYAN LLC (DELAWARE LIMITED LIABILITY COMPANY)
ONE FEDERAL STREET, 2ND FLOOR
BOSTON, MA 02110

FOR: COMPUTER SOFTWARE FOR FACILITATING, PROCESSING, AND MANAGING FINANCIAL TRANSACTIONS, NAMELY, PROVIDING AND PROCESSING MULTIPLE TYPES OF COMMERCIAL PAYMENT AND DEBT TRANSACTIONS VIA A GLOBAL COMPUTER NETWORK OR CELLULAR TELEPHONE DATA NETWORK; ELECTRONIC PAYMENT TERMINALS FOR CONDUCTING FINANCIAL TRANSACTIONS, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 1-17-2013; IN COMMERCE 1-17-2013.

FOR: FINANCIAL TRANSACTION SERVICES, NAMELY, PROVIDING AND PROCESSING MULTIPLE TYPES OF COMMERCIAL PAYMENT AND DEBT TRANSACTIONS; CLEARING AND RECONCILING FINANCIAL TRANSACTIONS VIA GLOBAL COMPUTER AND COMMUNICATIONS NETWORKS; ELECTRONIC PAYMENT PROCESSING SERVICES, IN CLASS 36 (U.S. CLS. 100, 101 AND 102).

FIRST USE 1-17-2013; IN COMMERCE 1-17-2013.

THE MARK CONSISTS OF THE WORD "GENIUS" IN STYLIZED LETTERING.

SN 85-640,078, FILED 5-31-2012.

FRED CARL, EXAMINING ATTORNEY



Michelle K. Lee

Deputy Director of the United States
Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*

What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. *See* 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.*
See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*

What and When to File:

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. *See* 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. *See* 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

NOTE: A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at <http://www.uspto.gov>.