

ESTTA Tracking number: **ESTTA745837**

Filing date: **05/11/2016**

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	Stamps.com Inc.		
Entity	Corporation	Citizenship	Delaware
Address	1990 E. Grand Ave. El Segundo, CA 90245 UNITED STATES		

Attorney information	Mary Ann Novak Hilgers Graben PLLC 129 N. 10th Street, Suite 110 Lincoln, NE 68508 UNITED STATES trademark@hilgersgraben.com Phone:402-218-2106		
----------------------	--	--	--

Applicant Information

Application No	86806094	Publication date	04/12/2016
Opposition Filing Date	05/11/2016	Opposition Period Ends	05/12/2016
Applicant	IMAYL INC. 39270 PASEO PADRE PKWY Fremont, CA 94538 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 009. First Use: 2015/10/22 First Use In Commerce: 2015/10/22 All goods and services in the class are opposed, namely: Computer software for use in mail management, namely, creating and developing invoices, tracking inbound parcels, tracking mail, sending mail alerts, scanning parcels, tendering invoices, verifying postage, and monitoring and managing productivity and processes</p>
<p>Class 042. First Use: 2015/10/22 First Use In Commerce: 2015/10/22 All goods and services in the class are opposed, namely: Design and development of computer software; Providing an online non-downloadable Internet-based system application featuring technology enabling users to track the delivery and acceptance of mail and parcels, and for inventory management, over computer networks, intranets and the internet, and also featuring alert notifications; Providing on-line non-downloadable software for tracking the delivery and acceptance of mail and parcels, and for inventory management, over computer networks, intranets and the internet, and also featuring alert notifications; Providing temporary use of non-downloadable computer software for tracking documents over computer networks, intranets and the internet; Providing temporary use of non-downloadable computer software for tracking freight over computer networks, intranets and the internet; Providing temporary use of non-downloadable computer software for tracking packages over computer networks, intranets and the internet; Software as a service (SAAS) services featuring software for use in tracking the delivery and acceptance of items and parcels, and for inventory management, over computer networks, intranets and the internet, and also featuring alert notifications</p>

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
Dilution by blurring	Trademark Act Sections 2 and 43(c)
False suggestion of a connection with persons, living or dead, institutions, beliefs, or national symbols, or brings them into contempt, or disrepute	Trademark Act Section 2(a)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	1930424	Application Date	03/29/1993
Registration Date	10/31/1995	Foreign Priority Date	NONE
Word Mark	I-MAIL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1992/12/07 First Use In Commerce: 1992/12/07 computer program for the transmission of data between multiple locations and the manuals for the program sold as a unit		

Attachments	2016-05-11 Notice of Opposition.pdf(28996 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	/Mary Ann Novak/
Name	Mary Ann Novak
Date	05/11/2016

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

In the Matter of Application Serial No. 86/806,094
For the mark IMAYL in International Classes 9 and 42
Published: April 12, 2016

Stamps.com Inc.

Opposer,

v.

IMAYL Inc.,

Applicant.

Opposition No.

NOTICE OF OPPOSITION

Stamps.com Inc., a Delaware corporation, having a place of business at 1990 E. Grand Ave., El Segundo, CA 90245 (hereinafter “Opposer”) believes that it is or would be damaged by the issuance of registration of the mark show in application Serial No. 86/806,094 filed by IMAYL Inc. (“Applicant”) and published for opposition on April 12, 1016 and hereby opposes the same.

As grounds for opposition, Opposer alleges that:

1. According to the United States Patent and Trademark Office records, on or about November 2, 2015, Applicant filed Application Serial No. 86/806,094 (the “Application”).

2. The Application seeks to register the mark IMAYL (“Applicant’s Mark”) for “Computer software for use in mail management, namely, creating and developing invoices,

tracking inbound parcels, tracking mail, sending mail alerts, scanning parcels, tendering invoices, verifying postage, and monitoring and managing productivity and processes” in International Class 9, and for “Design and development of computer software; Providing an online non-downloadable Internet-based system application featuring technology enabling users to track the delivery and acceptance of mail and parcels, and for inventory management, over computer networks, intranets and the internet, and also featuring alert notifications; Providing on-line non-downloadable software for tracking the delivery and acceptance of mail and parcels, and for inventory management, over computer networks, intranets, and the internet, and also featuring alert notifications; Providing temporary use of non-downloadable computer software for tracking documents over computer networks, intranets and the internet; Providing temporary use of non-downloadable computer software for tracking freight over computer networks, intranets, and the internet; Providing temporary use of non-downloadable computer software for tracking packages over computer networks, intranets and the internet; Software as a service (SAAS) services featuring software for use in tracking the delivery and acceptance of items and parcels, and for inventory management, over computer networks, intranets and the internet, and also featuring alert notifications” in International Class 42 (collectively, “Applicant’s Alleged Goods and Services”).

3. The Application alleges a first use date and a first use in commerce date of October 22, 2015 for both classes of goods and services identified therein.

4. The Application was published on April 12, 2016 and Opposer timely files this Notice of Opposition.

5. All of Applicant’s Alleged Goods and Services are opposed.

6. Opposer is the owner of the federally-registered I-MAIL mark, U.S. Reg.

No. 1,930,424, which was first used in commerce at least as early as December 7, 1992, for “computer program for transmission of data between multiple locations and the manuals for the program sold as a unit” (“Opposer’s Goods”).

7. U.S. Reg. No. 1,930,424 for Opposer’s I-MAIL mark is valid and subsisting.

8. By virtue of its use of the I-MAIL mark in commerce on or in connection with Opposer’s Goods and related software and services in the field of postage, shipping and mailing (collectively, “Opposer’s Goods and Services”), Opposer also has valid common law rights in its I-MAIL mark, which common law rights pre-date the first use date claimed by Applicant in the Application.

9. Applicant’s Alleged Goods and Services and Opposer’s Goods and Services are closely related and are of the type that could be offered in the same channels of trade and to the same prospective customers.

10. If Applicant’s Mark is registered, the public will reasonably believe that Applicant’s Alleged Goods and Services are provided, sponsored, or endorsed by Opposer, all to the detriment of consumers and Opposer.

11. Applicant’s IMAYL mark for Applicant’s Alleged Goods and Services is confusingly similar to Opposer’s I-MAIL mark for Opposer’s Goods and Services and is therefore in violation and derogation of Opposer’s common law and federal rights in Opposer’s I-MAIL mark and is likely to cause confusion, mistake and deception among purchasers and users as to the source or origin of Applicant’s Alleged Goods and Services, or their affiliation with or sponsorship by Opposer, thereby causing irreparable harm to Opposer.

12. If Applicant is granted the registration herein opposed, Applicant would thereby obtain a prima facie exclusive right to Applicant's Mark. Such registration would be a source of damage and injury to Opposer.

WHEREFORE, Opposer prays that Application Serial No. 86/806,094 be rejected, that no registration be issued thereon to Applicant, and that this Opposition be sustained in favor of Opposer.

Dated: May 11, 2016

Respectfully submitted,

HILGERS GRABEN PLLC

By: /Mary Ann Novak/

Mary Ann Novak – NE Bar #24851

129 N. 10th Street, Suite 100

Lincoln, NE 68508

(402) 218-2106

mnovak@hilgersgraben.com

Counsel for Opposer Stamps.com Inc.

CERTIFICATION OF SERVICE BY MAIL

I hereby certify that a true and complete copy of the foregoing NOTICE OF OPPOSITION has been served on John Alunit by mailing said copy on May 11, 2016, via First Class Mail, postage prepaid to:

John Alunit
Alunit IP
135 Jackson Street, Suite 200
Glendale, CA 91205

Dated: May 11, 2016

/Mary Ann Novak/

Mary Ann Novak