

ESTTA Tracking number: **ESTTA172009**

Filing date: **10/31/2007**

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	TechSmith Corporation
Granted to Date of previous extension	10/31/2007
Address	2405 Woodlake Drive Okemos, MI 48864 UNITED STATES

Correspondence information	James R. Duby, Jr. Attorney of Record DUBY & ASSOCIATES, PLC 3511 Coolidge Road Suite 200 East Lansing, MI 48823 UNITED STATES Jim@DubyLaw.com Phone:517-371-9835
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Applicant Information

Application No	77054994	Publication date	07/03/2007
Opposition Filing Date	10/31/2007	Opposition Period Ends	10/31/2007
Applicant	Digital Marketing Limited 122 Cumberland Street Hull, HU20PT UNITED KINGDOM		

Goods/Services Affected by Opposition

Class 038. All goods and services in the class are opposed, namely: Communications services, namely, transmitting streamed sound and audio-visual recordings via the Internet

Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	77130884	Application Date	03/14/2007
Registration Date	NONE	Foreign Priority	NONE

		Date	
Word Mark	SCREENCAST.COM		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 2006/10/17 First Use In Commerce: 2006/10/17 Computer services, namely, hosting online web facilities and applications for others for the sharing of digital screenshots and digital audio, video, textual and multimedia content		

Attachments	77130884#TMSN.jpeg (1 page)(bytes) Notice of Opposition for SCREENCASTCENTRAL 77054994.pdf (5 pages) (196178 bytes)
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Signature	/James R. Duby, Jr./
Name	James R. Duby, Jr.
Date	10/31/2007

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

In re Trademark Application

Serial No.: 77/054994

Filed: December 1, 2006

Trademark: SCREENCASTCENTRAL

Published in the Official Gazette on July 3, 2007

TechSmith Corporation,)
)
 Opposer,)
)
 v.)
)
 Digital Marketing Limited)
)
 Applicant.)

NOTICE OF OPPOSITION

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Sir:

Opposer, TechSmith Corporation ("TechSmith"), organized under the laws of the State of Michigan, having a principal place of business at 2405 Woodlake Drive, Okemos, Michigan, U.S., believes that it would be damaged by the registration of the mark SCREENCASTCENTRAL shown in U.S. Trademark Application Serial NO. 77/054994, and hereby opposes same.

As grounds of opposition, it is alleged that:

1. TechSmith is a world-famous developer and provider of screen capture and recording software and services for individual and professional use.
2. TechSmith is the owner of the world famous mark SCREENCAST.COM as used in connection with computer services, namely, hosting online web facilities and applications for others for the sharing of digital screenshots and digital audio, video, textual and multimedia content in International Class 042, having the Application Serial No. of 77/130884.
3. TechSmith has adopted and continuously uses the mark SCREENCAST.COM as a service mark in connection with the computer services described in its Actual Use Application for Registration prior to any date of first use upon which the Applicant may rely.
4. As a result of the experience, care and quality of TechSmith in providing its computer services under the mark SCREENCAST.COM, TechSmith has become identified as a source of the computer services to which the mark is applied and has acquired a reputation of excellence.
5. Upon information and belief, Applicant, Digital Marketing Limited has filed an Intent-To- Use-based Application, having a filing date of

December 1, 2006. As published, that application covers communication services, namely, transmitting streamed sound and audio-visual recordings via the Internet in International Class 038.

6. Upon information and belief, Applicant's application has been assigned Serial No. 77/054994.
7. The services identified by Applicant's SCREENCASTCENTRAL mark are confusingly similar to the services offered under the TechSmith SCREENCAST.COM mark.
8. Upon information and belief, at the time Applicant filed its Intent-To-Use Application to register SCREENCASTCENTRAL, Applicant had full knowledge that TechSmith used the SCREENCAST.COM mark to identify its computer services prior to any date of first use upon which the Applicant may rely.
9. Applicant's mark so resembles TechSmith's previously-used SCREENCAST.COM mark as to be likely, when used in connection with Applicant's services, to cause confusion, or to cause mistake, or to deceive under Section 2(d) of the Lanham Act, as amended, 15 USC § 1052(d).
10. Applicant's mark so resembles TechSmith's previously-used SCREENCAST.COM mark as to be likely, when used in connection with Applicant's services, to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association with TechSmith or as to be likely to cause confusion, mistake, or

deception as to the origin, sponsorship, or approval of the Applicant's services or commercial activities by TechSmith within the meaning of Section 43 of the Lanham Act, as amended, 15 USC §1125.

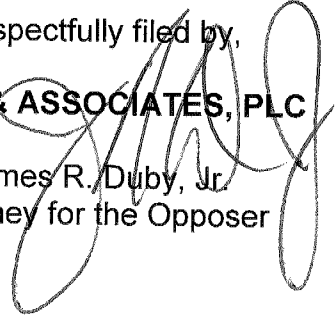
11. Applicant's mark SCREENCASTCENTRAL consists of matter which does and would falsely suggest a connection with TechSmith under Section 2(a) of the Lanham Act, as amended, 15 USC §1052(a).
12. Through extensive use of the SCREENCAST.COM in the computer services field, the SCREENCAST.COM mark has become distinctive and famous as defined under Section 43(c)(1) of the Lanham Act, as amended, 15 USC §1125(c)(1), and established its world "famous" status prior to any use of Applicant's mark.
13. Applicant's use of the SCREENCASTCENTRAL mark is likely to cause, and will cause, dilution of the distinctive value of the TechSmith mark SCREENCAST.COM under Section 43(c) of the Lanham Act of 1946, as amended, 15 USC §1125(c).
14. For the foregoing reasons, TechSmith will be damaged by the registration of the mark SCREENCASTCENTRAL.

WHEREFORE, TechSmith requests that registration of the mark
SCREENCASTCENTRAL, Application Serial No. 77/054994, be refused and this
opposition be sustained.

Respectfully filed by,

DUBY & ASSOCIATES, PLC

James R. Duby, Jr.
Attorney for the Opposer



Date: October 31, 2007

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