

ESTTA Tracking number: **ESTTA395480**

Filing date: **02/28/2011**

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	Qwest Communications International Inc.
Granted to Date of previous extension	02/27/2011
Address	1801 California St Rm 900 Denver, CO 80202 UNITED STATES
Attorney information	Gretchen Testerman Qwest Communications International Inc. 1801 California St Rm 900 Denver, CO 80202 UNITED STATES teas@qwest.com, gretchen.testerman@qwest.com

Applicant Information

Application No	77966955	Publication date	08/31/2010
Opposition Filing Date	02/28/2011	Opposition Period Ends	02/27/2011
Applicant	Queezel, LLC P.O. Box 10307 Pittsburgh, PA 15234 UNITED STATES		


Goods/Services Affected by Opposition

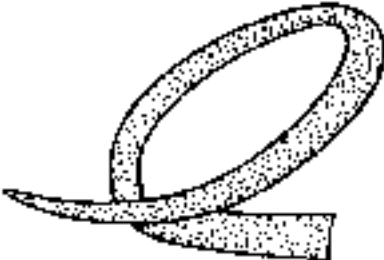
Class 009. All goods and services in the class are opposed, namely: Downloadable computer game software featuring scavenger and treasure hunts via the Internet and wireless devices
Class 038. All goods and services in the class are opposed, namely: Communication services, namely, streaming of sound and audiovisual recordings via the Internet
Class 041. All goods and services in the class are opposed, namely: Entertainment and educational services providing on-line computer games, via the Internet and wireless devices, featuring scavenger and treasure hunt type games used to educate and entertain players

Grounds for Opposition


Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2039407	Application Date	04/06/1995
Registration Date	02/18/1997	Foreign Priority Date	NONE
Word Mark	Q		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 038. First use: First Use: 1995/04/06 First Use In Commerce: 1995/04/06 telecommunication services, namely, the electronic transmission of voice, data, and messages		

U.S. Registration No.	2362816	Application Date	01/15/1998
Registration Date	06/27/2000	Foreign Priority Date	NONE
Word Mark	Q		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 038. First use: First Use: 1997/10/00 First Use In Commerce: 1997/10/00 TELECOMMUNICATION SERVICES, NAMELY, LONG DISTANCE TELEPHONE SERVICES, AND ELECTRONIC TRANSMISSION OF VOICE, DATA AND MESSAGES		

U.S. Registration No.	2910285	Application Date	08/05/2002
Registration Date	12/14/2004	Foreign Priority Date	NONE

Word Mark	Q
Design Mark	
Description of Mark	NONE
Goods/Services	Class 038. First use: First Use: 1997/10/06 First Use In Commerce: 1997/10/06 Housemark for a full line of telecommunications services

U.S. Registration No.	3111094	Application Date	07/26/2002
Registration Date	07/04/2006	Foreign Priority Date	NONE
Word Mark	Q		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2000/06/30 First Use In Commerce: 2000/06/30 FULL LINE OF TELECOMMUNICATION EQUIPMENT AND TELECOMMUNICATIONS SOFTWARE; AND MAGNETICALLY ENCODED PREPAID TELEPHONE CALLING CARDS AND CREDIT CARDS		

Attachments	74656897#TMSN.gif (1 page)(bytes) 75421866#TMSN.gif (1 page)(bytes) 78150714#TMSN.gif (1 page)(bytes) 78147917#TMSN.gif (1 page)(bytes) Queezel Notice of Opposition 022811.pdf (21 pages)(1448613 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	/gl/
Name	Gretchen Testerman
Date	02/28/2011

October 1997. This registration is valid, subsisting, incontestable and in full force and effect. Proof of such registration is attached as Exhibit B.

3. Opposer is the owner of U.S. Trademark Registration No. 2,910,285, registered December 14, 2004, for the mark "Q" for "housemark for a full line of telecommunications services" with a first use date of October 6, 1997. This registration is valid, subsisting, incontestable and in full force and effect. Proof of such registration is attached as Exhibit C.

4. Opposer is the owner of U.S. Trademark Registration No. 3,111,094, registered July 4, 2006, for the mark "Q" for "full line of telecommunication equipment and telecommunications software; and magnetically encoded prepaid telephone calling cards and credit cards" with a first use date of June 30, 2000. This registration is valid, subsisting and in full force and effect. Proof of such registration is attached as Exhibit D. The marks in paragraphs 1-4 shall be collectively referred to as the "Q Marks."

5. Since January 3, 2000, Opposer has been identified and recognized by the New York Stock Exchange (NYSE) and the financial community by its NYSE ticker symbol, "Q."

6. Since at least as early as March 2001, Opposer has owned and used the domain name <q.com> in connection with its website.

7. For years prior to the filing of the Application herein opposed, Opposer, through its affiliated companies and their predecessors in interest (including without limitation, Qwest Corporation and Qwest Communications Company, LLC (the "Qwest Affiliates")), has used the designation Q as a trademark in connection with its telecommunication and telecommunications-related services and products.

8. Opposer, through its affiliated companies, sells its goods and services in all 50 states.

9. Opposer invests, on average, hundreds of millions of dollars per year in advertising and marketing its services and its advertisements have won national recognition.

10. By virtue of such use, Opposer has established valuable goodwill in the marks and the public has come to associate the Q Marks with Opposer and to know “Q” as an indication of products and services that emanate from Opposer.

11. Opposer’s Q Marks are famous and distinctive marks well-known to purchasers, and acquired such fame prior to the filing date and foreign priority date of the Application.

12. Opposer’s Q Marks predate, and Opposer began use of its Q Marks in commerce, prior to the filing date and foreign priority date of the Application.

13. Applicant filed U.S. Trademark Application Serial No. 77966955, which is the subject of this Opposition, on March 24, 2010, for the mark “Q” for “downloadable computer game software featuring scavenger and treasure hunts via the Internet and wireless devices” in Class 9, “communication services, namely, streaming of sound and audiovisual recordings via the Internet” in Class 38, and “entertainment and educational services providing on-line computer games, via the Internet and wireless devices, featuring scavenger and treasure hunt type games used to educate and entertain players” in class 41 on the basis of intent to use.

14. The goods and services identified in the Application are substantially similar or related to Opposer’s goods and services sold under its Q Marks.

15. The mark shown in the application is highly similar in sound, meaning and appearance to Opposer’s Q Marks.

16. Registration of the mark shown in the Application is inconsistent with Opposer’s prior rights in the Q Marks and Opposer and the goodwill and reputation of the Q Marks will be damaged by registration of the Application.

17. Opposer will be damaged by registration of the mark shown in the Application because the mark has and/or is likely to cause dilution of the distinctive quality of Opposer’s famous Q Marks in violation of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

18. Registration of the mark in the Application and use of the Applicant’s mark are likely to cause confusion, or to cause mistake, or to deceive, particularly as to the source or origin of the goods and services on which Applicant uses its mark, to induce consumers to believe that

the goods and services of Applicant are those of Opposer, or are endorsed by, or are in some way affiliated or associated with Opposer in violation of Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d).

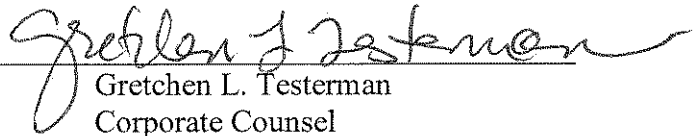
Wherefore, Opposer prays that this Opposition be sustained and that registration of U.S. Trademark Application Serial No. 77966955 for "Q" be denied.

Respectfully submitted,

Date: February 28 2011

Qwest Communications International Inc.

By: _____



Gretchen L. Testerman
Corporate Counsel
1801 California Street Suite 900
Denver, Colorado 80202
Tel: (303) 383-6485

CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of February, 2011, I served the foregoing Notice of Opposition on the Correspondent of record by depositing a true and correct copy of the same with the United States Postal Service, first class mail, postage prepaid, in an envelope addressed to:

JENNIFER L. CERCE
MAIELLO BRUNGO & MAIELLO, LLP
3301 MCCRADY RD
PITTSBURGH, PA 15235-5137



Samantha House

EXHIBIT A



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Word Mark	Q
Goods and Services	IC 038. US 100 101 104. G & S: telecommunication services, namely, the electronic transmission of voice, data, and messages. FIRST USE: 19950406. FIRST USE IN COMMERCE: 19950406
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number	74656897
Filing Date	April 6, 1995
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	November 21, 1995
Registration Number	2039407
Registration Date	February 18, 1997
Owner	(REGISTRANT) Qwest Communications Corporation CORPORATION DELAWARE 555 Seventeenth Street Suite 1000 Denver COLORADO 80202 (LAST LISTED OWNER) QWEST COMMUNICATIONS INTERNATIONAL INC CORPORATION BY ASSIGNMENT DELAWARE 1801 CALIFORNIA ST SUITE 3800 DENVER COLORADO 80202
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Christine P. Searls, Gretchen L. Prochaska, David R. Halvorson

Type of Mark SERVICE MARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20070420.
Renewal 1ST RENEWAL 20070420
Live/Dead Indicator LIVE

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Trademark Assignment Abstract of Title

Total Assignments: 1**Serial #:** [74656897](#)**Filing Dt:** 04/06/1995**Reg #:** [2039407](#)**Reg. Dt:** 02/18/1997**Registrant:** Qwest Communications Corporation**Mark:** Q**Assignment: 1****Reel/Frame:** [1789/0433](#)**Received:** 09/18/1998**Recorded:** 09/01/1998**Pages:** 4**Conveyance:** ASSIGNS THE ENTIRE INTEREST**Assignor:** [QWEST COMMUNICATIONS CORPORATION](#)**Exec Dt:** 08/27/1998**Entity Type:** CORPORATION**Citizenship:** DELAWARE**Assignee:** [QWEST COMMUNICATIONS INTERNATIONAL, INC.](#)**Entity Type:** CORPORATION**Citizenship:** DELAWARESTE. 1000
555 SEVENTEENTH STREET
DENVER, COLORADO 80202**Correspondent:** ARENT FOX KINTNER PLOTKIN & KAHNSHELDON H. KLEIN, ESQ.
1050 CONNECTICUT AVENUE, N.W.
WASHINGTON, DC 20036

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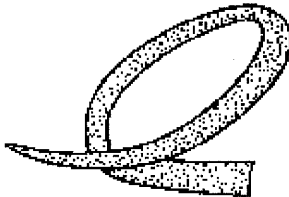
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Word Mark	Q
Goods and Services	IC 038. US 100 101 104. G & S: TELECOMMUNICATION SERVICES, NAMELY, LONG DISTANCE TELEPHONE SERVICES, AND ELECTRONIC TRANSMISSION OF VOICE, DATA AND MESSAGES. FIRST USE: 19971000. FIRST USE IN COMMERCE: 19971000
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number	75421866
Filing Date	January 15, 1998
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	June 1, 1999
Registration Number	2362816
Registration Date	June 27, 2000
Owner	(REGISTRANT) Qwest Communications International Inc. CORPORATION DELAWARE 1801 California St. Denver COLORADO 80202
Attorney of Record	Christine P. Searls, Gretchen L. Testerman
Prior Registrations	2039407;2057594
Description of Mark	The stippling in the drawing is a feature of the mark indicating shading and is not meant to indicate color.

Type of Mark SERVICE MARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20090715.
Renewal 1ST RENEWAL 20090715
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Word Mark	Q
Goods and Services	IC 038. US 100 101 104. G & S: Housemark for a full line of telecommunications services. FIRST USE: 19971006. FIRST USE IN COMMERCE: 19971006
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	26.03.07 - Ovals with a decorative border, including scalloped, ruffled and zig-zag edges 26.03.28 - Miscellaneous designs with overall oval shape, including amoeba-like shapes and irregular ovals; Oval shape (miscellaneous overall shape)
Serial Number	78150714
Filing Date	August 5, 2002
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	September 21, 2004
Registration Number	2910285
Registration Date	December 14, 2004
Owner	(REGISTRANT) Qwest Communications International Inc. CORPORATION DELAWARE 1801 California Street, Suite 3800 Denver COLORADO 80202
Attorney of Record	Gretchen L. Testerman
Type of Mark	SERVICE MARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR).

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Word Mark	Q
Goods and Services	IC 009. US 021 023 026 036 038. G & S: FULL LINE OF TELECOMMUNICATION EQUIPMENT AND TELECOMMUNICATIONS SOFTWARE; AND MAGNETICALLY ENCODED PREPAID TELEPHONE CALLING CARDS AND CREDIT CARDS. FIRST USE: 20000630. FIRST USE IN COMMERCE: 20000630
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number	78147917
Filing Date	July 26, 2002
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	April 11, 2006
Registration Number	3111094
Registration Date	July 4, 2006
Owner	(REGISTRANT) Qwest Communications International Inc. CORPORATION DELAWARE 1801 California Street, Suite 3800 Denver COLORADO 80202
Attorney of Record	Christine P. Searls, Gretchen L. Prochaska, David R. Halvorson
Type of Mark	TRADEMARK
Register	PRINCIPAL
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