

ESTTA Tracking number: **ESTTA417048**

Filing date: **06/29/2011**

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	Officeware Corporation
Granted to Date of previous extension	06/29/2011
Address	8600 Freeport Parkway Suite 220 Irving, TX 75063 UNITED STATES
Attorney information	Remy M. Davis Thompson & Knight LLP 1722 Routh Street Suite 1500 Dallas, TX 75201 UNITED STATES deborah.lively@tklaw.com

Applicant Information

Application No	77817716	Publication date	03/01/2011
Opposition Filing Date	06/29/2011	Opposition Period Ends	06/29/2011
Applicant	DROPBOX, INC. 153 KEARNY STREET, MEZZANINE SAN FRANCISCO, CA 94108 UNITED STATES		

Goods/Services Affected by Opposition


<p>Class 009. All goods and services in the class are opposed, namely: Computer software and downloadable computer software used to store and share data, documents, files, information, text, photos, images, graphics, music, audio, video, and multimedia content with others via global computer networks, mobile telephones, and other communications networks for the purpose of file back up and synchronization, not including software for use in database management in the field of life sciences research or software for uploading or transferring advertising programs and media advertising communications</p>
<p>Class 039. All goods and services in the class are opposed, namely: Storage of electronic media, namely, data, documents, files, text, photos, images, graphics, music, audio, video, and multimedia content</p>
<p>Class 042. All goods and services in the class are opposed, namely: Providing temporary use of non-downloadable computer software used to store and share data, documents, files, information, text, photos, images, graphics, music, audio, video, and multimedia content with others via global computer networks, mobile telephones, and other communications networks for the purpose of file back up and synchronization, not including software for use in database management in the field of</p>

biomedical research or software for uploading or transferring advertising programs and media advertising communications; hosting of digital content on the internet

Grounds for Opposition

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

Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	85012206	Application Date	04/12/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	DROPBOX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 2004/08/04 First Use In Commerce: 2004/08/04 Providing online non-downloadable software for uploading and transferring files		

Attachments	85012206#TMSN.jpeg (1 page)(bytes) Notice of Opposition.pdf (6 pages)(16418 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	/Remy M. Davis/
Name	Remy M. Davis
Date	06/29/2011

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

In re Application of: Dropbox, Inc.
Serial No.: 77/817,716
Filed: September 1, 2009
Trademark: DROPBOX
Int'l Classes: 9, 39, 42
Published: March 1, 2011

Officeware Corporation d/b/a FilesAnywhere.com §
Opposer, §
v. § Opposition No. _____
Dropbox, Inc. §
Applicant. §
§
§

NOTICE OF OPPOSITION

Officeware Corporation d/b/a FilesAnywhere.com (“Opposer”), a Texas corporation, having a corporate address of 8600 Freeport Parkway, Suite 220, Irving, Texas 75063, believes that it will be damaged by registration of the mark shown in Application Serial No. 77/817,716 filed September 1, 2009 in International Classes 9, 39, and 42, and hereby opposes the same.

As grounds for opposition, it is alleged that:

1. On or about September 1, 2009, Applicant, Dropbox, Inc., a Delaware corporation with a corporate address of 153 Kearny Street, Mezzanine, San Francisco, California 94108 (“Applicant”), filed an application with the U.S. Patent and Trademark Office, Application Serial No. 77/817,716 (“Applicant’s Application”), seeking registration on the Principal Register of the trademark “DROPBOX” (“Applicant’s

Mark”). The Application covers use of the mark with “Computer software and downloadable computer software used to store and share data, documents, files, information, text, photos, images, graphics, music, audio, video, and multimedia content with others via global computer networks, mobile telephones, and other communications networks for the purpose of file back up and synchronization, not including software for use in database management in the field of life sciences research or software for uploading or transferring advertising programs and media advertising communications” in Class 9, “Storage of electronic media, namely, data, documents, files, text, photos, images, graphics, music, audio, video, and multimedia content” in Class 39, and “Providing temporary use of non-downloadable computer software used to store and share data, documents, files, information, text, photos, images, graphics, music, audio, video, and multimedia content with others via global computer networks, mobile telephones, and other communications networks for the purpose of file back up and synchronization, not including software for use in database management in the field of biomedical research or software for uploading or transferring advertising programs and media advertising communications; hosting of digital content on the internet” in Class 42. The Application was filed based upon an intent to use the mark in commerce.

2. Commencing at least as early as 2004, Opposer began using the “DROPBOX” and “FILE DROPBOX” marks in connection with providing online non-downloadable software for uploading and transferring files, and began using the “DROPBOX LINKS” mark in connection with such services at least as early as 2006 (“Opposer’s Marks”).

4. Opposer has marketed its services and created extensive good will and consumer recognition through its use of Opposer's Marks, and the trade and purchasing public have come to recognize Opposer's Marks as signifying Opposer and as identifying Opposer as the source of services offered under Opposer's Marks.

5. Opposer is the owner of U.S. Service Mark Serial No. 85/012,206 for the mark DROPBOX in connection with "providing online non-downloadable software for uploading and transferring files" in Class 42. This application was filed on April 12, 2010 ("Opposer's Application").

6. In an office action dated July 23, 2010, Applicant's Application was cited as a potential bar to Opposer's Application on the basis of a potential likelihood of confusion.

7. Since at least as early as 2004, Opposer has continuously used, and is currently now using Opposer's Marks in association with providing online non-downloadable software for uploading and transferring files. Such use predates Applicant's September 1, 2009 filing date for the Application.

6. Opposer is the senior user of the DROPBOX mark and thus has priority rights over Applicant's use of DROPBOX.

7. The goods and services identified in Applicant's Application are closely related, if not identical, to Opposer's services and are such that can be provided through the same channels of trade to the same prospective consumers.

8. In view of the similarity of the respective marks and the related nature of the goods and services, Applicant's Mark so resembles Opposer's Marks as to be likely to cause confusion, or to cause mistake or to deceive. The general public and others

familiar with Opposer's Mark will be likely to believe that Applicant's goods and services have originated from Opposer or were offered in association or affiliation with, or under authorization by, Opposer. Thus, Applicant's Mark, as used with its proposed goods and services, will lead persons familiar with Opposer's Marks to believe that Applicant's goods and services are offered by, in association or affiliation with, or under license from, Opposer. Such confusion, mistake, and deception regarding the origin of Applicant's goods and services are likely to cause irreparable harm to Opposer.

9. If Applicant is permitted to register its mark for the goods and services specified in the Application herein opposed, such use and registration will result in confusion in the trade due to the similarity between Applicant's Mark and Opposer's Marks, thereby damaging and injuring Opposer. Furthermore, any objection or fault found with Applicant's goods and services marketed under its mark may reflect upon and injure the reputation that Opposer has established for its services in association with Opposer's Marks.

10. Additionally, Applicant's Mark, by reason of its similarity to Opposer's Marks, will be able to gain a subliminal or subconscious association to Opposer's Marks and thereby trade on the reputation of Opposer.

11. Opposer will be injured by the granting of a Certificate of Registration to Applicant for the DROPBOX mark because Applicant would obtain thereby at least a prima facie exclusive right to use such mark. Such registration would be a source of damage and injury to Opposer and the public and would impair Opposer's right to expand its use of its DROPBOX mark and to seek federal registration therefor.

WHEREFORE, Opposer respectfully prays that its Opposition be sustained and the application for registration, Application Serial No. 77/817,716, by Applicant be denied and refused.

Dated: June 29, 2011

Respectfully submitted,

THOMPSON & KNIGHT LLP
ATTORNEYS FOR OPPOSER

/s/ Remy M. Davis

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Certificate of Service

I hereby certify that a true and complete copy of the foregoing Notice of Opposition has been served on Hoang-chi Truong, Esq. by mailing said copy via First Class mail to:

Huang-chi Truong, Esq.
Fenwick & West LLP
801 California Street
Mountain View, CA 94041-1990

on this 29th day of June, 2011

Signed: /s/ Remy M. Davis