

ESTTA Tracking number: **ESTTA451394**

Filing date: **01/16/2012**

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	iCourier Software Systems Ltd.
Granted to Date of previous extension	01/15/2012
Address	suite 180-288 georgia street (east) vancouver, bc v6a4h8 CANADA

Correspondence information	iCourier Software Systems Ltd. suite 155-288 georgia street (east) vancouver, v6a4h8 CANADA alex@techandgo.com
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Applicant Information

Application No	85282926	Publication date	07/19/2011
Opposition Filing Date	01/16/2012	Opposition Period Ends	01/15/2012
Applicant	E-filliate, Inc. 11321 White Rock Road Rancho Cordova, CA 95742 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 009. All goods and services in the class are opposed, namely: USB cables, USB hubs, electronic card readers, electric patch cables, computer mice, mouse pads, keyboards; battery chargers, namely, wall chargers, car chargers, and USB chargers; AC/DC converters, USB adapters, earbuds, headphones, audio speakers; blank CDs and DVDs; CD and DVD cases; flash media, namely, flash memory cards; power cables; audio and video cables and adapters, batteries and battery chargers; MP3 players and smart phone accessories, namely, headphones, signal splitters, speakers, electronic cables for syncing and charging MP3 players and smart phones, battery chargers, electronic docking stations, adapters, USB converters, and audio and video cables; cases, bags, stands, holsters, belt clips, straps, screen protectors, stylus, specially adapted for holding MP3 players and smart phones; camera accessories, namely, tripods, battery chargers, electronic cables for syncing and charging cameras, USB adapters, straps specially adapted for cameras, and adapters; cases and bags specially adapted for holding cameras</p>

Grounds for Opposition

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)
Other	The Opposed Mark so closely resembles iCourier Software Systems Ltd.'s previously used common-law mark that its use, in connection with the goods aforementioned, is likely to cause confusion, or to cause mistake or deceive, in violation Section 43(a) of the Trademark Act of 1946, 15 U.S.C. § 1125(a).

Mark Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	TECH AND GO		
Goods/Services	Computer sales;tech support services;software design;breakdown/repair service; financing and leasing;Computer Repair and Service;IT Support Services;Computer Recycling;Software and Website Development;Networking and New Computer Setup;Computer Sales and Leasing;"..."Desktop Computers;Laptop Computers;Large Screen televisions;Large Screen ;Computer Monitors;Stereo Systems;Home theaters;Automotive Electronics"..."smart phones"..."IT Support;Computer Repairs and Upgrades;Data Backup;Security and Networking;Wireless Setup;Virus and Spyware Removal Services;Automotive Electronics Installs;Home Theatre Installs;Sales; Software Development;Website Design		

Attachments	TechandGoNoticeofOppositionFINAL.pdf (7 pages)(121064 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	/alex mateesco/
Name	iCourier Software Systems Ltd.
Date	01/16/2012

CALIFORNIA 95742, and published in the Official Gazette of July 19, 2011 and hereby opposes registration of said application on the following grounds:

1. Opposer is the owner and user of the common law trademark TECH AND GO for goods and services including , *inter alia* , "Computer sales;tech support services;software design;breakdown/repair service; financing and leasing;Computer Repair and Service;IT Support Services;Computer Recycling;Software and Website Development;Networking and New Computer Setup;Computer Sales and Leasing;"... "Desktop Computers;Laptop Computers;Large Screen televisions;Large Screen ;Computer Monitors;Stereo Systems;Home theaters;Automotive Electronics"... "smart phones"... "IT Support;Computer Repairs and Upgrades;Data Backup;Security and Networking;Wireless Setup;Virus and Spyware Removal Services;Automotive Electronics Installs;Home Theatre Installs;Sales; Software Development;Website Design"and has been continuously using the TECH AND GO mark since at least as early as 2009

2. Opposer is the owner of the TECH AND GO trademark , including, *inter alia*, TECH AND GO Application number 85402345 filed on August 19, 2011 for goods and services ,including, *inter alia* " Installation and Technical support services; Consultation services; Technical support services, namely, troubleshooting in the nature of diagnosing computer hardware and software problems; Computer hardware and software consulting services; Rental of computer hardware and computer software ; Installation, repair and maintenance of computers and computer peripherals ; Installation and repair of business and office machinery and equipment; Computer Repair and Service; Software Development; Website Design; Computer Recycling; IT Support; Computer Repairs and Upgrades; Data Backup services; Security and Networking; Wireless Setup; Virus and Spyware Removal Services; Automotive Electronics Installs; Installation of home theatres; Sales of Software Development, Website Design; Computer software installation and maintenance; Leasing , financing and sales of computers, televisions, home theaters, electronics, smartphones, monitors; Providing a website featuring leasing , financing and sales of computers, televisions, home theaters, electronics, smartphones, monitors; Providing a website offering tech support, IT support, repair and installation services, computers , data backup services, security and networking services, virus and spyware removal services, automotive electronics installations, and home electronics installation; Providing a website offering computer recycling services; Providing a website offering software and website development"(the "TECH AND GO Mark").

3. Opposer is the owner of the TECH AND GO trademark, including, *inter alia*,Canadian application APPLICATION NUMBER: 1510862 filed on January 12th, 2011 for similar goods and services.

4. Opposer owns and operates the website (www.techandgo.com) where it promotes various goods and services, and also provides information on its TECH AND GO services and products.

5. Opposer's TECH AND GO Mark has been featured online, including on various websites , including, *inter alia*, www.techandgo.com .

6. Opposer has advertised , promoted, and marketed its TECH AND GO Mark for various goods and services including , *inter alia*, "Computer sales;tech support services;software design;breakdown/repair service; financing and leasing;Computer Repair and Service;IT Support Services;Computer Recycling;Software and Website Development;Networking and New Computer Setup;Computer Sales and Leasing;"... "Desktop Computers;Laptop Computers;Large Screen televisions;Large Screen ;Computer Monitors;Stereo Systems;Home theaters;Automotive Electronics"..."smart phones"..."IT Support;Computer Repairs and Upgrades;Data Backup;Security and Networking;Wireless Setup;Virus and Spyware Removal Services;Automotive Electronics Installs;Home Theatre Installs;Sales; Software Development;Website Design" in the United States so as to identify goods and services which originate with or are authorized by Opposer.

7. Upon information and belief , on March 31, 2011, applicant filed an application to register the mark TECH & GO for " USB cables, USB hubs, electronic card readers, electric patch cables, computer mice, mouse pads, keyboards; battery chargers, namely, wall chargers, car chargers, and USB chargers; AC/DC converters, USB adapters, earbuds, headphones, audio speakers; blank CDs and DVDs; CD and DVD cases; flash media, namely, flash memory cards; power cables; audio and video cables and adapters, batteries and battery chargers; MP3 players and smart phone accessories, namely, headphones, signal splitters, speakers, electronic cables for syncing and charging MP3 players and smart phones, battery chargers, electronic docking stations, adapters, USB converters, and audio and video cables; cases, bags, stands, holsters, belt clips, straps, screen protectors, stylus, specially adapted for holding MP3 players and smart phones; camera accessories, namely, tripods, battery chargers, electronic cables for syncing and charging cameras, USB adapters, straps specially adapted for cameras, and adapters; cases and bags specially adapted for holding cameras."in International Class 009 . This application was assigned serial no. 85282926 and was published for opposition in the official gazette of July 19, 2011

8. Since prior to Applicant's filing date, Opposer has used, advertised and promoted the mark "TECH AND GO" for goods and services including , *inter alia*,"Computer sales;tech support services;software design;breakdown/repair service; financing and leasing;Computer Repair and Service;IT Support Services;Computer Recycling;Software and Website Development;Networking and New Computer Setup;Computer Sales and Leasing;"... "Desktop Computers;Laptop Computers;Large Screen televisions;Large Screen ;Computer

Monitors;Stereo Systems;Home theaters;Automotive Electronics"...smart phones"...IT Support;Computer Repairs and Upgrades;Data Backup;Security and Networking;Wireless Setup;Virus and Spyware Removal Services;Automotive Electronics Installs;Home Theatre Installs;Sales; Software Development;Website Design"

9. Opposer's date of first use of its mark is prior to the filing date of the Applicant's Intent to Use Application . As a result, Opposer has common law priority of use and owns the common law rights to the mark TECH AND GO.

10. Opposer's TECH AND GO Mark has been featured online commencing prior to the Applicant's filing date.

11. Starting prior to Applicant's filing date, Oposer has used, and is currently using, Opposer's common law mark in connection with goods and services that include or are closely related to the goods included in Applicant's proposed goods .

12. Applicant has no connection with Opposer and Opposer has not given permission to Applicant to use the Opposed mark.

13. Applicant has no connection with Opposer and no license was granted to Applicant to use the Opposed Mark.

14. Applicant's proposed TECH & GO mark for " USB cables, USB hubs, electronic card readers, electric patch cables, computer mice, mouse pads, keyboards; battery chargers, namely, wall chargers, car chargers, and USB chargers; AC/DC converters, USB adapters, earbuds, headphones, audio speakers; blank CDs and DVDs; CD and DVD cases; flash media, namely, flash memory cards; power cables; audio and video cables and adapters, batteries and battery chargers; MP3 players and smart phone accessories, namely, headphones, signal splitters, speakers, electronic cables for syncing and charging MP3 players and smart phones, battery chargers, electronic docking stations, adapters, USB converters, and audio and video cables; cases, bags, stands, holsters, belt clips, straps, screen protectors, stylus, specially adapted for holding MP3 players and smart phones; camera accessories, namely, tripods, battery chargers, electronic cables for syncing and charging cameras, USB adapters, straps specially adapted for cameras, and adapters; cases and bags specially adapted for holding cameras." constitutes use of a mark that is confusingly similar to Opposer's TECH AND GO mark.

15. The TECH & GO Mark is virtually identical to Opposer's mark in , spelling and appearance, and identical in sound. Furthermore, Applicant's mark subsumes Opposer's TECH AND GO Mark. Also, the products covered by Applicant's TECH & GO Mark are virtually identical and /or related to those of Opposer. This would likely confuse and/or deceive the average purchaser into believing that Applicant's goods and services marketed and sold under the TECH & GO Mark also originate with or are authorized or endorsed by Opposer.

16. The TECH & GO mark's resemblance to Opposer's mark is likely, when applied to the proposed goods of Applicant, to cause confusion or mistake or to deceive purchasers resulting in damage to Opposer and Opposer's reputation.

17. Applicant's goods are likely to be offered in trade channels and markets closely related to those of opposer.

18. As a result of the similarity between Opposer's Marks and Applicant's Mark, and the highly related nature of the goods and services offered by Opposer and Applicant under their respective marks, Applicant's mark is likely to cause confusion, mistake or deception in the trade and among customers as to the source ,origin or sponsorship of the parties respective goods and services.

19. The opposed Mark so closely resembles Opposers previously used mark that its use, in connection with the goods listed in the Application, is likely to cause confusion, or to cause mistake or deceive, in violation Section 43(a) of the Trademark Act of 1946, 15 U.S.C. § 1125(a). Purchasers may likely assume that Opposer is affiliated with, endorses, or licenses, Applicant's use of the Opposed Mark, when Opposer is not connected to the Applicant or the use of the Opposed Mark.

20. Additionally, Opposed Mark so closely resembles Opposer's previously used mark that its use, in connection with the goods listed in the Application, is likely to cause confusion, or to cause mistake or deceive, in violation Section 2(d) of the Trademark Act of 1946, 15 U.S.C. § 1052(d). Purchasers may likely assume that Opposer is affiliated with, endorses, or licenses, Applicant's use of the Opposed Mark, when Opposer is not connected to the Applicant or the use of the Opposed Mark.

21. Opposer has invested considerable efforts and resources in developing the TECH AND GO brand and in promoting and advertising its services and products with consumers. In light of this, if the Applicant's Intent to Use Application were to proceed to registration, the Applicant would obtain exclusive rights for the mark which would trump and render obsolete any and all rights the Opposer has rightfully established , worked for, and is entitled to.

22. Opposer's date of first use for the Mark TECH AND GO predates the filing date of the Application for TECH & GO. As a result, registration of the Opposed Mark would be inconsistent with Opposer's senior rights at common law.Registration of the mark in the Application and use of Applicant's Mark will cause harm to opposer.

23. If the application is permitted to register, the registration would presumptively entitle Applicant to prima facie exclusive ownership and rights to the mark. Such registration would cause confusion among consumers as to the separate and distinct sources of Applicant's goods and Opposer's Goods and Services and the relationship of Opposer to Applicant, therefore

damaging Opposer's goodwill in Opposer's Mark, diluting the value thereof , and resulting in irreparable harm to Opposer's business and reputation, all to the detriment of Opposer.

24. Opposer does not believe Applicant had a bona fide intent to use its applied for mark on the goods in the application, and based on this, Opposer requests that registration of U.S. Trademark Application Serial No. (85282926) be denied.

WHEREFORE , Opposer believes that it will be damaged by the registration of the Applicant's mark, and prays that this Opposition be sustained and that the registration of U.S. Trademark Application Serial No. (85282926) be denied.

DATED this 16th day of January , 2012

Respectfully submitted,

/Alex Mateesco/

President for Opposer

iCourier Software Systems Ltd.

155-288 East Georgia Street

Vancouver, BC, V6A4H8 CANADA

Telephone: (800) 969-7119

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Notice of Opposition has been served on E-filliate, Inc. by mailing said copy on May 7, 2010 via First Class Mail, postage prepaid to:

E-filliate, Inc.

1321 White Rock Road

Burbank California 91502

/Alex Mateesco/

Alex Mateesco

President for Opposer

01/16/2012