

ESTTA Tracking number: **ESTTA503709**

Filing date: **11/05/2012**

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	Deutsche Telekom AG,
Granted to Date of previous extension	11/04/2012
Address	Friedrich-Ebert-Allee 140, Bonn,, 53113 GERMANY

Domestic Representative	Michael D. Adams Mayer Brown LLP P.O. Box 2828 Chicago, IL 60690-2828 UNITED STATES ipdocket@mayerbrown.com, jlwhite@mayerbrown.com
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Applicant Information

Application No	85482511	Publication date	05/08/2012
Opposition Filing Date	11/05/2012	Opposition Period Ends	11/04/2012
Applicant	The New York Times Company 620 Eighth Avenue New York, NY 10018 UNITED STATES		

Goods/Services Affected by Opposition


Class 009. All goods and services in the class are opposed, namely: Interactive entertainment system comprising a computer, multiple image display screen, monitor, and mirror that uses face recognition, motion controls, voice commands, and a RFID technology enabled shelf that can respond to products placed on it, all used to generate personalized data such as health information, calendar information, news and news feeds, and other personalized information; computer hardware and software for interactive entertainment systems and computers that feature face recognition, motion controls, voice commands, and a RFID technology enabled shelf that can respond to products placed on it, all used to generate personalized data such as health information, calendar information, news and news feeds, and other personalized information
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration	4228368	Application Date	07/15/2011
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No.			
Registration Date	10/23/2012	Foreign Priority Date	01/17/2011
Word Mark	REVVL		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: Wireless communication devices for voice, data, or image transmission; downloadable computer software that allows subscribers to utilize voice over Internet protocol (VOIP) communication services; downloadable software in the nature of a mobile application; switchboards; communications servers; all of the aforementioned goods relating to telecommunications and/or VOIP technology only</p> <p>Class 038. First use: Telecommunication services, namely, providing voice over Internet protocol (VOIP) peer-to-peer communications, electronic transmission of voice, data, graphics, images, audio and video, instant messaging services, and providing high speed access to area networks and a global information networks; communication services, namely, transmission of voice, audio, visual images and data by telecommunications networks, wireless communication networks, the Internet, information services networks and data networks</p> <p>Class 042. First use: Computer services and computer software development for others, namely, design of computer software and hardware for use in telecommunications and voice over Internet protocol (VOIP) applications, data transmission and instant messaging services; installation and maintenance of computer software; providing temporary use of online non-downloadable computer software that allows subscribers to utilize VOIP communications services; technical support services, namely, remote and on-site infrastructure management services for monitoring, administration and management of public and private cloud computing IT and application systems; technical consulting services in the fields of datacenter architecture, public and private cloud computing solutions, and evaluation and implementation of Internet technology and services; providing virtual computer systems and virtual computer environments through cloud computing; computer services, namely, integration of private and public cloud computing environments; computer services, namely, cloud hosting provider services; consulting services in the field of cloud computing</p>		

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	REVVL		
Goods/Services	telecommunications, information technology, and VOIP goods and services		

Attachments	79103553#TMSN.jpeg (1 page)(bytes) Notice of Opposition - REVEAL Ser. No. 85482511.pdf (7 pages)(93633 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 Overnight Courier on this date.

Signature	/Jason L. White/
Name	Jason L. White
Date	11/05/2012

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

In the matter of trademark application Serial No. 85/482,511
Filed: November 29, 2011
For the mark: REVEAL
Published in the Official Gazette on: **May 8, 2012**

DEUTSCHE TELEKOM AG,)	
)	
Opposer,)	
)	
v.)	Opposition No.: Pending
)	
THE NEW YORK TIMES COMPANY,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Opposer, Deutsche Telekom AG (hereinafter “DTAG”), believes that it is being and will be damaged by registration of the mark REVEAL in application 85/482,511 for use in connection with “*Interactive entertainment system comprising a computer, multiple image display screen, monitor, and mirror that uses face recognition, motion controls, voice commands, and a RFID technology enabled shelf that can respond to products placed on it, all used to generate personalized data such as health information, calendar information, news and news feeds, and other personalized information; computer hardware and software for interactive entertainment systems and computers that feature face recognition, motion controls, voice commands, and a RFID technology enabled shelf that can respond to products placed on it, all used to generate personalized data such as health information, calendar information, news and news feeds, and other personalized information*” in International Class 09. DTAG hereby

opposes the same pursuant to Section 13(a) of the Trademark Act of 1946, as amended (the “Lanham Act”), 15 U.S.C. § 1063(a).

The Parties and the Marks

1. DTAG is a corporation organized under the laws of the Federal Republic of Germany, with its principal place of business located at Friedrich-Ebert-Allee 140, Bonn, 53113.

2. DTAG and its affiliates are one of the world’s largest telecommunication and information technology service providers. Both DTAG and its affiliates, including T-Mobile, U.S.A. and T-Systems North America, Inc., offer a broad range of telecommunications, information technology, and voice over Internet protocol (VOIP) goods and services to consumers in the United States and worldwide.

3. As part of its branding strategy, DTAG offers a variety of telecommunications, information technology, and VOIP goods and services in International Classes 09, 38, and 42, and others, in connection with the mark “REVVL” in the United States and worldwide (collectively, the “REVVL Mark”).

4. DTAG owns a federal registration for the REVVL Mark (Reg. No. 4,228,368) claiming a variety of telecommunications, information technology, and VOIP goods and services in International Classes 09, 38, and 42. Reg. No. 4,228,368 has a priority date of January 17, 2011 and a registration date of October 23, 2012.

5. Upon information and belief, applicant The New York Times is a corporation organized under the laws of New York, with its principal place of business at 620 Eighth Avenue, New York, New York 10018.

6. The New York Times’ application Serial No. 85/482,511 for “REVEAL” (“The New York Times Application”) is very similar, if not identical, to the REVVL Mark used by

DTAG and therefore creates a clear commercial impression identical to that of the REVVL Mark.

7. The New York Times Application claims goods highly similar, if not identical, to the core telecommunications, information technology, and VOIP goods and services offered by DTAG under the REVVL Mark.

Likelihood of Confusion with DTAG's Registered REVVL Mark

Section 2(d), 15 U.S.C. § 1052(d)

8. DTAG repeats and realleges each and every allegation set forth in Paragraphs 1-7.

9. DTAG is owner of United States Registration No. 4,228,368 for the REVVL Mark as set forth in Paragraph 4.

10. DTAG's rights in its REVVL Mark date back to at least as early as January 17, 2011.

11. The filing date of The New York Times Application is November 29, 2011, and is based on an intent to use the mark in United States commerce. DTAG therefore has rights in the REVVL Mark, based on its use and registration, prior to The New York Times' earliest priority date.

12. The New York Times' REVEAL application uses wording very similar, if not identical, to that claimed in DTAG's REVVL Mark. Despite the inclusion of minimal additional lettering to The New York Times Application, both of the marks are highly similar, if not identical, in sight, sound, and commercial impression.

13. The New York Times Application claims an interactive entertainment system utilizing telecommunications-related technology in International Class 09. DTAG's REVVL Mark claims highly similar, if not identical, telecommunications-related goods and services in

International Classes 09, 38 and 42 As a result, the parties' claimed goods and services, as well as the relevant consumers and channels of trade, are highly similar, if not identical.

14. The highly similar, if not identical, nature of the REVVL Mark and The New York Times Application in sight, sound, and commercial impression is therefore particularly pronounced given the highly similar, if not identical, nature of the goods and services offered by the parties.

15. On information and belief, The New York Times adopted its REVEAL mark after DTAG's established use and promotion of the REVVL Mark for its telecommunications, information technology, and VOIP goods and services.

16. The New York Times' junior use of an identical branding strategy and adoption of a highly similar, if not identical, mark for use in connection with highly similar, if not identical, telecommunications, information technology, and VOIP goods and services wholly overlaps and duplicates DTAG's REVVL Mark, branding strategy, and underlying goods and services. This duplication will inevitably lead consumers to believe that DTAG is the source of the products, or that The New York Times is affiliated, endorsed, or sponsored by DTAG, all in violation of DTAG's rights in its REVVL Mark.

Likelihood of Confusion with DTAG's Common Law Rights in the REVVL Mark

Section 2(d), 15 U.S.C. § 1052(d)

17. DTAG repeats and realleges each and every allegation set forth in Paragraphs 1-16.

18. DTAG is the common law owner of the REVVL Mark for telecommunications, information technology, and VOIP goods and services.

19. DTAG's common law rights in its REVVL Mark in the United States date back to at least as early as June 2011. Since that time, DTAG has continuously used the REVVL Mark as part of its branding strategy in United States and international commerce.

20. As a result of DTAG's continuous use of the REVVL Mark in United States commerce since at least as early as June 2011, DTAG has not abandoned its common law rights in the REVVL Mark.

21. As a result of DTAG's continuous use of the REVVL Mark in United States commerce since at least as early as June 2011, as well as other efforts of DTAG, the REVVL Mark serves as a distinctive source indicator of the telecommunications, information technology, and VOIP goods and services offered by DTAG.

22. DTAG has rights in the REVVL Mark, based on its use in United States commerce, that pre-date The New York Times' earliest priority date of November 29, 2011.

23. The New York Times Application is highly similar, if not identical, in sight, sound, and commercial impression to the REVVL Mark.

24. The New York Times Application claims goods and services that are highly similar, if not identical, to those offered under the REVVL Mark.

25. On information and belief, The New York Times adopted its REVEAL mark after DTAG's established use and promotion of the REVVL Mark for its telecommunications, information technology, and VOIP goods and services.

26. The New York Times' junior use of a highly similar, if not identical, mark for use in connection with highly similar, if not identical, telecommunications, information technology, and VOIP goods and services will inevitably lead consumers to believe that DTAG is the source

of the products, or that The New York Times is affiliated, endorsed, or sponsored by DTAG, all in violation of DTAG's rights in its REVVL Mark.

27. For the foregoing reasons, DTAG believes and alleges that it is being and will be damaged by registration of The New York Times Serial No. 85/482,511.

WHEREFORE, DTAG respectfully requests that application Serial No. 85/482,511 be refused registration and judgment in the present opposition be entered in favor of DTAG and against The New York Times, with prejudice.

Respectfully submitted,

DEUTSCHE TELEKOM AG

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CERTIFICATE OF MAILING

I hereby certify that, on this 5th day of November, 2012, this Notice of Opposition is
being sent via UPS Overnight to:

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By: /Jason L. White/
Jason L. White