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ESTTA Tracking number: **ESTTA507983**

Filing date: **11/28/2012**

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	Catch Media, Inc.
Granted to Date of previous extension	11/28/2012
Address	3832 Mill Glen Drive Douglasville, GA 30135 UNITED STATES

Attorney information	Lori S. Kozak, Pete Bromaghim Blakely Sokoloff Taylor & Zafman LLP 12400 Wilshire Blvd.7th Floor Los Angeles, CA 90025-1040 UNITED STATES lori_kozak@bstz.com, kyle_samia@bstz.com, tm_filings@bstz.com Phone:310.207.3800

Applicant Information

Application No	85567668	Publication date	07/31/2012
Opposition Filing Date	11/28/2012	Opposition Period Ends	11/28/2012
Applicant	Blue Wave Media, Inc. 79927 Viento Drive La Quinta, CA 92253 UNITED STATES		

Goods/Services Affected by Opposition

Class 038. All goods and services in the class are opposed, namely: Mobile media services in the nature of electronic transmission of entertainment media content

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.	3801139	Application Date	10/31/2006
Registration Date	06/08/2010	Foreign Priority Date	NONE
Word Mark	PLAY ANYWHERE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2006/08/00 First Use In Commerce: 2006/08/00 digital audio computer software that captures, manages, organizes, plays and transmits songs and audio recordings; computer software for determining meta-data for songs; digital video computer software that captures, manages, organizes, plays and transmits movies and video recordings

U.S. Registration No.	4071289	Application Date	10/31/2006
Registration Date	12/13/2011	Foreign Priority Date	NONE
Word Mark	PLAY ANYWHERE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2010/08/31 First Use In Commerce: 2010/08/31 Digital audio computer hardware that plays songs and audio recordings		

U.S. Application No.	77033154	Application Date	10/31/2006
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	PLAY ANYWHERE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2010/08/31 First Use In Commerce: 2010/08/31 Audio recorders, players, and receivers

U.S. Application No.	77854977	Application Date	10/22/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	PLAY ANYWHERE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: Computer software and hardware for delivering audio content, video content, and electronic books (e-books) to mobile devices; computer software and hardware for registering, tracking and routing audio and video content; computer software and hardware for synchronizing audio and video content between devices; computer software and hardware for reporting audio and video content usage and purchases; computer software and hardware for calculating disbursement of revenues generated from using and purchasing audio and video content, from subscriptions to audio and video content services, and from in-content advertising; computer software and hardware for managing and organizing electronic books (e-books); computer software and hardware for tracking and reporting e-book usage and e-book purchases; computer software and hardware for synchronizing e-books between devices; computer software and hardware for calculating disbursement of revenues generated from e-book usage and purchases, from subscriptions to e-book services, and from in-book advertising; computer hardware and software for tracking, managing and displaying medical information and content in the nature of personal medical records, medical scans and medical test results; computer software and hardware for tracking and reporting delivery, display, playback and usage of medical information; computer software and hardware for tracking and		

	managing medical information and content in the nature of personal medical records, medical scans and medical test results in conjunction with hospital information systems; computer software and hardware for calculating disbursement of revenues generated from delivery of medical information and content, from display of medical information and content, and from subscriptions to medical information and content services; computer e-commerce software to allow users to perform electronic business transactions via a global computer network Class 035. First use: Business services, namely, sales volume tracking for others in the nature of tracking online business purchases, downloads of purchased audio and video content, transfer of purchased audio and video content, purchases of e-books; accounting services, namely, providing online tracking reports in the field of revenues; providing information in the field of billing; arranging subscriptions to the online publications of others and online content subscriptions; advertising services; providing information in the field of advertising services, namely tracking of advertising information and disbursement of advertising revenues and success rates of various types of advertising; administration and reconciliation of accounts on behalf of others, namely, disbursement of advertising revenues; billing services; medical billing support services; providing an on-line depository of audio and video content available for retail and wholesale purchase and/or download; online services, namely, sales volume tracking and monitoring for others of online sales of audio and video content and of online subscriptions for audio and video content Class 036. First use: insurance information and consultancy; insurance administration; insurance brokerage Class 038. First use: Information about telecommunication, namely, providing information regarding the volume, origin, and destination of audio, video, and audiovisual material transmitted by means of a global computer network Class 042. First use: Providing temporary use of online, nondownloadable software for tracking acquisition and delivery of audio and video content; providing temporary use of online, nondownloadable software for use in billing customers in connection with downloads of and subscriptions to audio and video content; providing temporary use of online, nondownloadable software for audio and video usage tracking, revenue tracking, revenue disbursement, and clearing services; provision of Internet search engines; remote online backup of computer data, including audio and video content and billing information; providing temporary use of online, nondownloadable software for tracking acquisition and delivery of medical information and content in the nature of personal medical records, medical scans and medical test results Class 044. First use: Providing medical information

Attachments	77979292#TMSN.jpeg (1 page)(bytes) 77982592#TMSN.jpeg (1 page)(bytes) 77033154#TMSN.jpeg (1 page)(bytes) 77854977#TMSN.jpeg (1 page)(bytes) 006995.M002 Notice of Opposition.PDF (13 pages)(1017480 bytes)

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	/Lori S. Kozak/
Name	Lori S. Kozak, Pete Bromaghim
Date	11/28/2012

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

Catch Media, Inc. Opposer, v. Blue Wave Media, Inc.	Trademark Application Serial No. 85/567668 Filed: March 13, 2012 Mark: Publish once. Play anywhere.

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

NOTICE OF OPPOSITION

Catch Media, Inc., by and through its undersigned attorneys, believes that it will be damaged by the registration of the mark shown in U.S. Trademark Application Serial No. 85/567668 for the mark "Publish once. Play anywhere." in International Class 38 and hereby opposes the same. As grounds for opposition, it is alleged that:

1. Upon information and belief, Applicant Blue Wave Media, Inc. (hereinafter "Applicant") is a California corporation with an address of 79927 Viento Drive, La Quinta, California 92253.

2. Upon information and belief, Applicant applied to register the mark "Publish once. Play anywhere." for services identified as "mobile media services in the nature of electronic transmission of entertainment media content" in International Class 38.

3. Upon information and belief, the subject application was filed on March 13, 2012 and was published for opposition on July 31, 2012.

4. Applicant based its application upon a bona fide intention to use the mark in commerce. Upon information and belief, Applicant has not filed a use statement before the U.S. Patent and Trademark Office.

5. Opposer Catch Media, Inc. (hereinafter "Opposer") is a corporation organized under the laws of Delaware with an address of 3832 Mill Glen Drive, Douglasville, Georgia 30135.

7. Opposer is the owner of the following trademark registrations and earlier-filed pending applications to register the mark PLAY ANYWHERE for various goods and services, including hardware and software for transmission, receipt and management of entertainment media content and services relating thereto:

Mark	**Reg. No.**	**Goods/Services**
PLAY ANYWHERE	3801139	Digital audio computer software that captures, manages, organizes, plays and transmits songs and audio recordings; computer software for determining meta-data for songs; digital video computer software that captures, manages, organizes, plays and transmits movies and video recordings in International Class 9.
PLAY ANYWHERE	4071289	Digital audio computer hardware that plays songs and audio recordings, in International Class 9.
PLAY ANYWHERE	77033154	Audio recorders, players and receivers, in International Class 9
PLAY ANYWHERE	77854977	Computer software and hardware for delivering audio content, video content, and electronic books (e-books) to mobile devices; computer software and hardware for registering, tracking and routing audio and video content; computer software and hardware for synchronizing audio and video content between devices; computer software and hardware for reporting audio and video content usage and purchases; computer software and hardware for calculating disbursement of revenues generated from using and purchasing audio and video content, from subscriptions to audio and video content services, and from in-content advertising; computer software and hardware for managing and organizing electronic books (e-books); computer software and hardware for tracking and reporting e-book usage and e-book purchases; computer software and hardware for synchronizing e-books between devices; computer software and hardware for calculating disbursement of revenues generated from e-book usage and purchases, from subscriptions to e-book services, and from in-book advertising; computer hardware and software for tracking, managing and displaying medical information and content in the nature of personal medical records, medical scans and medical test results; computer software and hardware for tracking and reporting delivery, display, playback and usage of medical information; computer software and hardware for tracking and managing medical information and content in the nature of personal medical

		records, medical scans and medical test results in conjunction with hospital information systems; computer software and hardware for calculating disbursement of revenues generated from delivery of medical information and content, from display of medical information and content, and from subscriptions to medical information and content services; computer e-commerce software to allow users to perform electronic business transactions via a global computer network, in International Class 9 Business services, namely, sales volume tracking for others in the nature of tracking online business purchases, downloads of purchased audio and video content, transfer of purchased audio and video content, purchases of e-books; accounting services, namely, providing online tracking reports in the field of revenues; providing information in the field of billing; arranging subscriptions to the online publications of others and online content subscriptions; advertising services; providing information in the field of advertising services, namely tracking of advertising information and disbursement of advertising revenues and success rates of various types of advertising; administration and reconciliation of accounts on behalf of others, namely, disbursement of advertising revenues; billing services; medical billing support services; providing an on-line depository of audio and video content available for retail and wholesale purchase and/or download; online services, namely, sales volume tracking and monitoring for others of online sales of audio and video content and of online subscriptions for audio and video content, in International Class 35 Insurance information and consultancy; insurance administration; insurance brokerage, in International Class 36 Information about telecommunication, namely, providing information regarding the volume, origin, and destination of audio, video, and audiovisual material transmitted by means of a global computer network, in International Class 38 Providing temporary use of online, nondownloadable software for tracking acquisition and delivery of audio and video content; providing temporary use of online, nondownloadable software for use in billing customers in connection with downloads of and subscriptions to audio and video content; providing temporary use of online, nondownloadable software for audio and video usage tracking, revenue tracking, revenue disbursement, and clearing services; provision of Internet

		search engines; remote online backup of computer data, including audio and video content and billing information; providing temporary use of online, nondownloadable software for tracking acquisition and delivery of medical information and content in the nature of personal medical records, medical scans and medical test results, in International Class 42 Providing medical information, in International Class 44

Please find attached as Exhibit A current printouts of information from the electronic database records of the U.S. Patent and Trademark Office showing the current status and title of the above-referenced registrations and applications.

8. Opposer adopted and commenced interstate use of its PLAY ANYWHERE mark for hardware and software for transmission, receipt and management of entertainment media content long prior to any date which may be lawfully claimed by Applicant.

9. There is no issue as to priority. Opposer has used its PLAY ANYWHERE mark for many years prior to Applicant's commencement of use of the mark or Applicant's application filing date of March 13, 2012.

11. Opposer has spent a considerable amount of money marketing its various goods and services under its PLAY ANYWHERE trademark.

12. By virtue of its considerable sales and advertising expenditures, Opposer's PLAY ANYWHERE trademark enjoys considerable notoriety and fame among the relevant public, particularly in the field of hardware and software for transmission, receipt and management of entertainment media content.

14. Opposer's PLAY ANYWHERE mark is of significant value to Opposer as an identifier of source in connection with the promotion and offering of its products and services.

15. Opposer's PLAY ANYWHERE mark was famous for Opposer's products prior to Applicant's commencement of use of the mark "Publish once. Play anywhere." and prior to Applicant's application filing date of March 13, 2012.

15. Applicant's use of the mark "Publish once. Play anywhere." in connection with "mobile media services in the nature of electronic transmission of entertainment media content" is likely to result in confusion, mistake, and/or deception in that the public will wrongly assume that Opposer has approved of Applicant, is affiliated with Applicant, or has otherwise sanctioned, sponsored or licensed the goods of Applicant.

16. Applicant's use of the mark "Publish once. Play anywhere." in connection with "mobile media services in the nature of electronic transmission of entertainment media content" is likely to cause confusion with Opposer's PLAY ANYWHERE trademark as used in connection with Opposer's goods and services.

17. Opposer would be damaged by the registration of the mark "Publish once. Play anywhere." by Applicant as the registration will result in confusion, mistake, and/or deception, and Applicant will be able to trade on Opposer's goodwill and reputation.

18. The registration of Applicant's mark will cause the dilution of the distinctive quality of Opposer's mark, to Opposer's irreparable damage.

WHEREFORE, Opposer prays that this opposition be granted and that Applicant's Application Serial No. 85/567668 for the mark "Publish once. Play anywhere." be abandoned.

Respectfully submitted,

CATCH MEDIA, INC.

Dated: 11/28/12

Lori S. Kozak

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP
12400 Wilshire Boulevard, Seventh Floor
Los Angeles, CA 90025
(310) 207-3800

EXHIBIT A

United States Patent and Trademark Office

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Wed Nov 28 05:02:46 EST 2012

Logout Please logout when you are done to release system resources allocated for you.

Record 1 out of 1

PLAY ANYWHERE

Word Mark	PLAY ANYWHERE
Goods and Services	IC 009. US 021 023 026 036 038. G & S: digital audio computer software that captures, manages, organizes, plays and transmits songs and audio recordings; computer software for determining meta-data for songs; digital video computer software that captures, manages, organizes, plays and transmits movies and video recordings. FIRST USE: 20060800. FIRST USE IN COMMERCE: 20060800
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	77979292
Filing Date	October 31, 2006
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	June 5, 2007
Registration Number	**3801139**
Registration Date	June 8, 2010
Owner	(REGISTRANT) Catch Media, Inc. CORPORATION DELAWARE 3832 Mill Glen Drive Douglasville GEORGIA 30135
Attorney of Record	LORI STOCKTON KOZAK

Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

United States Patent and Trademark Office

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TESS was last updated on Wed Nov 28 05:02:46 EST 2012

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Record 1 out of 1

PLAY ANYWHERE

Word Mark	PLAY ANYWHERE
Goods and Services	IC 009. US 021 023 026 036 038. G & S: Digital audio computer hardware that plays songs and audio recordings. FIRST USE: 20100831. FIRST USE IN COMMERCE: 20100831
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	77982592
Filing Date	October 31, 2006
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	June 5, 2007
Registration Number	**4071289**
Registration Date	December 13, 2011
Owner	(REGISTRANT) Catch Media, Inc. CORPORATION DELAWARE 3832 Mill Glen Drive Douglasville GEORGIA 30135
Attorney of Record	Lori Stockton Kozak
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

United States Patent and Trademark Office

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PLAY ANYWHERE

Word Mark	PLAY ANYWHERE
Goods and Services	IC 009. US 021 023 026 036 038. G & S: Audio recorders, players, and receivers. FIRST USE: 20100831. FIRST USE IN COMMERCE: 20100831
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	**77033154**
Filing Date	October 31, 2006
Current Basis	1B
Original Filing Basis	1B
Published for Opposition	June 5, 2007
Owner	(APPLICANT) Catch Media, Inc. CORPORATION DELAWARE 3832 Mill Glen Drive Douglasville GEORGIA 30135
Attorney of Record	Lori Stockton Kozak
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

United States Patent and Trademark Office

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Wed Nov 28 05:02:46 EST 2012

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PLAY ANYWHERE

Word Mark PLAY ANYWHERE

Goods and Services IC 009. US 021 023 026 036 038. G & S: Computer software and hardware for delivering audio content, video content, and electronic books (e-books) to mobile devices; computer software and hardware for registering, tracking and routing audio and video content; computer software and hardware for synchronizing audio and video content between devices; computer software and hardware for reporting audio and video content usage and purchases; computer software and hardware for calculating disbursement of revenues generated from using and purchasing audio and video content, from subscriptions to audio and video content services, and from in-content advertising; computer software and hardware for managing and organizing electronic books (e-books); computer software and hardware for tracking and reporting e-book usage and e-book purchases; computer software and hardware for synchronizing e-books between devices; computer software and hardware for calculating disbursement of revenues generated from e-book usage and purchases, from subscriptions to e-book services, and from in-book advertising; computer hardware and software for tracking, managing and displaying medical information and content in the nature of personal medical records, medical scans and medical test results; computer software and hardware for tracking and reporting delivery, display, playback and usage of medical information; computer software and hardware for tracking and managing medical information and content in the nature of personal medical records, medical scans and medical test results in conjunction with hospital information systems. computer software and hardware for calculating disbursement of revenues generated from delivery of medical information and content, from display of medical information and content, and from subscriptions to medical information and content services; computer e-commerce software to allow users to perform electronic business transactions via a global computer network

IC 035. US 100 101 102. G & S: Business services, namely, sales volume tracking for others in the nature of tracking online business purchases, downloads of purchased audio and video content, transfer of purchased audio and video content, purchases of e-books; accounting services, namely, providing online tracking reports in the field of revenues; providing information in the field of billing; arranging subscriptions to the online publications of others and online content subscriptions; advertising services; providing information in the field of advertising services, namely tracking of advertising information and

disbursement of advertising revenues and success rates of various types of advertising; administration and reconciliation of accounts on behalf of others, namely, disbursement of advertising revenues; billing services; medical billing support services; providing an on-line depository of audio and video content available for retail and wholesale purchase and/or download; online services, namely, sales volume tracking and monitoring for others of online sales of audio and video content and of online subscriptions for audio and video content

IC 036. US 100 101 102. G & S: insurance information and consultancy; insurance administration; insurance brokerage

IC 038. US 100 101 104. G & S: Information about telecommunication, namely, providing information regarding the volume, origin, and destination of audio, video, and audiovisual material transmitted by means of a global computer network

IC 042. US 100 101. G & S: Providing temporary use of online, nondownloadable software for tracking acquisition and delivery of audio and video content; providing temporary use of online, nondownloadable software for use in billing customers in connection with downloads of and subscriptions to audio and video content; providing temporary use of online, nondownloadable software for audio and video usage tracking, revenue tracking, revenue disbursement, and clearing services; provision of Internet search engines; remote online backup of computer data, including audio and video content and billing information; providing temporary use of online, nondownloadable software for tracking acquisition and delivery of medical information and content in the nature of personal medical records, medical scans and medical test results

IC 044. US 100 101. G & S: Providing medical information

Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	**77854977**
Filing Date	October 22, 2009
Current Basis	1B
Original Filing Basis	1B
Owner	(APPLICANT) Catch Media, Inc. CORPORATION DELAWARE 3832 Mill Glen Drive Douglasville GEORGIA 30135
Attorney of Record	Lori S. Kozak
Type of Mark	TRADEMARK. SERVICE MARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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|.HOME | SITE INDEX| SEARCH | eBUSINESS | HELP | PRIVACY POLICY

PROOF OF SERVICE

I, Kyle Samia, hereby declare that I am employed by the law firm of BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, 12400 Wilshire Boulevard, Seventh Floor, Los Angeles, California 90025-1040; that I am over 18 years of age and not a party to the within action; and that I served the following document: **Notice of Opposition**, relating to U.S. Trademark Application Serial No. 85/567,668 this 28th day of November, 2012, by causing a true copy to be deposited in the United States Mail, first class postage prepaid to Applicant as follows:

Blue Wave Media, Inc.
79927 Viento Dr.
La Quinta, California 92253-8812

Date: 11/28/2012

Kyle Samia