

ESTTA Tracking number: **ESTTA581397**

Filing date: **01/13/2014**

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	HubSpot, Inc.
Granted to Date of previous extension	01/18/2014
Address	One Broadway, 10th Floor Cambridge, MA 02142 UNITED STATES

Attorney information	Mark S. Leonardo Brown Rudnick LLP One Financial Center Boston, MA 02111 UNITED STATES mleonardo@brownrudnick.com, ip@brownrudnick.com Phone:617-856-8145
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Applicant Information

Application No	86005179	Publication date	11/19/2013
Opposition Filing Date	01/13/2014	Opposition Period Ends	01/18/2014
Applicant	OutdoorHub, LLC 30800 Telegraph Road, Suite 4805 Bingham Farms, MI 48025 MI		

Goods/Services Affected by Opposition


Class 042. First Use: 2013/06/21 First Use In Commerce: 2013/06/21 All goods and services in the class are opposed, namely: Hosting On-Line Web Facilities For Others For Conducting Interactive Discussions And Sharing On-Line Content


Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
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)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	4111269	Application Date	05/20/2011
Registration Date	03/13/2012	Foreign Priority Date	NONE

Word Mark	HUBSPOT
Design Mark	
Description of Mark	The mark consists of the word "HUBSPOT" with the letter "O" in the shape of a stylized sprocket formed by a central circle connected to three small circles by straight lines.
Goods/Services	Class 035. First use: First Use: 2005/02/06 First Use In Commerce: 2005/02/06 Marketing consulting, namely, generating marketing leads through search engines, blogs, the blogosphere, social media, landing pages, lead intelligence and marketing analytics Class 042. First use: First Use: 2005/02/06 First Use In Commerce: 2005/02/06 Providing a website featuring non-downloadable marketing software used to market blogs, landing pages and social media using marketing analytics, content management, SEO, CRM integration and e-mail

U.S. Registration No.	4175351	Application Date	11/21/2011
Registration Date	07/17/2012	Foreign Priority Date	NONE
Word Mark	HUBSPOT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 2005/02/06 First Use In Commerce: 2005/02/06 Providing a website featuring non-downloadable marketing software used to market blogs, landing pages and social media using marketing analytics, content management, SEO, CRM integration and e-mail		

U.S. Registration No.	3646105	Application Date	07/08/2008
Registration Date	06/30/2009	Foreign Priority Date	NONE
Word Mark	HUBSPOT		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2005/02/06 First Use In Commerce: 2005/02/06 Marketing consulting, namely, generating marketing leads through search engines, blogs, the blogosphere, social media, landing pages, lead intelligence and marketing analytics

Attachments	85326119#TMSN.jpeg(bytes) 85478109#TMSN.jpeg(bytes) 77516987#TMSN.jpeg(bytes) 25599-28_Notice_of_Opposition.pdf(460028 bytes) 4175351.pdf(175435 bytes) 4111269.pdf(183298 bytes) 3646105.pdf(163240 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	/Mark S. Leonardo/
Name	Mark S. Leonardo
Date	01/13/2014

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

In the matter of Application No. 86/005,179
For the Mark: HUBPOST
Published in the Official Gazette on November 19, 2013

HubSpot, Inc.	X	:	
		:	
OPPOSER		:	
		:	
v.		:	
		:	
OutdoorHub, LLC		:	Opposition No. _____
		:	Directed to U.S. Serial No. 86/005,179
		:	
APPLICANT		:	
	X		

Commissioner for Trademarks
Trademark Trial and Appeal Board
PO Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

HubSpot, Inc. of Cambridge, Massachusetts (“Opposer”) believes that it will be damaged by registration of the mark shown in the above-identified application, and hereby opposes registration of the same.

As grounds for its notice of opposition, Opposer states:

1. Opposer is a corporation organized and existing under the laws of Delaware, with offices at One Broadway, 10th Floor, Cambridge, Massachusetts 02142.

2. On information and belief, Applicant is a corporation organized and existing under the laws of Michigan, with offices at 30800 Telegraph Road, Suite 4805 Bingham Farms, Michigan 48025.

3. On information and belief, Applicant is the owner of U.S. Serial No. 86/005,179 for the mark HUBPOST (“Application”) in International Class 042 for “*hosting on-line web facilities for others for conducting interactive discussions and sharing on-line content*” (“Applicant’s Services”).

4. In addition to its common law rights in HUBSPOT, Opposer is the owner of the mark HUBSPOT (Reg. No. 4,175,351) in International Class 042 for “*providing a website featuring non-downloadable marketing software used to market blogs, landing pages and social media using marketing analytics, content management, SEO, CRM integration and e-mail*”. A true and accurate copy of this registration from the USPTO’s website is attached hereto and incorporated herein by reference.

5. In addition to its common law rights in HUBSPOT, Opposer is the owner of the mark HUBSPOT & Design (Reg. No. 4,111,269) in International Class 042 for “*providing a website featuring non-downloadable marketing software used to market blogs, landing pages and social media using marketing analytics, content management, SEO, CRM integration and e-mail*”, and in International Class 035 for “*marketing consulting, namely, generating marketing leads through search engines, blogs, the blogosphere, social media, landing pages, lead intelligence and marketing analytics.*” A true and accurate copy of this registration from the USPTO’s website is attached hereto and incorporated herein by reference.

6. In addition to its common law rights in HUBSPOT, Opposer is the owner of the mark HUBSPOT (Reg. No. 3,646,105) in International Class 035 for “*marketing consulting, namely, generating marketing leads through search engines, blogs, the blogosphere, social media, landing pages, lead intelligence and marketing analytics.*” A true and accurate copy of this registration from the USPTO’s website is attached hereto and incorporated herein by reference.

7. Opposer has promoted and sold its services in interstate commerce under the HUBSPOT mark prior to any alleged use by Applicant of the mark shown in the Application and the filing date of the Application. As a result of the extensive use, promotion and advertising of the HUBSPOT mark, the mark has become well known to the trade and to the public, and has therefore acquired significant goodwill and fame.

8. Opposer has invested a substantial amount of time, effort and expense in promoting the mark HUBSPOT. As a result, it has become distinctive of Opposer's services and has come to represent enormous goodwill for Opposer.

9. Registration and use of the mark shown in the Application will cause and/or is likely to cause dilution of the distinctive quality of the HUBSPOT mark. Applicant will benefit from trading on the goodwill and reputation established over many years by the Opposer.

10. Opposer will be damaged by registration of the mark shown in the Application because the mark, when applied to Applicant's Services, is likely to cause confusion, or to cause mistake, or to deceive, and is further likely to cause dilution of the distinctive quality of the HUBSPOT mark.

11. The mark that Applicant seeks to register is nearly identical as and indistinguishable from Opposer's HUBSPOT trademark in sight, sound and commercial impression, and will be used for services that are nearly identical to the services for which Opposer uses and has rights in. Based on the similarities of the marks and the services, the public is likely to mistakenly associate the services in Class 42 offered by Applicant under the mark HUBSPOT with Opposer or with Opposer's services, or to believe that Applicant's services are sponsored, endorsed or licensed by Opposer, or that there is some relationship between Applicant and Opposer.

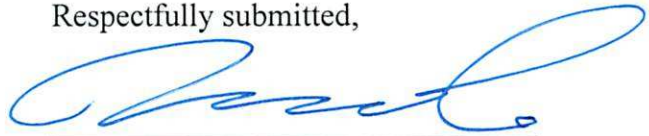
12. For the foregoing reasons, Applicant is not entitled to registration of the mark HUBPOST and registration should be refused pursuant to Section 2(d) of the Trademark Act on the grounds that Applicant's Application for HUBPOST so resembles Opposer's HUBSPOT mark as to cause confusion, mistake and/or deception.

WHEREFOR, it is respectfully requested that this opposition be sustained and that the registration sought by application serial number 86/005,179 be denied for the services in International Class 042.

The opposition fee in the amount of \$300 for one class (International Class 042) is filed herewith. If for any reason this amount is insufficient, it is requested that Opposer's attorney's deposit account 50-0369 be charged with any deficiency.

Date: January 13, 2014
Boston, MA

Respectfully submitted,



Mark S. Leonardo

Brown Rudnick LLP
One Financial Center
Boston, MA 02111
Tel.: (617) 856-8145
Attorney for Opposer

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Notice of Opposition was served this 13th day of January 2014, by sending a copy thereof via first class mail and e-mail, addressed to counsel for the Applicant:

Jeffrey P. Thennisch
Ingrassia Fisher & Lorenz P.C.
1080 Wilshire Dr., Suite 230
Troy, Michigan 48084-1565
docketing@ifllaw.com

A handwritten signature in blue ink, appearing to be 'Jeffrey P. Thennisch', written over a horizontal line.

Attorney for Opposer


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HUBSPOT

Word Mark	HUBSPOT
Goods and Services	IC 042. US 100 101. G & S: Providing a website featuring non-downloadable marketing software used to market blogs, landing pages and social media using marketing analytics, content management, SEO, CRM integration and e-mail. FIRST USE: 20050206. FIRST USE IN COMMERCE: 20050206
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85478109
Filing Date	November 21, 2011
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	May 1, 2012
Registration Number	4175351
Registration Date	July 17, 2012
Owner	(REGISTRANT) HubSpot, Inc. CORPORATION DELAWARE One Broadway, 10th Floor Cambridge MASSACHUSETTS 02142
Attorney of Record	Mark S. Leonardo
Prior Registrations	3646105

Type of Mark SERVICE MARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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Word Mark	HUBSPOT
Goods and Services	IC 035. US 100 101 102. G & S: Marketing consulting, namely, generating marketing leads through search engines, blogs, the blogosphere, social media, landing pages, lead intelligence and marketing analytics. FIRST USE: 20050206. FIRST USE IN COMMERCE: 20050206
	IC 042. US 100 101. G & S: Providing a website featuring non-downloadable marketing software used to market blogs, landing pages and social media using marketing analytics, content management, SEO, CRM integration and e-mail. FIRST USE: 20050206. FIRST USE IN COMMERCE: 20050206
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	26.01.02 - Circles, plain single line; Plain single line circles 26.17.01 - Bands, straight; Bars, straight; Lines, straight; Straight line(s), band(s) or bar(s) 26.17.06 - Bands, diagonal; Bars, diagonal; Diagonal line(s), band(s) or bar(s); Lines, diagonal 27.03.05 - Objects forming letters or numerals
Serial Number	85326119
Filing Date	May 20, 2011
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	December 27, 2011
Registration Number	4111269
Registration Date	March 13, 2012
Owner	(REGISTRANT) HubSpot, Inc. CORPORATION DELAWARE One Broadway, 10th Floor

Cambridge MASSACHUSETTS 02142

Attorney of Record Mark S. Leonardo

Description of Mark Color is not claimed as a feature of the mark. The mark consists of the word "HUBSPOT" with the letter "O" in the shape of a stylized sprocket formed by a central circle connected to three small circles by straight lines.

Type of Mark SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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HUBSPOT

Word Mark	HUBSPOT
Goods and Services	IC 035. US 100 101 102. G & S: Marketing consulting, namely, generating marketing leads through search engines, blogs, the blogosphere, social media, landing pages, lead intelligence and marketing analytics. FIRST USE: 20050206. FIRST USE IN COMMERCE: 20050206
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	77516987
Filing Date	July 8, 2008
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	April 14, 2009
Registration Number	3646105
Registration Date	June 30, 2009
Owner	(REGISTRANT) HubSpot, Inc. CORPORATION DELAWARE One Broadway, 10th Floor Cambridge MASSACHUSETTS 02142
Attorney of Record	Mark S. Leonardo
Type of Mark	SERVICE MARK
Register	PRINCIPAL
Live/Dead	

Indicator LIVE

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