

ESTTA Tracking number: **ESTTA629674**

Filing date: **09/29/2014**

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	Groupon, Inc.
Granted to Date of previous extension	09/28/2014
Address	600 West Chicago Avenue Chicago, IL 60654 UNITED STATES
Correspondence information	Howard S Michael Brinks Gilson & Lionie P.O. Box 10395 Chicago, IL 60610 UNITED STATES officeactions@brinksgilson.com, rrios@brinksgilson.com, hmi-chael@brinksgilson.com Phone:312-321-4244

Applicant Information

Application No	86106469	Publication date	04/01/2014
Opposition Filing Date	09/29/2014	Opposition Period Ends	09/28/2014
Applicant	Lifestreams Technologies Corporation c/o T Carulli Princeton Junction, NJ 08550 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Computer software that provides web-based and mobile access to applications and services through web operating systems and portal interfaces to allow user groups to collect and exchange information, interact, and collaborate

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.	3685954	Application Date	03/10/2009
Registration Date	09/22/2009	Foreign Priority Date	NONE

Word Mark	GROUPON
Design Mark	
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2008/10/21 First Use In Commerce: 2008/10/21 promoting the goods and services of others by providing a website featuring coupons, rebates, price-comparison information, product reviews, links to the re-tail websites of others, and discount information

U.S. Registration No.	4222645	Application Date	03/14/2011
Registration Date	10/09/2012	Foreign Priority Date	NONE

Word Mark	GROUPON
Design Mark	
Description of Mark	The mark consists of the word "GROUPON" inside a trapezium that is surrounded by a border.
Goods/Services	Class 035. First use: First Use: 2008/11/30 First Use In Commerce: 2008/11/30 Promoting the goods and services of others by providing a website featuring coupons, rebates, price-comparison information, product reviews, links to the re-tail websites of others, and discount information

U.S. Registration No.	3994088	Application Date	01/27/2011
Registration Date	07/12/2011	Foreign Priority Date	NONE
Word Mark	GROUPONICUS		

Design Mark	GROUPONICUS
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2010/11/22 First Use In Commerce: 2010/11/22 promoting the goods and services of others by providing a website featuring coupons, rebates, price-comparison information, product reviews, links to the re-tail websites of others, and discount information

U.S. Registration No.	3965842	Application Date	09/23/2010
Registration Date	05/24/2011	Foreign Priority Date	NONE
Word Mark	GROUPONWORKS		
Design Mark	GROUPONWORKS		
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2009/06/08 First Use In Commerce: 2009/06/08 promoting the goods and services of others by providing a website featuring coupons, rebates, price-comparison information, product reviews, links to the re-tail websites of others, and discount information		

U.S. Registration No.	4283740	Application Date	10/18/2011
Registration Date	01/29/2013	Foreign Priority Date	NONE
Word Mark	GROUPON RESERVE		

Design Mark	GROUPON RESERVE
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2011/10/27 First Use In Commerce: 2011/10/27 Promoting the goods and services of others via electronic communications that feature coupons, rebates, price-comparison information, product reviews, links to the retail websites of others, and discount information

U.S. Registration No.	4068591	Application Date	01/20/2011
Registration Date	12/06/2011	Foreign Priority Date	NONE
Word Mark	GROUPONLIVE		
Design Mark	GROUPONLIVE		
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2011/05/09 First Use In Commerce: 2011/05/09 Promoting the goods and services of others by providing a web site featuring coupons, rebates, price-comparison information, product reviews, links to the retail web sites of others, and discount information		

U.S. Registration No.	4302184	Application Date	08/29/2011
Registration Date	03/12/2013	Foreign Priority Date	NONE
Word Mark	GROUPON GOODS		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2011/09/28 First Use In Commerce: 2011/09/28 Promoting the goods and services of others by providing a website featuring coupons, rebates, price-comparison information, product reviews, links to the re-tail websites of others, and discount information

U.S. Registration No.	4309987	Application Date	11/11/2011
Registration Date	03/26/2013	Foreign Priority Date	NONE
Word Mark	GROUPON VIP		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2012/02/13 First Use In Commerce: 2012/02/13 administration of a customer loyalty program for enabling participants to obtain unique benefits and perks, namely, expanded access to offers and refunds, through use of a membership program		

Attachments	77687604#TMSN.png(bytes) 85266548#TMSN.png(bytes) 85228084#TMSN.png(bytes) 85136402#TMSN.png(bytes) 85450098#TMSN.png(bytes) 85222076#TMSN.png(bytes) 85409592#TMSN.png(bytes) 85470495#TMSN.png(bytes) Notice of Opposition 9-28-14.pdf(1432876 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	/HSM/
Name	Howard S Michael
Date	09/29/2014

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

Groupon, Inc.,

Opposer,

v.

Lifestreams Technologies Corporation,

Applicant.

Opposition No. _____

Serial No. 86/106,469

Mark: GROUPOLOGY

NOTICE OF OPPOSITION

Groupon, Inc. (“Groupon”), a corporation duly organized and existing under the laws of the State of Delaware, with its principal place of business in Chicago, Illinois, believes it will be damaged by the registration of GROUPOLOGY, Serial No. 86/106,469, in the name of Lifestreams Technologies Corporation, (“Applicant”), a corporation organized in Delaware, with a principal place of business at 7 Orly CT, Princeton Junction, New Jersey, 08550, and hereby opposes said application pursuant to 15 U.S.C. § 1063.

In support of this Notice of Opposition, Groupon states as follows:

1. Groupon is a leader in the online collective buying marketplace. Groupon connects merchants to consumers by promoting the goods and services of others through its websites by featuring deal vouchers, rebates, price-comparison information, product reviews, links to the retail websites of others and discount information, various fund raising activities, apparel and fashion, computers and computer-related services, as well as other services (“Groupon’s Services”). Groupon owns and uses in commerce the distinctive service mark GROUPON and several GROUPON-formative marks, including GROUPONICUS, GROUPONWORKS, GROUPON RESERVE, GROUPONLIVE, GROUPON GOODS,


GROUPON VIP, and others (collectively the “GROUPON Marks”) in connection with Groupon’s Services.

2. Each day, Groupon features daily deals on the best things to do, see, eat, and buy throughout the locales it serves. For example, Groupon has featured offers from merchants for helicopter rides, various fund raising activities, apparel and fashion, skydiving trips, fitness classes, horse and carriage rides, photography sessions, spa treatments and restaurant meals, travel packages and tickets to live events. Groupon also features a daily product deal site where goods are sold at discounted prices.

3. Groupon has rendered a wide range of services to over 250,000 retailers, merchants and other businesses. These services include customized campaigns for Groupon’s merchant customers, helping businesses provide targeted deals to consumers, payment solutions, a merchant scheduler, and a rewards program for consumers.

4. Groupon has continuously used some of the GROUPON Marks in commerce since at least as early as October 21, 2008, in connection with Groupon’s Services.

5. Groupon owns federal trademark registrations for the GROUPON Marks as set forth below:

Mark	Reg. No.	Reg. Date	Goods/Services
GROUPON	3,685,954	Sept. 22, 2009	Class 35: Promoting the goods and services of others by providing a website featuring coupons, rebates, price-comparison information, product reviews, links to the retail websites of others, and discount information.
	4,222,645	Oct. 9, 2012	Class 35: Promoting the goods and services of others by providing a website featuring coupons, rebates, price-comparison information, product reviews, links to the retail websites of others, and discount information.
GROUPONICUS	3,994,088	July 12, 2011	Class 35: Promoting the goods and services of others by providing a website featuring coupons, rebates, price-comparison information, product reviews, links to the retail websites of others, and discount information
GROUPONWORKS	3,965,842	May 24, 2011	Class 35: Promoting the goods and services of others by providing a website featuring coupons, rebates, price-comparison information, product reviews, links to the retail websites of others, and discount information
GROUPON RESERVE	4,283,740	Jan. 29, 2013	Class 35: Promoting the goods and services of others via electronic communications that feature coupons, rebates, price-comparison information, product reviews, links to the retail websites of others, and discount information.

Mark	Reg. No.	Reg. Date	Goods/Services
GROUPONLIVE	4,068,591	Dec. 6, 2011	Class 35: Promoting the goods and services of others by providing a web site featuring coupons, rebates, price-comparison information, product reviews, links to the retail web sites of others, and discount information.
GROUPON GOODS	4,302,184	March 12, 2013	Class 35: Promoting the goods and services of others by providing a website featuring coupons, rebates, price-comparison information, product reviews, links to the retail websites of others, and discount information
GROUPON VIP	4,309,987	March 26, 2013	Class 35: administration of a customer loyalty program for enabling participants to obtain unique benefits and perks, namely, expanded access to offers and refunds, through use of a membership program

6. Copies of the federal registration certificates for the above-referenced registrations are attached as Exhibit 1. These federal registrations are valid, subsisting and in full force and effect. Groupon's federal registration certificates are *prima facie* evidence of the validity of these marks as well as Groupon's ownership and exclusive right to use these marks in connection with the identified services. 15 U.S.C. § 1057(b).

7. Groupon also uses, but has not registered, other GROUPON-formative marks for use in connection with services that are related to Groupon's Services in which Groupon owns common law rights. Groupon also owns common law rights in the marks listed above in Paragraph 5.

8. Groupon has invested considerable money, time and effort into the development of the GROUPON Marks. These marks have become assets of incalculable

value for Groupon as immediately recognizable and well-known indicators of source of the company's high quality services, or at least a single source for the services.

9. By reason of its extensive advertising, promotion and sale of Groupon's Services under the GROUPON Marks, Groupon has developed enormous goodwill in connection with the GROUPON Marks. Through this extensive advertising, promotion, sales, as well as widespread publicity, the GROUPON Marks have become famous under Section 43(c) of the Lanham Act, 15 U.S.C. 1125(c).

10. Groupon has priority in this dispute. After Groupon's first use of some of the GROUPON Marks, and after the PTO issued federal registrations for some of the Marks, Applicant filed an application to register the GROUPOLOGY Mark (the "Subject Application"). The Subject Application has an identification of services which reads as follows in Class 9:

"Computer software that provides web-based and mobile access to applications and services through web operating systems and portal interfaces to allow user groups to collect and exchange information, interact, and collaborate"

("Applicant's services")

**The GROUPOLOGY Mark Is Likely To Cause
Confusion With The GROUPON Marks**

11. At the time it filed the Subject Application, Applicant had constructive knowledge of Groupon's rights in some of the GROUPON Marks.

12. The GROUPOLOGY Mark is confusingly similar in sight, sound, and commercial impression to the GROUPON Marks. The registration of the GROUPOLOGY Mark in association with Applicant's services is likely to cause confusion as to the source or origin of Applicant's services, and is likely to mislead consumers, all to Groupon's damage.

13. The GROUPOLOGY Mark, as used in connection with Applicant's services is likely to cause confusion in the minds of the public, and is likely to deceive purchasers. The public, upon seeing the GROUPOLOGY Mark in connection with Applicant's services, would believe that such services originate with, or have some connection with Groupon. Accordingly, registration of the GROUPOLOGY Mark would seriously damage Groupon, and registration therefore should be refused pursuant to 15 U.S.C. §1052.

**The GROUPOLOGY Mark Is Likely To Dilute
The Distinctiveness Of The GROUPON Marks**

14. Registration of the GROUPOLOGY Mark, when used in connection with Applicant's services, is likely to cause dilution of the GROUPON Marks, by lessening the capacity of the GROUPON Marks to identify and distinguish Groupon's Services. The GROUPON Marks are famous, and were famous prior to the filing date of the Subject Application. Accordingly, registration of the GROUPOLOGY Mark should be refused based on a likelihood of dilution of the distinctive quality of Groupon's famous GROUPON Marks, pursuant to 15 U.S.C. §1125(c).

WHEREFORE, Groupon believes that it will be damaged by registration of the GROUPOLOGY Mark, which is the subject of United States Trademark Application Serial No. 86/106,469, and therefore respectfully requests that such registration be refused on the grounds that registration of the GROUPOLOGY Mark (1) will create a likelihood of confusion, and (2) is likely to dilute the famous GROUPON Marks.

Respectfully submitted,

GROUPON, INC.

Date: September 29, 2014

By: /Howard S. Michael/
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Attorneys for Opposer Groupon, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on September 29, 2014, I served a true and correct copy of the foregoing NOTICE OF OPPOSITION on Applicant by U.S. mail addressed as follows:

Thomas Carulli
Lifestreams Technologies Corporation
7 Orly CT
Princeton Junction, NJ 08550

/Howard S. Michael/

EXHIBIT 1

United States of America

United States Patent and Trademark Office

GROUPON

Reg. No. 3,685,954 THE POINT, INC. (DELAWARE CORPORATION)
Registered Sep. 22, 2009 600 WEST CHICAGO AVENUE
CHICAGO, IL 60654

Int. Cl.: 35 FOR: PROMOTING THE GOODS AND SERVICES OF OTHERS BY PROVIDING A WEBSITE
FEATURING COUPONS, REBATES, PRICE-COMPARISON INFORMATION, PRODUCT
REVIEWS, LINKS TO THE RETAIL WEBSITES OF OTHERS, AND DISCOUNT INFORMATION,
IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

SERVICE MARK
PRINCIPAL REGISTER

FIRST USE 10-21-2008; IN COMMERCE 10-21-2008.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NO. 3,513,882.

SER. NO. 77-687,604, FILED 3-10-2009.

JASON TURNER, EXAMINING ATTORNEY



David J. Kypos

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office



Reg. No. 4,222,645

Registered Oct. 9, 2012

Int. Cl.: 35

SERVICE MARK

PRINCIPAL REGISTER

GROUPON, INC. (DELAWARE CORPORATION)
600 WEST CHICAGO AVENUE
CHICAGO, IL 60654

FOR: PROMOTING THE GOODS AND SERVICES OF OTHERS BY PROVIDING A WEBSITE FEATURING COUPONS, REBATES, PRICE-COMPARISON INFORMATION, PRODUCT REVIEWS, LINKS TO THE RETAIL WEBSITES OF OTHERS, AND DISCOUNT INFORMATION, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 11-30-2008; IN COMMERCE 11-30-2008.

OWNER OF U.S. REG. NOS. 3,513,882 AND 3,685,954.

THE MARK CONSISTS OF THE WORD "GROUPON" INSIDE A TRAPEZIUM THAT IS SURROUNDED BY A BORDER.

SN 85-266,548, FILED 3-14-2011.

CHERYL CLAYTON, EXAMINING ATTORNEY



David J. Kyfos

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office

GROUPONICUS

Reg. No. 3,994,088

Registered July 12, 2011

Int. Cl.: 35

SERVICE MARK

PRINCIPAL REGISTER

GROUPON, INC. (DELAWARE CORPORATION)
600 WEST CHICAGO AVENUE
CHICAGO, IL 60654

FOR: PROMOTING THE GOODS AND SERVICES OF OTHERS BY PROVIDING A WEBSITE
FEATURING COUPONS, REBATES, PRICE-COMPARISON INFORMATION, PRODUCT
REVIEWS, LINKS TO THE RETAIL WEBSITES OF OTHERS, AND DISCOUNT INFORMATION,
IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 11-22-2010; IN COMMERCE 11-22-2010.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 3,513,882 AND 3,685,954.

SER. NO. 85-228,084, FILED 1-27-2011.

MARK SHINER, EXAMINING ATTORNEY



David J. Kyfos

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office

GROUPONWORKS

Reg. No. 3,965,842

Registered May 24, 2011

Int. Cl.: 35

SERVICE MARK

PRINCIPAL REGISTER

GROUPON, INC. (DELAWARE CORPORATION)
600 WEST CHICAGO AVENUE
CHICAGO, IL 60654

FOR: PROMOTING THE GOODS AND SERVICES OF OTHERS BY PROVIDING A WEBSITE FEATURING COUPONS, REBATES, PRICE-COMPARISON INFORMATION, PRODUCT REVIEWS, LINKS TO THE RETAIL WEBSITES OF OTHERS, AND DISCOUNT INFORMATION, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 6-8-2009; IN COMMERCE 6-8-2009.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 3,513,882 AND 3,685,954.

SER. NO. 85-136,402, FILED 9-23-2010.

GINA FINK, EXAMINING ATTORNEY



David J. Kyfos

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office

GROUPON RESERVE

Reg. No. 4,283,740

Registered Jan. 29, 2013

Int. Cl.: 35

SERVICE MARK

PRINCIPAL REGISTER

GROUPON, INC. (DELAWARE CORPORATION)
600 WEST CHICAGO AVENUE
CHICAGO, IL 60654

FOR: PROMOTING THE GOODS AND SERVICES OF OTHERS VIA ELECTRONIC COMMUNICATIONS THAT FEATURE COUPONS, REBATES, PRICE-COMPARISON INFORMATION, PRODUCT REVIEWS, LINKS TO THE RETAIL WEBSITES OF OTHERS, AND DISCOUNT INFORMATION, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 10-27-2011; IN COMMERCE 10-27-2011.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 3,513,882, 4,010,592, AND OTHERS.

SN 85-450,098, FILED 10-18-2011.

JULIE VEPPUMTHARA, EXAMINING ATTORNEY



David J. Kyfos

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office

GROUPONLIVE

Reg. No. 4,068,591

Registered Dec. 6, 2011

Int. Cl.: 35

SERVICE MARK

PRINCIPAL REGISTER

GROUPON, INC. (DELAWARE CORPORATION)
600 WEST CHICAGO AVENUE
CHICAGO, IL 60654

FOR: PROMOTING THE GOODS AND SERVICES OF OTHERS BY PROVIDING A WEB SITE FEATURING COUPONS, REBATES, PRICE-COMPARISON INFORMATION, PRODUCT REVIEWS, LINKS TO THE RETAIL WEB SITES OF OTHERS, AND DISCOUNT INFORMATION, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 5-9-2011; IN COMMERCE 5-9-2011.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 3,513,882 AND 3,685,954.

SN 85-222,076, FILED 1-20-2011.

MARK SHINER, EXAMINING ATTORNEY



David J. Kyfos

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office

GROUPON GOODS

Reg. No. 4,302,184

Registered Mar. 12, 2013

Int. Cl.: 35

SERVICE MARK

PRINCIPAL REGISTER

GROUPON, INC. (DELAWARE CORPORATION)
600 WEST CHICAGO AVENUE
CHICAGO, IL 60654

FOR: PROMOTING THE GOODS AND SERVICES OF OTHERS BY PROVIDING A WEBSITE FEATURING COUPONS, REBATES, PRICE-COMPARISON INFORMATION, PRODUCT REVIEWS, LINKS TO THE RETAIL WEBSITES OF OTHERS, AND DISCOUNT INFORMATION, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 9-28-2011; IN COMMERCE 9-28-2011.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 3,513,882, 3,685,954, AND 3,965,842.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "GOODS", APART FROM THE MARK AS SHOWN.

SN 85-409,592, FILED 8-29-2011.

CHERYL CLAYTON, EXAMINING ATTORNEY



Lea Street Lee

Acting Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office

GROUPON VIP

Reg. No. 4,309,987

Registered Mar. 26, 2013

Int. Cl.: 35

SERVICE MARK

PRINCIPAL REGISTER

GROUPON, INC. (DELAWARE CORPORATION)
600 WEST CHICAGO AVENUE
CHICAGO, IL 60654

FOR: ADMINISTRATION OF A CUSTOMER LOYALTY PROGRAM FOR ENABLING PARTICIPANTS TO OBTAIN UNIQUE BENEFITS AND PERKS, NAMELY, EXPANDED ACCESS TO OFFERS AND REFUNDS, THROUGH USE OF A MEMBERSHIP PROGRAM, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 2-13-2012; IN COMMERCE 2-13-2012.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 3,513,882, 4,010,592, AND OTHERS.

SN 85-470,495, FILED 11-11-2011.

JULIE VEPPUMTHARA, EXAMINING ATTORNEY



Lisa Street Lee

Acting Director of the United States Patent and Trademark Office