

ESTTA Tracking number: **ESTTA813374**

Filing date: **04/13/2017**

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	Society for Worldwide Interbank Financial Telecommunication SCRL
Granted to Date of previous extension	04/16/2017
Address	Avenue Adèle 1 1310 La Hulpe, BELGIUM

Attorney information	Bassam N Ibrahim Buchanan Ingersoll & Rooney 1737 King Street Alexandria, VA 22314 UNITED STATES bassam.ibrahim@bipc.com
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Applicant Information

Application No	87023736	Publication date	10/18/2016
Opposition Filing Date	04/13/2017	Opposition Period Ends	04/16/2017
International Registration No.	NONE	International Registration Date	NONE
Applicant	Apple Inc. 1 Infinite Loop Cupertino, CA 95014 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. First Use: 2014/06/02 First Use In Commerce: 2014/06/02 All goods and services in the class are opposed, namely: computer software for software development; educational software featuring instruction in computer programming


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 No.	4000509	Application Date	05/11/2010
Registration Date	07/26/2011	Foreign Priority Date	NONE
Word Mark	SWIFT		

Design Mark	SWIFT
Description of Mark	NONE
Goods/Services	<p>Class 009. First use: First Use: 0 First Use In Commerce: 0 Computer software for sending financial communications regarding processing of payments, securities, trade, and treasury transactions; computer software for encryption and identification for the processing of payments, securities, trade, and treasury transactions; computer software relating to customer relations for the processing of payments, securities, trade, and treasury transactions; software relating to the equalization, compensation and reporting of financial transactions; downloadable electronic publications in the nature of magazines, brochures, newsletters, directories, user handbooks relating to financial communication, guidelines and standards for the financial community</p> <p>Class 016. First use: First Use: 0 First Use In Commerce: 0 Printed instructional and teaching materials in the field of processing of payments, securities, trade, and treasury transactions; printed goods, namely, user handbooks featuring guidelines and standards for the financial community</p> <p>Class 035. First use: First Use: 0 First Use In Commerce: 0 Professional business consultancy, including that provided to financial institutions; business management assistance and business management consultancy, including those provided to financial institutions; organization of exhibitions and congresses for commercial or advertising purposes, for the financial community; maintaining and updating of computer databases</p> <p>Class 036. First use: First Use: 0 First Use In Commerce: 0 Electronic exchange and money market transactions, namely, payment transaction processing services and assisting others with the completion of treasury, securities, and derivatives trade transactions; financial information provided via a secure global electronic communication network, including information on exchange and money market transactions; providing financial information via a website; financial advisory services in the field of financial transactions with regard to modeling, improving, harmonizing, and recording the financial content of standardized electronic messages</p> <p>Class 038. First use: First Use: 0 First Use In Commerce: 0 Secure transmission of messages relating to financial transactions and consulting relating thereto; data transmission between financial institutions and companies by means of a secure global electronic communication network; providing user access to a secure global electronic communication network; electronic transfer of information relating to transactions with regard to payments, securities, commercial paper and cash; rental of access to a secure global electronic communication network reserved for the financial community</p> <p>Class 041. First use: First Use: 0 First Use In Commerce: 0 Training in the field of computer software, financial messaging standards and software installation and maintenance, all relating to financial communication; organization of exhibitions and congresses for educational purposes, for the financial community; publishing services for printed matter in the nature of magazines, brochures, newsletters, directories, user handbooks relating to financial communication, publication of user handbooks featuring standard financial messages, including the online publication thereof</p> <p>Class 042. First use: First Use: 0 First Use In Commerce: 0</p>

	<p>Installation, implementation, integration, design, and maintenance of computer software relating to financial communication and assistance services relating thereto, namely, troubleshooting of computer software problems; providing electronic data encryption services; Testing, analyzing, and evaluation of the applications, software installation and maintenance services, connections and consultations of others for the purpose of certification, all in the field of financial telecommunications; application service provider, namely, hosting of computer software applications and web sites of others</p>		
U.S. Registration No.	4000572	Application Date	05/11/2010
Registration Date	07/26/2011	Foreign Priority Date	11/16/2009
Word Mark	SWIFT		
Design Mark			
Description of Mark	<p>The mark consists of the stylized word "SWIFT" appearing in the center of a globe with meridian and parallel lines.</p>		
Goods/Services	<p>Class 009. First use: First Use: 0 First Use In Commerce: 0 software for encryption and identification for the processing of payments, securities, trade, and treasury transactions; computer software relating to customer relations for the processing of payments, securities, trade, and treasury transactions; software relating to the equalization, compensation and reporting of financial transactions; downloadable electronic publications in the nature of magazines, brochures, newsletters, directories, user handbooks relating to financial communication, guidelines and standards for the financial community</p> <p>Class 016. First use: First Use: 0 First Use In Commerce: 0 Printed instructional and teaching materials in the field of processing of payments, securities, trade, and treasury transactions; printed goods, namely, user handbooks featuring guidelines and standards for the financial community</p> <p>Class 035. First use: First Use: 0 First Use In Commerce: 0 Professional business consultancy, including that provided to financial institutions; business management assistance and business management consultancy, including that provided to financial institutions; organization of exhibitions for commercial or advertising purposes, for the financial community; main-</p>		

	<p>taining and updating of computer databases</p> <p>Class 036. First use: First Use: 0 First Use In Commerce: 0</p> <p>Electronic exchange and money market transactions, namely, payment transaction processing services and assisting others with the completion of treasury, securities, and derivatives trade transactions; financial information provided via a secure global electronic communication network, including information on exchange and money market transactions; providing financial information via a web site; financial advisory services in the field of financial transactions with regard to modeling, improving, harmonizing, and recording the financial content of standardized electronic messages</p> <p>Class 038. First use: First Use: 0 First Use In Commerce: 0</p> <p>Secure transmission of messages relating to financial transactions and consulting relating thereto; data transmission between financial institutions and companies by means of a secure global electronic communication network; providing user access to a secure global electronic communication network; electronic transfer of information relating to transactions involving payments, securities, commercial paper and cash flow; rental of access to a secure global electronic communication network reserved for the financial community</p> <p>Class 041. First use: First Use: 0 First Use In Commerce: 0</p> <p>Training in the field of computer software, financial messaging standards and software installation and maintenance, all relating to financial communication; organization of exhibitions and congresses for educational purposes, for the financial community; publishing services for printed matter in the nature of magazines, brochures, newsletters, directories, user handbooks relating to financial communication, publication of user handbooks featuring standard financial messages, including the online publication thereof</p> <p>Class 042. First use: First Use: 0 First Use In Commerce: 0</p> <p>Installation, implementation, integration, design, and maintenance of computer software relating to financial communication and assistance services relating thereto, namely, troubleshooting of computer software problems; providing electronic data encryption services; Testing, analyzing, and evaluation of the applications, software installation and maintenance services, connections and consultations of others for the purpose of certification, all in the field of financial telecommunications; application service provider, namely, hosting of computer software applications and web sites of others</p>
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U.S. Registration No.	2766162	Application Date	06/20/2001
Registration Date	09/23/2003	Foreign Priority Date	NONE
Word Mark	SWIFTNET		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 0 First Use In Commerce: 0		

	<p>[Apparatus for data processing, transmission and reproduction of data, comprised of computer terminals, computer peripherals, namely, coders and decoders, scramblers, screens and other computer peripherals for use in the financial service industry to facilitate reliable, accurate and secure processing, transmission, clearing, transfer and storage of financial information and data and instruction manuals sold herewith; magnetic optical and electronic data carriers containing prerecorded data, provided with computer programs or not; all for use in the financial service industry to facilitate reliable accurate and secure processing, transmission, clearing, transfer and storage of financial information and data;] computer programs for use in the financial service industry to facilitate reliable, accurate and secure processing, transmission, clearing, transfer and storage of financial information and data; downloadable manuals and manuals recorded on CD-ROMs and DVD in electronic form featuring computer operation and programming for use in the financial service industry to facilitate reliable accurate and secure processing, transmission, clearing, transfer and storage of financial information and data</p> <p>Class 016. First use: First Use: 0 First Use In Commerce: 0</p> <p>Printed computer program manuals, instruction books and manuals for computer operation and programming and other printed matter, namely books featuring information for the financial service industry regarding the accurate and secure processing, transmission, clearing, transfer and storage of financial information and data</p> <p>Class 035. First use: First Use: 0 First Use In Commerce: 0</p> <p>[Business consultation services rendered to financial institutions relating to financial statement preparation and business organization]</p> <p>Class 037. First use: First Use: 0 First Use In Commerce: 0</p> <p>Maintenance and repair of computer networks and computer hardware for use in the financial service industry to facilitate reliable accurate and secure processing, transmission, clearing, transfer and storage of financial information and data</p> <p>Class 038. First use: First Use: 0 First Use In Commerce: 0</p> <p>Providing telecommunication services, namely, local and long distance transmission of voice, data, and graphics by means of telephone, [telegraphic,] cable, and satellite transmission connections to financial institutions by means of a computer network; telecommunications consultation services</p> <p>Class 041. First use: First Use: 0 First Use In Commerce: 0</p> <p>Training of computer operators and organization of courses and seminars, the aforesaid relating to computers and peripheral equipment therefore, to be used in the financial telecommunication for use in the financial service industry to facilitate reliable accurate and secure processing, transmission, clearing, transfer and storage of financial information and data</p> <p>Class 042. First use: First Use: 0 First Use In Commerce: 0</p> <p>[Development of computers and peripheral equipment for computers and software for others to be used in a telecommunication network; computer system analysis and adaptation of individual computer systems to the network system; computer programming for others; software design for others; rental of computers and peripheral equipment for computers; computer consultation services in the field of telecommunication transmission of voice, data, graphics and telecommunication networks;] maintenance and repair of computer software [; non-downloadable manuals in electronic form featuring computer operation and programming for use in the financial service industry to facilitate reliable accurate and secure processing, transmission, clearing, transfer and storage of financial information and data]</p>
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Related Proceed-	91226484
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Attachments	79084372#TMSN.png(bytes) 79086215#TMSN.png(bytes) 76274211#TMSN.png(bytes) NOO - APPLE PLAYGROUNDS.pdf(492551 bytes)
Signature	/Bassam N. Ibrahim/
Name	Bassam N Ibrahim
Date	04/13/2017

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

RE: U.S. Trademark Application Serial No. 87/023,736
Published in the *Official Gazette* on October 18, 2016

Society for Worldwide Interbank	:	
Financial Telecommunication SCRL	:	
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Opposer,	:	
	:	Opposition No. _____
-v-	:	
	:	
Apple Inc.	:	
	:	
Applicant.	:	
_____	:	

NOTICE OF OPPOSITION

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

Commissioner:

In the matter of U.S. Trademark Application Serial No. 87/023,736, filed on May 3, 2016 by Apple Inc. (“Apple” or “Applicant”) to register the mark SWIFT PLAYGROUNDS (“Apple’s SWIFT PLAYGROUNDS Mark”) in connection with “computer software for software development; educational software featuring instruction in computer programming” in International Class 9 (“Apple’s Goods”), and published in the *Official Gazette* on October 18, 2016, Society for Worldwide Interbank Financial Telecommunication SCRL (“SWIFT” or “Opposer”) believes that it will be damaged by registration of Apple’s SWIFT PLAYGROUNDS Mark and hereby opposes same. The grounds for this opposition are as follows:

SWIFT'S SWIFT Marks

1. SWIFT is a Belgian Société Coopérative à Responsabilité Limitée located and doing business at Avenue Adèle1 B-1310, La Hulpe, Belgium. SWIFT is a cooperative society owned by its member institutions. SWIFT is based in Belgium and has offices in 26 countries, including the United States.

2. SWIFT is the world's leading provider of secure financial messaging services and related software products. SWIFT supplies messaging software and services to financial institutions around the world, allowing these institutions to communicate quickly, reliably, and securely.

3. SWIFT began operating in 15 countries in 1973 as a cooperative of banks seeking a more effective and secure way to communicate about cross-border payments. SWIFT introduced a new messaging platform, a computer system to validate and route messages, and a set of messaging standards, all under the name and mark SWIFT, that permitted the seamless, automated transmission and processing of financial communications between users in different countries. SWIFT's services quickly replaced the Telex technology that was then in widespread use, and became the industry standard for financial communications software and messaging services.

4. SWIFT's communications software and messaging services are used and trusted by more than 11,000 financial institutions in over 200 countries around the world. In 2015 alone, over 6.1 billion messages were sent by financial institutions around the world using SWIFT's secure messaging technology.

5. SWIFT provides a wide range of software and services to meet its customers' needs. SWIFT's software products provide messaging management, security, storage,

formatting, translation, archiving, and a wide range of other functions. SWIFT continually updates and refreshes its software platform and product portfolio.

6. In addition to its software and messaging services, SWIFT also provides a wide range of related goods and services, including but not limited to financial crime compliance services, business and macro-economic intelligence services, consulting services, professional training services, and technical support services.

7. SWIFT provides its goods and services to a wide range of customers throughout the United States and around the world, from small banks to mid-sized corporations to some of the world's largest financial and commercial institutions.

8. SWIFT is the owner of U.S. Registration No. 4,000,509 for the mark SWIFT in connection with a wide range of goods and services, including "computer software for sending financial communications regarding processing of payments, securities, trade, and treasury transactions; computer software for encryption and identification for the processing of payments, securities, trade, and treasury transactions; computer software relating to customer relations for the processing of payments, securities, trade, and treasury transactions; software relating to the equalization, compensation and reporting of financial transactions; downloadable electronic publications in the nature of magazines, brochures, newsletters, directories, user handbooks relating to financial communication, guidelines and standards for the financial community" in International Class 9; "Training in the field of computer software, financial messaging standards and software installation and maintenance, all relating to financial communication; organization of exhibitions and congresses for educational purposes, for the financial community; publishing services for printed matter in the nature of magazines, brochures, newsletters, directories, user handbooks relating to financial communication, publication of user handbooks featuring standard

financial messages, including the online publication thereof “ in International Class 41; and “Installation, implementation, integration, design, and maintenance of computer software relating to financial communication and assistance services relating thereto, namely, troubleshooting of computer software problems; providing electronic data encryption services; Testing, analyzing, and evaluation of the applications, software installation and maintenance services, connections and consultations of others for the purpose of certification, all in the field of financial telecommunications; application service provider, namely, hosting of computer software applications and web sites of others” in International Class 42.

9. SWIFT is the owner of U.S. Registration No. 4,000,572 for the mark SWIFT and Design in connection with a wide range of goods and services, including “software for encryption and identification for the processing of payments, securities, trade, and treasury transactions; computer software relating to customer relations for the processing of payments, securities, trade, and treasury transactions; software relating to the equalization, compensation and reporting of financial transactions; downloadable electronic publications in the nature of magazines, brochures, newsletters, directories, user handbooks relating to financial communication, guidelines and standards for the financial community” in International Class 9; “Training in the field of computer software, financial messaging standards and software installation and maintenance, all relating to financial communication; organization of exhibitions and congresses for educational purposes, for the financial community; publishing services for printed matter in the nature of magazines, brochures, newsletters, directories, user handbooks relating to financial communication, publication of user handbooks featuring standard financial messages, including the online publication thereof “ in International Class 41; and “Installation, implementation, integration, design, and maintenance of computer software relating to financial communication

and assistance services relating thereto, namely, troubleshooting of computer software problems; providing electronic data encryption services; Testing, analyzing, and evaluation of the applications, software installation and maintenance services, connections and consultations of others for the purpose of certification, all in the field of financial telecommunications; application service provider, namely, hosting of computer software applications and web sites of others” in International Class 42.

10. SWIFT is the owner of U.S. Registration No. 2,766,162 for the mark SWIFTNET in connection with a wide range of goods and services, including “computer programs for use in the financial service industry to facilitate reliable, accurate and secure processing, transmission, clearing, transfer and storage of financial information and data; downloadable manuals and manuals recorded on CD-ROMs and DVD in electronic form featuring computer operation and programming for use in the financial service industry to facilitate reliable accurate and secure processing, transmission, clearing, transfer and storage of financial information and data” in International Class 9; “Training of computer operators and organization of courses and seminars, the aforesaid relating to computers and peripheral equipment therefore, to be used in the financial telecommunication for use in the financial service industry to facilitate reliable accurate and secure processing, transmission, clearing, transfer and storage of financial information and data “ in International Class 41; and “maintenance and repair of computer software” in International Class 42.

11. SWIFT is the owner of U.S. Registration No. 4,354,789 for the mark SWIFT INSTITUTE in connection with a wide range of goods and services, including “downloadable electronic publications in the nature of journals, academic articles, white papers, opinion pieces, books, presentations, and magazines relating to transaction banking, innovation, regulation, and

other topics of general interest to the financial industry” in International Class 9; and
“Organization of seminars, working groups, research groups, and conventions in the field of transaction banking, innovation, regulation, and other topics of general interest to the financial industry; providing training in the field of transaction banking, innovation, regulation, and other topics of general interest to the financial industry; arranging and conducting academic and industry educational forums, lectures, seminars, and conferences in the field of transaction banking, innovation, regulation, and other topics of general interest to the financial industry; publishing services for printed matter in the nature of journals, academic articles, white papers, opinion pieces, books, presentations, and magazines, including the online publication thereof, relating to transaction banking, innovation, regulation, and other topics of general interest to the financial industry” in International Class 41.

12. The marks listed in Paragraphs 8-11 are hereinafter referred to collectively as “SWIFT’s SWIFT Marks” or “the SWIFT Marks.” The goods and services covered by these registrations are referred to as “SWIFT’s Goods and Services.”

13. The registrations identified above are valid, subsisting, and are evidence of SWIFT’s ownership of its SWIFT Marks and its exclusive right to use the SWIFT Marks in connection with the goods and services identified therein.

14. SWIFT has used its SWIFT Marks in connection with SWIFT’s Goods and Services in commerce in the United States continuously and without interruption since at least as early as 1974.

15. SWIFT’s SWIFT Marks are inherently distinctive. The term SWIFT has no meaning or connotation as used in connection with SWIFT’s Goods and Services other than to identify and distinguish SWIFT as the source of SWIFT’S Goods and Services.

16. SWIFT's SWIFT Marks also have an extremely high level of secondary meaning due to SWIFT's continuous use of the SWIFT Marks for over 40 years; the sales of the goods and services offered by SWIFT under the SWIFT Marks; SWIFT's efforts to advertise and promote the SWIFT Marks; the widespread recognition of SWIFT and the SWIFT Marks in the financial industry; the efforts of third parties to trade off of the goodwill associated with the SWIFT Marks; and other factors.

17. SWIFT enjoys an excellent reputation and high level of goodwill throughout the United States in connection with its SWIFT Marks.

18. SWIFT has consistently enforced its SWIFT marks against third parties who have sought to use marks consisting of or containing SWIFT, or marks confusingly similar to SWIFT, in connection with goods or services offered in the fields of banking and finance or to consumers in the fields of banking and finance.

Apple's SWIFT PLAYGROUNDS Mark

19. Apple is the owner of Application Serial No. 87/023,736 for Apple's SWIFT PLAYGROUNDS Mark in connection with Apple's Goods.

20. Apple filed Application Serial No. 87/023,736 for Apple's SWIFT PLAYGROUNDS Mark on May 3, 2016 based upon both alleged use in commerce and a foreign application (Jamaican Application No. 68573).

21. Apple alleges that it began using Apple's SWIFT PLAYGROUNDS Mark in commerce in connection with Apple's Goods on June 2, 2014.

22. Upon information and belief, Apple did not use Apple's SWIFT PLAYGROUNDS Mark in connection with Apple's Goods or any other goods or services prior to June 2, 2014, the date of first use alleged in Application Serial No. 87/023,736.

23. Upon information and belief, Apple did not use Apple's SWIFT PLAYGROUNDS Mark in connection with Apple's Goods or any other goods or services in interstate commerce in the United States prior to June 2, 2014, the date of first use in commerce alleged in Application Serial No. 87/023,736.

24. Apple is currently using Apple's SWIFT PLAYGROUNDS Mark in connection with a programming language for its iOS, OS X, watchOS, and tvOS platforms. This programming language is used to create computer and mobile applications, including but not limited to applications which perform the exact same functions as the software products offered by SWIFT under SWIFT's SWIFT Marks, such as messaging management, security, storage, formatting, translation, and archiving.

25. Apple was well aware of SWIFT and SWIFT's SWIFT Marks prior to filing Application Serial No. 87/023,736 for Apple's SWIFT PLAYGROUNDS Mark.

Priority

26. SWIFT's 1974 date of first use of its SWIFT Marks is well prior to the June 2, 2014 date of first use in commerce alleged by Apple in Serial No. 87/023,736 for Apple's SWIFT PLAYGROUNDS Mark.

27. The filing dates of Opposer's SWIFT Marks are all well prior to the June 2, 2014 date of first use in commerce alleged by Apple in Serial No. 87/023,736 for Apple's SWIFT PLAYGROUNDS Mark, as well as any use of Apple's SWIFT PLAYGROUNDS Mark .

28. Therefore, SWIFT's rights in its SWIFT Marks are superior to any rights that Apple may have in Apple's SWIFT PLAYGROUNDS Mark.

Likelihood of Confusion

29. Apple's SWIFT PLAYGROUNDS Mark is highly similar to SWIFT's SWIFT Marks in appearance, pronunciation, and commercial impression. The dominant term in Apple's SWIFT PLAYGROUNDS Mark is SWIFT, which is identical to the dominant term in SWIFT's SWIFT Marks.

30. Apple's Goods are virtually identical to SWIFT's Goods and Services.

31. Apple's Goods will be offered and promoted to the same classes of consumers as the consumers who currently purchase and use SWIFT's Goods and Services, through identical or virtually identical channels of trade.

32. Apple adopted Apple's SWIFT PLAYGROUNDS Mark with full knowledge of SWIFT's prior rights in SWIFT'S SWIFT Marks, and with the intent to trade off the goodwill associated with SWIFT's SWIFT Marks.

33. Apple's SWIFT PLAYGROUNDS Mark in Application Serial No. 87/023,736 so resembles SWIFT's SWIFT Marks, when applied to Apple's Goods, to cause confusion, to cause mistake, or to deceive, by creating the erroneous impression that Apple's Goods originate from or are associated with SWIFT, or that Apple's Goods are authorized, endorsed or sponsored by SWIFT.

34. Apple's filing of Application Serial No. 87/023,736 for Apple's SWIFT PLAYGROUNDS Mark was without license, authorization or permission from SWIFT.

35. The granting of a trademark registration to Apple for Apple's SWIFT PLAYGROUNDS Mark would violate and diminish the prior and superior rights of SWIFT in SWIFT's SWIFT Marks and would be in violation of 15 U.S.C. § 1052(d).

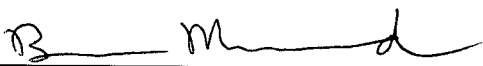
36. SWIFT will be damaged if Application Serial No. 87/023,736 is allowed to register because Apple will obtain statutory rights in Apple's SWIFT PLAYGROUNDS Mark in violation and derogation of the established prior rights of SWIFT in its SWIFT Marks.

WHEREFORE, SWIFT requests that its Opposition be sustained, that Application Serial No. 87/023,736 be rejected, that the registration of SWIFT PLAYGROUNDS as a trademark to Apple be refused, and for all such other relief as may be deemed just and proper.

Respectfully submitted,

SOCIETY FOR WORLDWIDE
INTERBANK FINANCIAL
TELECOMMUNICATION SCRL

Date: April 13, 2017

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