

ESTTA Tracking number: **ESTTA1104454**

Filing date: **12/28/2020**

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	ZERODENSITY YAZILIM ANONIM SIRKETI
Granted to Date of previous extension	12/27/2020
Address	ZAFER SB MAH. NILUFER SK. NO:29/11 EGE SERBEST BÂ#LGESI SIT., ESBAS B BLOK IZMIR, 0 TURKEY
Attorney information	JEFFREY H. GREGER HAUPTMAN HAM, LLP 2318 MILL RD. SUITE 1400 ALEXANDRIA, VA 22314 UNITED STATES Primary Email: jhgreger@ipfirm.com Secondary Email(s): jhggroup@ipfirm.com No phone number provided.
Docket Number	6452-OP522

**Applicant Information**

Application No.	88852639	Publication date	06/30/2020
Opposition Filing Date	12/28/2020	Opposition Period Ends	12/27/2020
International Registration No.	NONE	International Registration Date	NONE
Applicant	Apple Inc. ONE APPLE PARK WAY CUPERTINO, CA 95014 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 009. First Use: 2020/01/13 First Use In Commerce: 2020/01/13

All goods and services in the class are opposed, namely: Downloadable computer software used in developing other software applications; downloadable application development software; downloadable computer software used in editing, customizing, and producing three-dimensional effects

**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act Section 2(d)
--------------------------------------	----------------------------

The mark is merely descriptive	Trademark Act Section 2(e)(1)
--------------------------------	-------------------------------

## Marks Cited by Opposer as Basis for Opposition

U.S. Application No.	79269543	Application Date	05/23/2019
Registration Date	NONE	Foreign Priority Date	04/30/2019
Word Mark	REALITY ENGINE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 0 First Use In Commerce: 0</p> <p>Measurement apparatus and equipment including those for scientific, nautical, topographic, meteorologic, industrial and laboratory purposes, thermometers, not for medical purposes, barometers, ammeters, voltmeters, hygrometers, testing apparatus not for medical purposes, telescopes, periscopes, directional compasses, speed indicators, laboratory apparatus, microscopes, magnifying glasses, stills, binoculars, ovens and furnaces for laboratory experiments; apparatus for recording, transmission or reproduction of sound or images, cameras, photographic cameras, television apparatus, video recorders, CD and DVD players and recorders, MP3 players, computers, desktop computers, tablet computers, wearable technological devices, namely, smart watches, smart wristbands, head-mounted cameras; microphones, loudspeakers, earphones, telecommunications apparatus, apparatus for the reproduction of sound or images, computer peripheral devices, cell phones, covers for cell phones, telephone apparatus, computer printers, scanners [data processing equipment], photocopiers; magnetic and optic data carriers and computer software and programmes recorded thereto, downloadable and recordable electronic publications, encoded magnetic and optic cards, movies, tv series and video music clips recorded on magnetic, optical and electronic media; antennas, satellite antennas, amplifiers for antennas, parts of the aforementioned goods; ticket dispensers, automatic teller machines (ATM); electronic components used in the electronic parts of machines and apparatus, semi-conductors, electronic circuits, integrated circuits, chips [integrated circuits], diodes, transistors [electronic], magnetic heads for electronic apparatus, electronic locks, photocells, remote control apparatus for opening and closing doors, optical sensors; counters and quantity indicators for measuring the quantity of consumption, automatic time switches; clothing for protection against accidents, irradiation and fire, safety vests and life-saving apparatus and equipment; eyeglasses, sunglasses, optical lenses and cases, containers, parts and components thereof; apparatus and instruments for conducting, transforming, accumulating or controlling electricity, electric plugs, junction boxes [electricity], electric switches, circuit breakers, fuses, lighting ballasts, battery starter cables, electrical circuit boards, electric resistances, electric sockets, transformers [electricity], electrical adapters, battery chargers, electric door bells, electric and electronic cables, batteries, electric accumulators, solar panels for production of electricity; alarms and anti-theft alarms, other than for vehicles, electric bells; signalling apparatus and instruments, luminous or mechanical signs for traffic use; fire extinguishing apparatus, fire engines, fire hose and fire hose nozzles; radar apparatus, sonars, night vision apparatus and instruments; decorative magnets; metronomes</p>		

U.S. Application No.	79254744	Application Date	09/24/2018
Registration Date	NONE	Foreign Priority Date	06/25/2018
Word Mark	REALITY ENGINE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 042. First use: First Use: 0 First Use In Commerce: 0 Scientific and industrial analysis and research services in the fields of visual design, architectural design, engineering; engineering; engineering and architectural design services; testing, analysis, and evaluation services of the goods and services of others for the certification of quality and standards in the field of engineering, architectural design, software design, computer programming; computer services, namely, computer programming, computer virus protection services, computer system design, creating, maintaining and updating websites for others, computer software design, updating and rental of computer software, providing search engines for the internet, hosting websites, consultancy in the design and development, implementation and use of computer hardware, rental of computer hardware; industrial design services, namely, computer computer network design for others, computer website design, computer system design and architectural design; graphic arts designing

U.S. Application No.	90061527	Application Date	07/20/2020
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	REALITY ENGINE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2016/12/31 First Use In Commerce: 2016/12/31 Audio-visual television studio and broadcast production computer systems		

U.S. Application No.	90061530	Application Date	07/20/2020
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	REALITY ENGINE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 038. First use: First Use: 2016/12/31 First Use In Commerce: 2016/12/31 Television broadcasting services; Rental and leasing of equipment for broadcasting; Television broadcasting consultation Class 042. First use: First Use: 2016/12/31 First Use In Commerce: 2016/12/31 Design of Audio-visual television studio and broadcast production computer systems; development of computer platforms; Computer software engineering and architectural design; computer programming services; computer system design, rental and leasing of Audio-visual television studio and broadcast production computer systems; consultancy in the design and development, implementation and use of Audio-visual television studio and broadcast production computer systems; And maintenance and support for computer Audio-visual television studio and broadcast production computer systems		

U.S. Application No.	79283033	Application Date	10/15/2019
Registration Date	NONE	Foreign Priority	06/14/2019

		Date	
Word Mark	REALITY CONTROL		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 0 First Use In Commerce: 0</p> <p>Measurement apparatus and equipment including those for scientific, nautical, topographic, meteorologic, industrial and laboratory purposes, thermometers, not for medical purposes, barometers, ammeters, voltmeters, hygrometers, testing apparatus not for medical purposes, telescopes, periscopes, directional compasses, speed indicators, laboratory apparatus, microscopes, magnifying glasses, stills, binoculars, ovens and furnaces for laboratory experiments; apparatus for recording, transmission or reproduction of sound or images, cameras, photographic cameras, television apparatus, video recorders, CD and DVD players and recorders, MP3 players, computers, desktop computers, tablet computers, wearable technological devices, namely, smart watches, smart wristbands, head-mounted cameras, microphones, loudspeakers, earphones, telecommunications apparatus, apparatus for the reproduction of sound or images, computer peripheral devices, cell phones, covers for cell phones, telephone apparatus, computer printers, scanners [data processing equipment], photocopiers; magnetic and optic data carriers and computer software and programmes recorded thereto, downloadable electronic publications and electronic publications recorded on computer media, encoded magnetic and optic cards, movies, tv series and video music clips recorded on magnetic, optical and electronic media; antennas, satellite antennas, amplifiers for antennas, parts of the aforementioned goods; ticket dispensers, automatic teller machines (ATM); electronic components used in the electronic parts of machines and apparatus, semiconductors, electronic circuits, integrated circuits, chips [integrated circuits], diodes, transistors [electronic], magnetic heads for electronic apparatus, electronic locks, photocells, remote control apparatus for opening and closing doors, optical sensors; counters and quantity indicators for measuring the quantity of consumption, automatic time switches; clothing for protection against accidents, irradiation and fire, safety vests and life-saving apparatus and equipment; eyeglasses, sunglasses, optical lenses and cases, containers, parts and components thereof; apparatus and instruments for conducting, transforming, accumulating or controlling electricity, electric plugs, junction boxes [electricity], electric switches, circuit breakers, fuses, lighting ballasts, battery starter cables, electrical circuit boards, electric resistances, electric sockets, transformers [electricity], electrical adapters, battery chargers, electric door bells, electric and electronic cables, batteries, electric accumulators, solar panels for production of electricity; alarms and anti-theft alarms, other than for vehicles, electric bells; signalling apparatus and instruments, luminous or mechanical signs for traffic use; fire extinguishing apparatus, fire engines, fire hose and fire hose nozzles; radar apparatus, sonars, night vision apparatus and instruments; decorative magnets; metroscopes</p> <p>Class 042. First use: First Use: 0 First Use In Commerce: 0</p> <p>Scientific and industrial analysis and research services; engineering; engineering and architectural design services; testing services for the certification of quality and standards, computer services, namely, computer programming, computer virus protection services, computer system design, creating, maintaining and updating websites for others, computer software design, updating and rental of computer software, providing search engines for the Internet, hosting websites, consultancy in the design and development of computer hardware, rental of computer hardware, industrial design services, other than engineering, computer and architectural design; graphic arts designing, authenticating works of art</p>		

Attachments	REALITY CONVERTER Opposition.pdf(161800 bytes )
-------------	---

Signature	/jhg/
Name	JEFFREY H. GREGER
Date	12/28/2020

Opposition

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

In the matter of U.S. Application Serial No. 88/852,639

Mark: **REALITY CONVERTER**

Publication Date: June 30, 2020

ZERODENSITY YAZILIM ANONIM SIRKETI	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No.: _____
	)	
Apple Inc.	)	
	)	
Applicant	)	
	)	

**NOTICE OF OPPOSITION**

COMES NOW Zerodensity Yazilim Anonim Sirketi (Opposer), a company formed under the laws of Turkey, with a principal place of business located at Zafer SB Mah. Nilufer Sk. No:29/11, Ege Serbest Bölgesi Sit., Esbas B Blok TURKEY, believing that it will be damaged by registration of the mark in U.S. Application Serial No. 88/852,639 ("the '639 application), and hereby opposes same on the following grounds.

## Opposition

### Facts Common to All Counts

1. Opposer is the owner of common law trademark rights in the mark REALITY ENGINE based on use of the mark in the United States in connection with software which is used in the media and entertainment industry to composite 3-D (*three-dimensional*) graphics and video elements while applying effects to images.

2. Opposer has been using its Reality Engine brand in the United States since 2016.

3. Opposer is the owner of four pending U.S. trademark applications for the mark REALITY ENGINE.

4. Opposer is the owner of U.S. Trademark Application No. 79/269,543 for REALITY ENGINE. Opposer's '543 application was filed with a claim of priority date as of April 30, 2019, under the Madrid Protocol. The '543 Application includes coverage for goods which are used in connection with 3-D (*three-dimensional*) software, including:

**Class 009:** *apparatus for recording, transmission or reproduction of sound or images, cameras, photographic cameras, television apparatus, computers, telecommunications apparatus, apparatus for the reproduction of sound or images, and computer software and programmes recorded thereto*

5. Opposer is the owner of U.S. Trademark Application No. 79/254,744 for REALITY ENGINE. Opposer's '744 application was filed with a claim of priority date as of June 25, 2018, under the Madrid Protocol. The '744 Application includes coverage for services which are used in connection with 3-D (*three-dimensional*) computer programming, computer software design and graphic arts design.

6. Opposer is the owner of U.S. Trademark Application No. 90/061,527 for REALITY ENGINE. The '527 Application includes coverage for *Audio-visual television studio and*

## Opposition

*broadcast production computer systems* which are used in connection with 3-D (*three-dimensional*) graphics compositor.

7. Opposer is the owner of U.S. Trademark Application No. 90/061,530 for the mark REALITY ENGINE. The '530 Application includes coverage for Opposer's services in connection with television broadcasting services and computer software systems which use 3-D (*three-dimensional*) graphics software in connection with provision of television broadcasting services.

8. Opposer is the owner of U.S. Trademark Application No. 79/283,033 – REALITY CONTROL. Opposer's '033 application was filed with a claim of priority date as of June 14, 2019, under the Madrid Protocol The '033 Application includes coverage for computer software and computer software design and graphic arts designing services.

9. In addition to Opposer's common law rights and pending federal applications, for the mark REALITY ENGINE Opposer uses a family of REALITY-formative marks in connection with provision of 3-D (*three-dimensional*) graphics compositor used in the media and entertainment industry.

10. Opposer uses the marks REALITY KEYER, REALITY CONTROL, and REALITY HUB in connection with its REALITY ENGINE brand and all are used in connection with 3-D (*three-dimensional*) graphics compositor used in the media and entertainment industry.

11. Applicant Apple Inc. filed U.S. serial no. 88/852,639 on March 30, 2020, and filed based on an alleged first use date of January 13, 2020. The 'The '639 application covers the mark REALITY CONVERTER and seeks coverage for:

**Class 009:** *Downloadable computer software used in developing other software applications; downloadable application development software; downloadable*



## Opposition

*computer software used in editing, customizing, and producing three-dimensional effects*

12. The Applicant's '639 application was filed claiming priority benefit of an October 2, 2019 filing date under the Madrid Protocol. Opposer's '543 and '744 REALITY ENGINE applications were filed with earlier priority dates of April 30, 2019 and June 25, 2018, respectively.

### **COUNT I – LIKELIHOOD OF CONFUSION – 15 U.S.C. §1052(d)**

13. All prior allegations are repeated and incorporated herein by reference.

14. Opposer has priority over the Applicant's '639 application's asserted use rights and asserted claimed rights based on foreign priority in view of Opposer's earlier common law use rights of the mark REALITY ENGINE, and in view of Opposer's pending federal applications for the marks REALITY ENGINE and REALITY CONTROL.

15. Applicant was aware of Opposer's uses of REALTY ENGINE prior to adopting and filing the '639 application.

16. On information and belief Applicant's REALITY CONVERTER software product is used by computer graphics programmers and computer graphics designers.

17. The description of goods in the '639 application has no limitation as to field of use or type of consumer.

18. Opposer's REALITY ENGINE software and REALITY-formative marks are sold to and used by consumers who work with computer file conversion software and consumers who use software in connection with computer graphics programing and computer graphics designing.

## Opposition

19. On information and belief consumers are likely to be confused that the goods offered in connection with Applicant's REALITY CONVERTER mark are authorized, sponsored, licensed, or otherwise affiliated with the Opposer, but no such authorization or affiliation exists.

20. If the '639 application is permitted to mature to registration, the existence of the registration on the Principal Register of the USPTO will provide the Applicant with *prima facie* evidence of the exclusive rights to use the mark "REALITY CONVERTER" in connection with goods listed in the '639 application, and such use will cause consumer confusion and harm the good will established with respect to Opposer's REALITY ENGINE, brand and Opposer's REALITY- formative family of marks.

### **COUNT II – DESCRIPTIVENESS – 15 U.S.C. §1052(e)(1)**

21. All prior allegations are incorporated herein by reference.

22. In the computer software industry, a software/system which is used to convert the formatting of audio and visual files is called converting software or a software converter.

23. Software converters are used to change data file formats so different computer systems and computer programs can communicate and/or use data and information from different component systems within a larger complex system even though the computer file formats may be different.

24. Industry stakeholders including the Opposer use and refer to a software converter in a descriptive manner when referring computer software tools.

25. The terms converter is a term of art in the computer software industry.

## Opposition

26. On information and belief the term “converter” is descriptive when used in connection with the description of goods in the ‘639 application, namely, *downloadable computer software used in developing other software applications; downloadable application development software; downloadable computer software used in editing, customizing, and producing three-dimensional effects.*

27. On information and belief that granting a registration and the exclusive rights accorded thereto to the Applicant could prevent Opposer from using the term converter in connection with software in general and software for use in the field 3D computer graphics and computer animation software, and therefore to the detriment of the Opposer.

Wherefore, Opposer believes that it will be damaged by a registration for the mark as appears in the ‘639 application and therefore prays that this Opposition be sustained in favor of the Opposer; that judgment be entered against the Applicant; and that the U.S Trademark Application Serial No. 88/852,639 be refused.

Opposer submits the applicable filing fee of \$400 with this Notice of Opposition.

Respectfully submitted,  
**HAUPTMAN HAM, LLP**



Jeffrey H. Greger,  
Attorney for Applicant.

2318 Mill Rd Suite 1400  
Alexandria, Virginia 22314  
Tel: (703) 684-1111  
Fax: (703) 518-5499