

ESTTA Tracking number: **ESTTA1171472**

Filing date: **11/10/2021**

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	Shift Technologies, Inc.
Granted to Date of previous extension	11/14/2021
Address	2525 16TH ST. SAN FRANCISCO, CA 94103 UNITED STATES
Attorney information	HONEAH SOHAIL MANGIONE ELLENOFF GROSSMAN, AND SCHOLE LLP 1345 AVENUE OF THE AMERICAS 11TH FLOOR NEW YORK CITY, NY 10105 UNITED STATES Primary Email: hmangione@egsllp.com Secondary Email(s): hmangione@egsllp.com, asingh@egsllp.com, trademark@egsllp.com 6468957232
Docket Number	16727.010

Applicant Information

Application No.	87943627	Publication date	05/18/2021
Opposition Filing Date	11/10/2021	Opposition Period Ends	11/14/2021
International Registration No.	NONE	International Registration Date	NONE
Applicant	Shift Commerce Limited OLD LINEN COURT 83-85 SHAMBLES STREET, BARNSELY SOUTH YORKSHIRE, S702SB UNITED KINGDOM		

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: Software for internet platforms for electronic commerce; database software for accessing and uploading data and content; software for database management; software for accessing, searching and updating of databases; data processing software; computer software being an ecommerce platform that allows users to perform electronic business transactions via a global computer network; software for the analysis and processing of real-time transactional data; software for the creation, management, upkeep and access of databases; software for marketing, tracking sales performance, managing sales and marketing processes; soft-

ware for providing commercial, consumer and marketing information; marketing software; software for use in data analysis, compilation, computation and processing of marketing analytics, content management, SEO and CRM; none of the aforesaid for computer software being for the management, transmission, storage and sharing of computer game programs and electronically stored computer game information across computer networks and further none of the aforesaid software being for the purpose of providing interactive entertainment software in the gaming industry, computer game software, electronic game software, and virtual reality game software

Class 035. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Advertising services; marketing services; advertising and promotional services; marketing and promotional services relating to third party search engines and portals; marketing and promotional services to facilitate the presentation of goods and services on e-commerce platforms; marketing and promotional services using Application Program Interfaces (API) permitting one marketing strategy to interact with third party search engines and portals; data collection services; computer data entry services; Business data analysis, compilation of business directories, compilation of information into computer databases, and data processing services relating to marketing; business data analysis, compilation of statistics, and data processing services, business data analysis, compilation of business price and statistical information, business management and processing services of marketing budgets and allocation benchmarking; business analysis of marketing programmes; business data analysis, compilation of business data, business management and data processing services and customer lifetime analysis; business data analysis, compilation of business directories, and data processing services for product performance, range and pricing; online assortment optimization, namely, search engine optimization for online sales promotion; business analysis, compilation of business data, and data processing services of geographical information and data; business analysis, compilation of business data, and data processing services of consumer and commercial information and data; provision of marketing reports; business analysis, compilation of business data, and data processing services of statistical data; none of the aforesaid for data analysis, compilation, computation, management and processing services being for the purpose of providing interactive entertainment software in the gaming industry, computer game software, electronic game software, and virtual reality game software

Class 042. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Creation, development and design of computer programs and computer software for the presentation of goods and services on an e-commerce platform; creation, development and design of computer programs and computer software for interaction with third party search engines and portals; creation, development and design of computer programs and computer software for interaction with third party search engines and portals to present goods and services, supplied by third parties on e-commerce platforms; creation, development and design of computer programs and computer software including marketing software which enables the bidding for and management of advertisements and the like; creation, development and design of computer programs and computer software for placement of advertisements; creation, development and design of computer programs and computer software being marketing software; creation, development and design of computer programs and computer software for data collection, data entry, data analysis, data compilation, data computation, data management and processing; creation, development and design of computer programs and computer software for data analysis, compilation, computation and processing services relating to marketing; creation, development and design of computer programs and computer software for an e-commerce platform; creation, development and design of computer programs and computer software for data searching, customer experience audits, analytics and benchmarking, and, customer journey mapping; creation, development and design of computer programs and computer software for real-time and rapid evaluation of transactional data; creation, development and design of computer programs and computer software for providing temporary use of non-downloadable programs enabling commercial transactions; software engineering services; data searching services namely data mining services; electronic data storage; none of the aforesaid being software as a service (SAAS) services for the management, transmission, storage and sharing of computer game programs and electronically stored computer game information across computer networks and further none of the aforesaid for the purpose of providing interactive entertainment software in the gaming industry, computer game software, electronic game software, and virtual reality game software

Applicant Information

Application No.	87943650	Publication date	05/18/2021
Opposition Filing Date	11/10/2021	Opposition Period Ends	
International Registration No.	NONE	International Registration Date	NONE
Applicant	Shift Commerce Limited OLD LINEN COURT 83-85 SHAMBLES STREET, BARNSELY SOUTH YORKSHIRE, S702SB UNITED KINGDOM		

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: Software for internet platforms for electronic commerce; database software for accessing and uploading data and content; software for database management; software for accessing, searching and updating of databases; data processing software; computer software being an ecommerce platform that allows users to perform electronic business transactions via a global computer network; software for the analysis and processing of real-time transactional data; software for the creation, management, upkeep and access of databases; software for marketing, tracking sales performance, managing sales and marketing processes; software for providing commercial, consumer and marketing information; marketing software; software for use in data analysis, compilation, computation and processing of marketing analytics, content management, SEO and CRM; none of the aforesaid for computer software being for the management, transmission, storage and sharing of computer game programs and electronically stored computer game information across computer networks and further none of the aforesaid software being for the purpose of providing interactive entertainment software in the gaming industry, computer game software, electronic game software, and virtual reality game software

Class 035. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Advertising services; marketing services; advertising and promotional services; marketing and promotional services relating to third party search engines and portals; marketing and promotional services to facilitate the presentation of goods and services on e-commerce platforms; marketing and promotional services using Application Program Interfaces (API) permitting one marketing strategy to interact with third party search engines and portals; data collection services; computer data entry services; Business data analysis, compilation of business directories, compilation of information into computer databases, and data processing services relating to marketing; business data analysis, compilation of statistics, and data processing services, business data analysis, compilation of business price and statistical information, business management and processing services of marketing budgets and allocation benchmarking; business analysis of marketing programmes; business data analysis, compilation of business data, business management and data processing services and customer lifetime analysis; business data analysis, compilation of business directories, and data processing services for product performance, range and pricing; online assortment optimization, namely, search engine optimization for online sales promotion; business analysis, compilation of business data, and data processing services of geographical information and data; business analysis, compilation of business data, and data processing services of consumer and commercial information and data; provision of marketing reports; business analysis, compilation of business data, and data processing services of statistical data; none of the aforesaid for data analysis, compilation, computation, management and processing services being for the purpose of providing interactive entertainment software in the gaming industry, computer game software, electronic game software, and virtual reality game software

Class 042. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Creation, development and design of computer programs and computer software for the presentation of goods and services on an e-commerce platform; creation, development and design of computer programs and computer software for interaction with third party search engines and portals; creation, development and design of computer programs and computer software for interaction with third party search engines and portals to present goods and services, supplied by third parties on e-commerce platforms; creation, development and design of computer programs and computer software including marketing software which enables the

bidding for and management of advertisements and the like; creation, development and design of computer programs and computer software for placement of advertisements; creation, development and design of computer programs and computer software being marketing software; creation, development and design of computer programs and computer software for data collection, data entry, data analysis, data compilation, data computation, data management and processing; creation, development and design of computer programs and computer software for data analysis, compilation, computation and processing services relating to marketing; creation, development and design of computer programs and computer software for an ecommerce platform; creation, development and design of computer programs and computer software for data searching, customer experience audits, analytics and benchmarking, and, customer journey mapping; creation, development and design of computer programs and computer software for real-time and rapid evaluation of transactional data; creation, development and design of computer programs and computer software for providing temporary use of non-downloadable programs enabling commercial transactions; software engineering services; data searching services namely data mining services; electronic data storage; none of the aforesaid being software as a service (SAAS) services for the management, transmission, storage and sharing of computer game programs and electronically stored computer game information across computer networks and further none of the aforesaid for the purpose of providing interactive entertainment software in the gaming industry, computer game software, electronic game software, and virtual reality game software

Applicant Information

Application No.	87943665	Publication date	05/18/2021
Opposition Filing Date	11/10/2021	Opposition Period Ends	
International Registration No.	NONE	International Registration Date	NONE
Applicant	Shift Commerce Limited OLD LINEN COURT 83-85 SHAMBLES STREET, BARNSELY SOUTH YORKSHIRE, S702SB UNITED KINGDOM		

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: Software for internet platforms for electronic commerce; computer software for internet platforms for electronic commerce; application software for internet platforms for electronic commerce; software for accessing and sharing data and content; interactive software for internet platforms for electronic commerce for use with third party search engines and portals; interactive software for use with third party search engines and portals to present goods and services, supplied by third parties on e-commerce platforms; interactive software for use with third party search engines and portals to present goods and services, supplied by third parties on e-commerce platforms including marketing software which bids for, and manages, the costs and placement of advertisements and the like; interactive software for use with third party search engines and portals to present goods and services supplied by third parties on e-commerce platforms including the management and operation of such interactions, including costs, placement of advertisements, uploading content, whether of information, data and/or images; marketing software for the management and operation of such marketing interactions onto and/or into third party environments; computer software which facilitates goods and services to be populated onto and/or into third party market places; Application Program Interface (API) software for permitting one software program to interact with another software program or API; Application Program Interface (API) software for permitting one software program to interact with another software program or API for the placement of advertisements on third party search engines and portals to present goods and services; software for database management; software for accessing, searching and updating of databases; data processing software; computer software being an ecommerce platform that allows users to perform electronic business transactions via a global computer network; software for the analysis and processing of real-time transactional data; software for the creation, management, upkeep and access of databases; software for relating to marketing, tracking sales performance, managing sales

and marketing processes; software relating to for providing commercial, consumer and marketing information; marketing software; software for use in data analysis, compilation, computation and processing of marketing analytics, content management, SEO and CRM; downloadable electronic publications in the nature of a magazine or journal in the field of computers and computer software; downloadable audio-visual recordingsfeaturing information in field of computers and computer software; downloadable audio files featuring information in field of computers and computer software; downloadable image files featuring information in field of computers and computer software; none of the aforesaid for computer software being for the management, transmission, storage, and sharing of computer game programs and electronically stored computer game information across computer networks and further none of the aforesaid software being for the purpose of providing interactive entertainment software in the gaming industry, computer game software, electronic game software, and virtual reality game software

Class 035. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Advertising services; marketing services; advertising and promotional services;marketing and promotional services relating to third party search engines and portals; marketing and promotional services to facilitate the presentation of goods and services on e-commerce platforms;marketing and promotional services using Application Program Interfaces (API) permitting one marketing strategy to interact with third party search engines and portals; data collection services; computer data entry services; Business data analysis, compilation of business directories, compilation of information into computer databases, and data processing services relating to marketing; business data analysis, compilation of statistics, and data processing services, all of the foregoing relating to marketing information including for customer experience audits, analytics, benchmarking, and, customer journey mapping; business data analysis, compilation of business price and statistical information, business management and processing services of marketing budgets and allocation benchmarking; business analysis of marketing programmes; business data analysis, compilation of business data, business management and data processing services and customer lifetime analysis; business data analysis, compilation of business directories, and data processing services for product performance, range and pricing; online assortment optimization namely search engine optimization for online sales promotion; business analysis, compilation of business data, and data processing services of geographical information and data; business analysis, compilation of business data, and data processing services of consumer and commercial information and data; provision of marketing reports; business analysis, compilation of business data, and data processing services of statistical data; none of the aforesaid for data analysis, compilation, computation, management and processing services being for the purpose of providing interactive entertainment software in the gaming industry, computer game software, electronic game software and virtual reality game software

Class 042. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Creation, development and design of computer programs and computer software for business research services; creation, development and design of computer programs and computer software for the presentation of goods and services on an e-commerce platform; creation, development and design of computer programs and computer software for interaction with third party search engines and portals; creation, development and design of computer programs and computer software for interaction with third party search engines and portals to present goods and services, supplied by third parties on e-commerce platforms; creation, development and design of computer programs and computer software including marketing software which enables the bidding for and management of advertisements and the like; creation, development and design of computer programs and computer software for placement of advertisements; creation, development and design of computer programs and computer software being marketing software; creation, development and design of computer programs and computer software for data collection, data entry, data analysis, data compilation, data computation, data management and processing; creation, development and design of computer programs and computer software for data analysis, compilation, computation and processing services relating to marketing; creation, development and design of computer programs and computer software for an ecommerce platform; creation, development and design of computer programs and computer software for data searching, customer experience audits, analytics and benchmarking, and, customer journey mapping; creation, development and design of computer programs and computer software for real-time and rapid evaluation of transactional data; creation, development and design of computer programs and computer software for providing temporary use of non-downloadable programs enabling commercial transactions; software engineering services; data searching services namely data mining services; electronic data storage;

none of the aforesaid being software as a service (SAAS) services for the management, transmission, storage and sharing of computer game programs and electronically stored computer game information across computer networks and further none of the aforesaid for the purpose of providing interactive entertainment software in the gaming industry, computer game software, electronic game software, and virtual reality game software

Applicant Information

Application No.	87956220	Publication date	05/18/2021
Opposition Filing Date	11/10/2021	Opposition Period Ends	
International Registration No.	NONE	International Registration Date	NONE
Applicant	Shift Commerce Limited OLD LINEN COURT 83-85 SHAMBLES STREET, BARNSELEY SOUTH YORKSHIRE, S702SB UNITED KINGDOM		

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: Software for internet platforms for electronic commerce; computer software for internet platforms for electronic commerce; application software for internet platforms for electronic commerce; software for accessing and sharing data and content; interactive software for internet platforms for electronic commerce for use with third party search engines and portals; interactive software for use with third party search engines and portals to present goods and services, supplied by third parties on e-commerce platforms; interactive software for use with third party search engines and portals to present goods and services, supplied by third parties on e-commerce platforms including marketing software which bids for, and manages, the costs and placement of advertisements and the like; interactive software for use with third party search engines and portals to present goods and services supplied by third parties on e-commerce platforms including the management and operation of such interactions, including costs, placement of advertisements, uploading content, whether of information, data and/or images; marketing software for the management and operation of such marketing interactions onto and/or into third party environments; computer software which facilitates goods and services to be populated onto and/or into third party market places; Application Program Interface Interfaces (API) software for permitting one software program to interact with another software program or API; Application Program Interface (API) software for permitting one software program to interact with another software program or API for the placement of advertisements on third party search engines and portals to present goods and services; software for database management; software for accessing, searching and updating of databases; data processing software; computer software being an ecommerce platform that allows users to perform electronic business transactions via a global computer network; software for the analysis and processing of real-time transactional data; software for the creation, management, upkeep and access of databases; software for relating to marketing, tracking sales performance, managing sales and marketing processes; software relating to for providing commercial, consumer and marketing information; marketing software; software for use in data analysis, compilation, computation and processing of marketing analytics, content management, SEO and CRM; downloadable electronic publications in the nature of a magazine or journal in the field of computers and computer software; downloadable audio-visual recordings featuring information in field of computers and computer software; downloadable audio files featuring information in field of computers and computer software; downloadable image files featuring information in field of computers and computer software; none of the aforesaid for computer software being for the management, transmission, storage, and sharing of computer game programs and electronically stored computer game information across computer networks and further none of the aforesaid being for the purpose of providing interactive entertainment software in the gaming industry, computer game software, electronic game software, and virtual reality game software

Class 035. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Advertising services; marketing services; advertising and promotional services; marketing and promotional services relating to third party search engines and portals; marketing and promotional services to facilitate the presentation of goods and services on e-commerce platforms; marketing and promotional services using Application Program Interfaces (API) permitting one marketing strategy to interact with third party search engines and portals; data collection services; computer data entry services; Business data analysis, compilation of business directories, compilation of information into computer databases, and data processing services relating to marketing; business data analysis, compilation of statistics, and data processing services, all of the foregoing relating to marketing information including for customer experience audits, analytics, benchmarking, and, customer journey mapping; business data analysis, compilation of business price and statistical information, business management and processing services of marketing budgets and allocation benchmarking; business analysis of marketing programmes; business data analysis, compilation of business data, business management and data processing services and customer lifetime analysis; business data analysis, compilation of business directories, and data processing services for product performance, range and pricing; online assortment optimization namely search engine optimization for online sales promotion; business analysis, compilation of business data, and data processing services of geographical information and data; business analysis, compilation of business data, and data processing services of consumer and commercial information and data; provision of marketing reports; business analysis, compilation of business data, and data processing services of statistical data; none of the aforesaid for data analysis, compilation, computation, management and processing services being for the purpose of providing interactive entertainment software in the gaming industry, computer game software, electronic game software and virtual reality game software

Class 042. First Use: 0 First Use In Commerce: 0


All goods and services in the class are opposed, namely: Creation, development and design of computer programs and computer software for business research services; creation, development and design of computer programs and computer software for the presentation of goods and services on an e-commerce platform; creation, development and design of computer programs and computer software for interaction with third party search engines and portals; creation, development and design of computer programs and computer software for interaction with third party search engines and portals to present goods and services, supplied by third parties on e-commerce platforms; creation, development and design of computer programs and computer software including marketing software which enables the bidding for and management of advertisements and the like; creation, development and design of computer programs and computer software for placement of advertisements; creation, development and design of computer programs and computer software being marketing software; creation, development and design of computer programs and computer software for data collection, data entry, data analysis, data compilation, data computation, data management and processing; creation, development and design of computer programs and computer software for data analysis, compilation, computation and processing services relating to marketing; creation, development and design of computer programs and computer software for an e-commerce platform; creation, development and design of computer programs and computer software for data searching, customer experience audits, analytics and benchmarking, and, customer journey mapping; creation, development and design of computer programs and computer software for real-time and rapid evaluation of transactional data; creation, development and design of computer programs and computer software for providing temporary use of non-downloadable programs enabling commercial transactions; software engineering services; data searching services namely data mining services; electronic data storage; none of the aforesaid being software as a service (SAAS) services for the management, transmission, storage and sharing of computer game programs and electronically stored computer game information across computer networks and further none of the aforesaid for the purpose of providing interactive entertainment software in the gaming industry, computer game software, electronic game software, and virtual reality game software

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Application	88699314	Application Date	11/20/2019
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No.			
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SHIFT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2014/03/14 First Use In Commerce: 2014/03/14 Operating on-line marketplaces featuring automobiles; Providing information about automobiles for sale by means of the Internet Class 036. First use: First Use: 2014/03/14 First Use In Commerce: 2014/03/14 Providing lease financing for automobiles; Financing relating to automobile		

Attachments	88699314#TMSN.png(bytes) Shift_Notice_Opposition_vFinal.pdf(2439975 bytes)
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Signature	/honeah sohail mangione/
Name	HONEAH SOHAIL MANGIONE
Date	11/10/2021

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

SHIFT TECHNOLOGIES, INC.,	§	
	§	Opposition No:
<i>Opposer,</i>	§	
	§	Marks:
v.	§	
	§	87/943,627 – SHIFT
SHIFT COMMERCE LIMITED,	§	87/943,650 – SHIFT
	§	87/943,665 – SHIFT COMMERCE
<i>Applicant.</i>	§	87/956,220 – SHIFT COMMERCE
	§	
	§	
	§	

CONSOLIDATED NOTICE OF OPPOSITION

Shift Technologies, Inc. (“Opposer” or “Shift”) believes that it will be damaged by Shift Commerce Limited’s (“Applicant”) registration of the marks shown in U.S. Trademark Application Serial Nos. 87/943,627; 87/943,650; 87/943,665; and 87/956,220 in International Classes 009, 035 and 042 and hereby opposes the same. In support of its Consolidated Notice of Opposition submitted pursuant to Trademark Trial and Appeal Board Manual of Procedure (“TBMP”) § 305.01, Opposer states the following as grounds for opposition:

Shift and Its Online Platform Business

1. Shift Technologies, Inc. is a Delaware corporation having a primary address of 2525 16th Street, San Francisco, California 94103.
2. Opposer began as a start-up company in 2013 and incorporated as a company in 2014. Shift provides an ecommerce platform through its website at www.shift.com (“SHIFT.COM”) for the purchase, sale, and financing of used automobiles. Since at least as early

as 2014, Shift has been offering its online platform that retails vehicles and offers financing for such vehicles. See **Exhibit A** hereto.

3. Vehicle purchasers visit Opposer's platform on SHIFT.COM to search through an online catalog of automobiles based on criteria such as price, make of vehicle, body style, year, budget, etc. When a vehicle is selected for purchase, it is brought to the prospective purchaser for a test drive. After the test drive, the prospective purchaser decides whether to purchase the vehicle or not. If a vehicle is purchased, the purchaser has seven (7) days or 200 miles (whichever comes first) to return the vehicle with no questions asked.

4. SHIFT.COM also allows for the sale of vehicles by its users. When a seller desires to list a vehicle for sale, independent contractors acting on behalf of Shift visit the vehicle for inspection and provide a quote to the seller. If the seller agrees to the quoted price, Shift offers the vehicle for sale on its website SHIFT.COM.

5. Over the years, numerous mainstream outlets have featured and/or reported on Shift and its services. See **Exhibit B**, **Exhibit C**, and **Exhibit D** hereto. Such publicity for Shift has, in part, contributed to Shift's rise in popularity. Accordingly, through its continuous use of the SHIFT mark and third-party media coverage, Opposer has developed – and continues to develop – widespread goodwill and recognition in and to its SHIFT mark.

Third Parties Passing Off as Shift

6. The rise in popularity of Opposer and its SHIFT.COM platform has unfortunately exposed Opposer to become a popular target of online attacks and infringements.

7. To date, there have been at least two known attempts to usurp Opposer's goodwill in the mark SHIFT for commercial/financial gain. In each case, a third-party had set up a fake website for an e-commerce platform using the SHIFT mark in two ways. First, the term SHIFT

was used in the domain name. Second, each website attempted to pass itself off as Opposer by selling vehicles and providing financing for the purchase of vehicles.

8. The first incident involved the website SHIFTAUTOBROKERS.COM. On July 8, 2020, Opposer filed a proceeding under the Uniform Domain-Name Dispute Resolute Policy (“UDRP”) against this domain name before the National Arbitration Forum (“FORUM”).¹

9. On August 6, 2020, FORUM rendered a decision in the UDRP proceeding finding that: (i) Opposer has established common law trademark rights in the SHIFT mark since at least March 14, 2014, (ii) the domain name registrant had no legitimate interest in respect of the domain name, and (iii) the domain name was registered in bad faith. As a result, the domain name SHIFTAUTOBROKERS.COM was transferred to Opposer. See **Exhibit E** hereto.

10. The second incident is currently pending before FORUM.² In that case, the domain name registrant registered the domain name SHIFT-AUTOS.COM and offers a website purporting to be Opposer. The website features Opposer’s identical marks including SHIFT, identical services, and even links to Opposer’s social media pages and its employees’ professional profiles.

11. The foregoing examples of third parties passing themselves off as Opposer shows that Opposer has attained substantial goodwill and recognition in the SHIFT mark otherwise such third parties would not have attempted to knock off Opposer’s mark if it was not widely known and well-regarded.

Shift’s Trademark Applications

12. On July 25, 2016, Opposer filed trademark application U.S. Serial No. 87115509 with the United States Patent and Trademark Office (“USPTO”) for the mark SHIFT for use with

¹ <https://www.adrforum.com/>

² *Shift Technologies, Inc. v. Bogdan Lajos / B L Travel Agency Ltd.*, FORUM case FA2110001969440.

“operating on-line marketplaces featuring automobiles; providing information about automobiles for sale by means of the Internet; provision of an on-line marketplace for buyers and sellers of goods and services.” See **Exhibit F** hereto. The application was filed on a Section 1(a) basis, and the dates of first use anywhere and in commerce listed therein “as early as March 14, 2014”. A specimen in the form of an electronic display, namely Opposer’s website WWW.SHIFT.COM, was also submitted.

13. On November 14, 2016, an office action in connection with U.S. Serial No. 87115509 was issued. The office action stated that Opposer’s mark is refused on the basis of a Section 2(d) Refusal – Likelihood of confusion with U.S. Reg. Nos. 3142488 and 4325673 for the mark SHIFT_. Both of these aforementioned registrations have since been canceled for failure to provide an acceptable declaration under Section 8.

14. Due to changes in personnel, the office action was not addressed, and U.S. Serial No. 87115509 was inadvertently abandoned on May 16, 2017. Notwithstanding that, Opposer never discontinued use of the SHIFT mark.

15. On November 20, 2019, Opposer filed trademark application U.S. Serial No. 88699314 for the mark SHIFT for (i) Operating on-line marketplaces featuring automobiles; Providing information about automobiles for sale by means of the Internet in class 035, and (ii) Providing lease financing for automobiles; Financing relating to automobile in class 036.

16. On February 25, 2020, Opposer received an office action from the USPTO. While the office action raised administrative issues, Opposer was notified of prior-filed pending applications Serial Nos. 87943650 and 87943627 for the mark SHIFT filed by Applicant. Opposer presented provisional arguments against anticipated refusals based on the aforementioned applications, but the Examiner refused to withdraw the citation of the foregoing applications. As

such, Opposer has standing to oppose Applicant's foregoing applications as they are precluding registration of Opposer's SHIFT mark.

Applicant's Trademark Applications

17. Applicant, Shift Commerce Limited, is a United Kingdom limited company doing business at Old Linen Court, 83-85 Shambles Street, Barnsley, South Yorkshire, United Kingdom. Applicant provides e-commerce platforms for businesses.

18. On November 3, 2015, applicant, Createthe Group, Inc., filed trademark application U.S. Serial No. 86982988 for the mark SHIFT COMMERCE. The application matured to registration on October 17, 2017 as detailed below:

Mark	U.S. Registration No.
SHIFT COMMERCE	5,312,463
Goods and Services Applicable to Above Marks	
<u>Class 042</u> : Designing an Internet platform for electronic commerce; designing, creating, maintaining and hosting online retail and electronic commerce websites for others; providing temporary use of non-downloadable computer programs for enabling commercial transactions via a global communication network; software engineering services; * none of the aforesaid being software as a service (SAAS) services for the management, transmission, storage and sharing of computer game programs and electronically stored computer game information across computer networks and further none of the aforesaid for the purpose of providing interactive entertainment software in the gaming industry, computer game software, electronic game software, and virtual reality game software	

19. On March 19, 2019, Applicant acquired by assignment all rights to U.S. Trademark Registration No. 5312463 for the mark SHIFT COMMERCE from the prior registrant, namely, Createthe Group, Inc.

20. On May 31, 2018, Applicant filed multiple trademark applications for the marks SHIFT and SHIFT COMMERCE. On June 11, 2018, Applicant filed another application for a stylized version of the mark SHIFT COMMERCE. Each of Applicant's applications was filed on

a 1(b); 44(d) basis claiming a priority date of May 14, 2018. Below is a table summarizing the particulars of each of Applicant's applications:

Mark	U.S. Serial No.
SHIFT	87/943,627
SH/FT	87/943,650
SHIFT COMMERCE	87/943,665
	87/956,220
Goods and Services Applicable to Above Marks	
<p><u>Class 009</u>: Software for internet platforms for electronic commerce; computer software for internet platforms for electronic commerce; application software for internet platforms for electronic commerce; software for accessing and sharing data and content; interactive software for internet platforms for electronic commerce for use with third party search engines and portals; interactive software for use with third party search engines and portals to present goods and services, supplied by third parties on e-commerce platforms; interactive software for use with third party search engines and portals to present goods and services, supplied by third parties on e-commerce platforms including marketing software which bids for, and manages, the costs and placement of advertisements and the like; interactive software for use with third party search engines and portals to present goods and services supplied by third parties on e-commerce platforms including the management and operation of such interactions, including costs, placement of advertisements, uploading content, whether of information, data and/or images; marketing software for the management and operation of such marketing interactions onto and/or into third party environments; computer software which facilitates goods and services to be populated onto and/or into third party market places; Application Program Interface Interfaces (API) software for permitting one software program to interact with another software program or API; Application Program Interface (API) software for permitting one software program to interact with another software program or API for the placement of advertisements on third party search engines and portals to present goods and services; software for database management; software for accessing, searching and updating of databases; data processing software; computer software being an ecommerce platform that allows users to perform electronic business transactions via a global computer network; software for the analysis and processing of real-time transactional data; software for the creation, management, upkeep and access of databases; software for relating to marketing, tracking sales performance, managing sales and marketing processes; software relating to for providing commercial, consumer and marketing information; marketing software; software for use in data analysis, compilation, computation and processing of marketing analytics, content management, SEO and CRM; downloadable electronic publications in the nature of a magazine or journal in the field of computers and computer software; downloadable audio-visual recordings featuring information in field of computers and computer software; downloadable audio files featuring information in field of computers and computer software; downloadable image files featuring information in field of computers and computer software; none of the</p>	

aforesaid for computer software being for the management, transmission, storage, and sharing of computer game programs and electronically stored computer game information across computer networks and further none of the aforesaid software being for the purpose of providing interactive entertainment software in the gaming industry, computer game software, electronic game software, and virtual reality game software

Class 035: Advertising services; marketing services; advertising and promotional services; marketing and promotional services relating to third party search engines and portals; marketing and promotional services to facilitate the presentation of goods and services on e-commerce platforms; marketing and promotional services using Application Program Interfaces (API) permitting one marketing strategy to interact with third party search engines and portals; data collection services; computer data entry services; Business data analysis, compilation of business directories, compilation of information into computer databases, and data processing services relating to marketing; business data analysis, compilation of statistics, and data processing services, all of the foregoing relating to marketing information including for customer experience audits, analytics, benchmarking, and, customer journey mapping; business data analysis, compilation of business price and statistical information, business management and processing services of marketing budgets and allocation benchmarking; business analysis of marketing programmes; business data analysis, compilation of business data, business management and data processing services and customer lifetime analysis; business data analysis, compilation of business directories, and data processing services for product performance, range and pricing; online assortment optimization namely search engine optimization for online sales promotion; business analysis, compilation of business data, and data processing services of geographical information and data; business analysis, compilation of business data, and data processing services of consumer and commercial information and data; provision of marketing reports; business analysis, compilation of business data, and data processing services of statistical data; none of the aforesaid for data analysis, compilation, computation, management and processing services being for the purpose of providing interactive entertainment software in the gaming industry, computer game software, electronic game software and virtual reality game software

Class 042: Creation, development and design of computer programs and computer software for business research services; creation, development and design of computer programs and computer software for the presentation of goods and services on an e-commerce platform; creation, development and design of computer programs and computer software for interaction with third party search engines and portals; creation, development and design of computer programs and computer software for interaction with third party search engines and portals to present goods and services, supplied by third parties on e-commerce platforms; creation, development and design of computer programs and computer software including marketing software which enables the bidding for and management of advertisements and the like; creation, development and design of computer programs and computer software for placement of advertisements; creation, development and design of computer programs and computer software being marketing software; creation, development and design of computer programs and

computer software for data collection, data entry, data analysis, data compilation, data computation, data management and processing; creation, development and design of computer programs and computer software for data analysis, compilation, computation and processing services relating to marketing; creation, development and design of computer programs and computer software for an ecommerce platform; creation, development and design of computer programs and computer software for data searching, customer experience audits, analytics and benchmarking, and, customer journey mapping; creation, development and design of computer programs and computer software for real-time and rapid evaluation of transactional data; creation, development and design of computer programs and computer software for providing temporary use of non-downloadable programs enabling commercial transactions; software engineering services; data searching services namely data mining services; electronic data storage; none of the aforesaid being software as a service (SAAS) services for the management, transmission, storage and sharing of computer game programs and electronically stored computer game information across computer networks and further none of the aforesaid for the purpose of providing interactive entertainment software in the gaming industry, computer game software, electronic game software, and virtual reality game software.

21. On September 25, 2020, Applicant informed the USPTO that its UK applications serving as a basis for its 44(d) filing basis had registered on July 31, 2020. Applicant cited the following UK registrations: UK0003310706 and UK0000331070 for the mark SHIFT and UK00003310704 and UK00003310708 for the mark SHIFT COMMERCE. Accordingly, the filing bases for Applicant's U.S. applications were amended from 1(b); 44(d) to 1(b); 44(e).

Applicant's Business

22. Upon information and belief, Applicant is in the business of providing e-commerce platforms under the marks SHIFT and SHIFT COMMERCE. Under the domain name www.SHIFTCOMMERCE.com, Applicant renders its e-commerce services under the mark SHIFT. In its marketing brochures, Applicant describes itself as "...the first ecommerce platform to successfully combine simplicity of use, speed to market, the affordability of SAAS and the flexibility of bespoke solutions".

23. Applicant's SHIFT and SHIFT COMMERCE marks have visual and aural similarities to Opposer's SHIFT Marks. Both sets of marks feature the identical term SHIFT, alone or as the mark's first term. Furthermore, the term COMMERCE is descriptive of both Opposer's and Applicant's e-commerce platforms and therefore does not sufficiently distinguish Applicant's Marks from Opposer's SHIFT Marks.

24. Customers and potential customers exposed to Applicant's various trademarks discussed above would be confused by Applicant's prospective and actual use of its SHIFT and SHIFT COMMERCE marks.

25. Upon information and belief, and in view of the parties' common use of the term SHIFT in their respective marks for the identical and/or similar types of goods and services, Opposer's claims against each of the Applicant's subject applications involve common (i.e., similar) questions of law and/or fact.

26. Opposer further alleges that it has standing to oppose Applicant's Application Serial Nos. 87943650 and 87943627 because they have been provisionally cited against Opposer's application for its SHIFT mark (ser. no. 88699314), and that Opposer has standing to oppose Applicant's Application Serial Nos. 87956220 and 87943665 because the marks covered by such applications are sufficiently similar to the provisionally cited applications such that registration thereof is likely to damage Opposer.

COUNT I

LIKELIHOOD OF CONFUSION SECTION 2(d) OF THE LANHAM ACT

27. Opposer repeats and re-alleges paragraphs 1 through 26 above as if fully set forth herein.

28. Opposer is an end-to-end ecommerce platform that retails automobiles as well as offers financing for the purchase or lease of such vehicles. An end-to-end platform provides all the software and hardware requirements of the platform such that no other vendor is involved. Accordingly, Opposer handles all of its own installation, integration, and setup for its automobile and financing platform.

29. Opposer has priority of use based on its continuous use of the mark SHIFT for an e-commerce platform since at least March 14, 2014, a date prior to any priority date that Applicant may claim whether by actual use, constructive use, or foreign priority date.

30. Simultaneous use of Opposer's SHIFT mark and Applicant's SHIFT and SHIFT COMMERCE marks for their respective goods and services is likely to cause public confusion, mistake and/or deception in violation of Section 2(d) of the Trademark Act 15 U.S.C. § 1052(d).

31. Applicant's marks are confusingly similar to Opposer's SHIFT mark and Opposer's common law rights therein. Applicant's goods and services covered by its SHIFT and SHIFT COMMERCE applications are substantially similar, overlapping, or at least similar to the goods and services covered by Opposer's currently used SHIFT trademark.

32. The conditions surrounding both parties' marketing are such that their respective goods and services could be encountered by the same customers under circumstances where use of similar marks would give rise to the mistaken belief that the parties' goods and services come from a common source.

33. For the foregoing reasons, Opposer is being and will be damaged by the registration of Applicant's Marks as shown in U.S. Ser. Nos. 87943627, 87943650, 87943665, and 87956220.

WHEREFORE, Opposer respectfully requests that its Consolidated Notice of Opposition be sustained, and that registration of Applicant's Marks as shown in U.S. Ser. Nos. 87943627, 87943650, 87943665, and 87956220 be refused in their entirety.

The filing fees have been submitted electronically. Any deficiency in the filing fees should be charged to Deposit Account 50-5761.

Dated: November 11, 2021

Respectfully submitted,

By: s/Honeah Sohail Mangione/
Honeah Sohail Mangione
Atul R. Singh
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Attorneys for Opposer
Shift Technologies, Inc.

EXHIBIT A
YELP REVIEWS FOR SHIFT



Restaurants Home Services Auto Services More

Shift

Claimed 4.5 stars 1231 reviews Details

Car Dealers, Car Brokers San

Write a Review Add Photo Share Save

COVID-19 Updates

"Shift continues to deliver cars directly to you. We sanitize all cars for our no contact test drives. Browse our inven..."
Posted on April 7, 2020

See details

Photos and Videos



See All 118

Review Highlights

- "No haggling, playing games and showing cars to 5 people and its literally the easiest way to finance a used car!" in 18 reviews
- "During the entire process I talked to few different reps and all of them were consistent about the process." in 35 reviews
- "I then scheduled an appointment to have a 'Car Enthusiast' look at my car, and they arrived a few hours later." in 60 reviews

Show more review highlights

About the Business

Shift is the first used-car dealership that doesn't bring the haggle or the pressure. Whether you are looking to browse vehicles online, or on our lot, we make purchasing your new car fast, easy, and transparent. We offer test-drives and great financing options available for every car along with a rigorous 150-point inspection rep...

Read more

Location & Hours



Mon	8:00 am - 8:00 pm
Tue	8:00 am - 8:00 pm
Wed	8:00 am - 8:00 pm
Thu	8:00 am - 8:00 pm
Fri	8:00 am - 8:00 pm
Sat	8:00 am - 8:00 pm
Sun	8:00 am - 8:00 pm

Open now

Amenities

- Accepts Credit Cards No
- WiFi Free
- Open to All Yes

Ask the Community

- Question:** After my concierge comes and examines my car, will I get a check on the spot? I don't feel comfortable turning over my keys & waiting for the check...
- Answer:** Well we had to wait for them to send a check through Fed-Ex. (We didn't have banking online for them to make a direct deposit). So, if you have banking online you will get it probably within 24 hrs... Read more
Julie H. · 2 months ago · View 1 more answer
- Question:** After sold my car to Shift, do I need to report to the DMV by myself?
- Answer:** Hello Ming! Please do not fret. We will report it to the DMV and ensure that the paperwork is... Read more
Megan L., Business Manager · 1 year ago · 3 people found this helpful · View question details

Don't see your question? Ask away

Recommended Reviews

Request Information

You can now request information from this business directly from Yelp

Request information

Browse Our Auto Selection Online

Learn More

shift.com

(415) 212-8201

View Service Area

Your trust is our top concern, so businesses can't pay to alter or remove their reviews. [Learn more.](#)

Search for reviews Sort by **Oldest First** ▼

Start your review of Shift.

Ron M.
Fairfield, CA
39 friends
4 reviews
8 photos

★★★★★ 8/7/2014
First to Review

Shift staff went above and beyond to answer all my questions. I appreciated the meticulous vehicle checklist. It was very honest and revealed any potential problems that you would not locate without having a full inspection from a mechanic. I am very happy with the vehicle I purchased. They accommodated to my schedule and was very professional from start to finish.

Useful 6 Funny 3 Cool 4

Duncan S.
Dallas, TX
250 friends
3 reviews

★★★★★ 8/7/2014

Easy and painless!

After trying to sell a 3 year old BMW 3 series on Craigslist and dealing with all the crazies, when Kevin offered to do a consignment sale, I was happy to get the issues off my plate. They came to my house and picked up the car, and kept the updated weekly (or more frequently as offers came in) on the car. The car had a couple very minor maintenance issues that they took care of for me, and got the car sold in a couple weeks. Stewart drove out to my work and handed me a check after the sale, and it was painless. Great communication and legwork on their part.

I'd definitely use them again!

Useful 11 Funny 4 Cool 5

Charles P.
Los Altos Hills, CA
21 friends
13 reviews

★★★★★ 8/7/2014

Great service. Their people are professional and thorough. Wish them the best success!

Useful 3 Funny 2 Cool 3

Joe P.
El Cerrito, CA
69 friends
134 reviews
9 photos

★★★★★ 8/13/2014

My honest experience. Only good thing to say was sales rep was nice guy.

I see car on Craigslist search for "private party" only. I start communicating with someone by email. After a day of exchanges I ask to talk and am given a number. Only after I ask if guy is owner do I learn they broker deals for people. This is a company advertising on Craigslist as private party seller.

I'm told and ad says car in near perfect condition. The guy is cryptic about it, but I get sense they will bring car to me in East Bay for test drive. I ask them to do this and am told too late b/c short-staffed, guy called in sick. I ask about next morning and am told they are bringing car to someone else at 11 a.m. I ask to see car before that, told not possible. I then say I will be in SF at 1. Guy says he will call me at 1:30 to arrange for test drive at Safeway on 16th. I never hear from the guy. I text him later, not happy. He says "sorry" and says that they are short-staffed, start-up with kinks, meetings, etc. Says too late to do test drive but can bring it to me in a.m. probably. I'm also told for 2th time that many of founders from Google. Great, and I have friend who was chef at chez Panisse. Wow.

Next morning I text to confirm. Guy says he just woke up, needs to get to office to see if can be done. I don't hear a word for hours. I text sarcastic inquiry. I am told investor meeting pulled everyone away, he was with client at airport, founders are from Google, start-up with kinks, etc. "Sorry" He then says how about next day, afternoon. I say, "Not happy." This is the 4th day I've been dealing with this.

After all this crap, I get text that says: "So now that I've arranged a test drive for you... I'd like to let you know beforehand that the car has a few issues... four of our six founding members came from Google... I'M NOT LYING ABOUT ANY OF THIS. To boot, the car is priced over Blue Book and now "has a few issues."

Stick with private parties or reputable dealers.

Useful 22 Funny 15 Cool 6

Lauren A.
Oakland, CA
61 friends
3 reviews

★★★★★ 8/15/2014

I had a really great and easy experience with Shift. In fact, it was so positive, I am now a repeat customer. Shift has sold two cars for my family. My husband and I recently had a baby and decided to upgrade our cars which meant selling our existing vehicles. Shift made the process simple. The people at Shift were accessible, accommodating and very easy to coordinate with. They always came to me which made it tremendously convenient. I appreciated the candor and honesty they brought to the used car experience. Also, they did a good job of setting my expectations on timing for selling my vehicles and any possible drawbacks with my cars. Lastly, they even coordinated having some work done on one of my cars to make it more marketable. I think that ensured I got a good price for it. They seemed to bring a lot of knowledge and experience to the table and I feel quite confident my cars were sold more quickly and for a better price than I would have achieved independently. Overall, just a really positive experience. I have been recommending them to friends for both selling and buying used cars. Great new company!

Useful 9 Funny 3 Cool 5

Comment from Jen S. of Shift
Business Manager

11/29/2014 • Lauren, if we had a frequent customer stamp card, you'd be on your way to a free car! Thanks for letting us...
[Read more](#)

G.M.
San Francisco, CA
0 friends
14 reviews

5.0 8/23/2014

I got total confidence from Watson, the guy from Shift. He showed up to pick up the Tesla roadster - an unusual vehicle to drive - and navigated our difficult driveway with ease. He was unquestionably professional and competent, reeked of good service (not too much, not too little); the picture of polite, responsive to my needs. Thanks Watson & well done Shift.

Useful 5 Funny 3 Cool 6

Trent G.
Walnut Creek, CA
1 friend
3 reviews

5.0 8/23/2014

My experience with SHIFT was awesome. It's such a breath of fresh air to deal with friendly reasonable people. I use Craigslist all the time and haven't had many issues but I absolutely hate dealing with dealerships and commission-based car salesmen.

Shift struck a good balance where it was safer and easier than buying from a private seller and much more pleasant than playing the dealership haggle games and having to pay title fees, handling fees, make a copy of your license fees, etc.

When I first called, the car had just been listed and the asking price was really low. I spoke with Loretta and she let me know they had made a mistake in the listing. She didn't back-pedal or make excuses. She told me what happened and continued to work with me until we both agreed on a fair price. (even though I knew they could sell the car very easily to another buyer for more) it was great to feel like they wanted me to be happy, more than they wanted to make a few hundred dollars with another buyer.

Finally, once Loretta and I came to an agreement, she had another employee, Oliver, deliver the car to my house in Walnut Creek. He brought the paperwork, was very friendly and the purchase process went really smoothly. The car was just as described and a copy of the CARFAX report was provided. Again it's nice dealing with friendly, reasonable people.

I like the SHIFT business model and if they continue to focus on good customer relations and service, I think they will help a lot more people like me who dislike dealing with car dealerships. Thanks guys!

Useful 8 Funny 4 Cool 5

Sungwook Y.
Los Gatos, CA
33 friends
12 reviews
4 photos

5.0 8/27/2014

I can finally breathe again because now I am a car owner. I've been searching for a used car since June 14 and I've come close to closing the deal with a couple of cars but unfortunately (not really cause Shift hooked me up with a sickass car) I didn't get them.

Kevin brought the car to me to test drive and I just knew that this was the car that I was waiting for. He was very professional and explained to me everything that I should notice before making up my mind to buy the car. My father had some doubts about buying the car on the spot but Kevin was kind and voiced that we were in good hands and convinced him to become an official customer for Shift.

I now have had the car for two days and I love it. Thanks Shift!

Useful 12 Funny 5 Cool 7

Comments from Jen S. of Shift
Business Manager

10/31/2014 • We just wanted to thank you for the review. Shift appreciates all of its customers...and especially the ones from...
[Read more](#)

Gnana W.
Mill Valley, CA
0 friends
2 reviews

4.0 8/29/2014

I would highly recommend using these guys if you don't want to deal with the hassle of selling a car by yourself. I got much better price for my car compared to trading in my car to a dealer. The whole process was smooth and was handled in a professional manner.

Useful 6 Funny 1 Cool 2

James Y.
Santa Clara, CA
0 friends
7 reviews
10 photos

5.0 9/30/2014

Just learned about this company today and bought a car through Kevin. Great experience with Kevin, he is an asset of this company. Interesting used car business and it's probably going to shake up the auto industry.

Useful 5 Funny 3 Cool 4

Comment from Jen S. of Shift
Business Manager

10/31/2014 • Thanks for the review, James. Kevin was happy to help. Enjoy your car!
[Read more](#)

Aaron G.
San Francisco, CA
0 friends
13 reviews

2.0 10/7/2014

I hate writing negative reviews, but I need to objectively share my experience with Shift so that others can make an educated decision about whether to use their services. I recently purchased a used car through Shift, so I experienced their process from start to finish:

The Good

The Good

- * Their "car enthusiasts" (who are something like a cross between salespeople, retail clerks, and delivery people) were nice people on an interpersonal level.
- * SHIFT will deliver a car to you for test drive or purchase, which is a very nice perk in San Francisco, maybe a little less important other places.
- * There was no pressure to "buy now" or anything of that nature.
- * I got a moderately better-than-market deal on that car through SHIFT.

The Bad

- * SHIFT did not have the title of the vehicle they were selling, and they did not realize this fact until what would have been the end of the transaction.
- * SHIFT did not realize that the owner did not have the title either; the bank still had it, because the owner had a loan on the car. SHIFT's response was to ask me to front the money for the loan, and since the title was clear, I would get the title. This is obviously a very risky proposition from a buyer's perspective, since if anything went wrong or new problems emerged, I would have paid for the car without becoming the owner.
- * Prior to realizing they did not have the title, SHIFT gave me a bad time about not being able to line up an independent inspection for a few days after indicating I wanted to buy the car. I did not procrastinate, but reputable garages don't always have next day appointments available. After making many phone calls to line up an inspection appointment, it turned out the car could not be purchased for several weeks because of the title issues.
- * SHIFT was 30 minutes late bringing the vehicle to the inspection, as they had forgotten to unlock the garage where the vehicle was kept. By itself, this was not a big deal, but it speaks to the general lack of organization and process.
- * After a few weeks, the title situation was finally straightened out, and I was able to buy the car. SHIFT generously offered to give me a gift card because of the weeks it had taken to purchase the car, but then they failed to follow through. No gift card was ever sent.
- * When we were finally ready to conclude the deal, I noticed that the smog certificate had expired. SHIFT had been unaware of this, although it is a legal requirement that the seller of a vehicle in California smog the vehicle before selling it.
- * Figuring that it was very likely the vehicle would pass smog, I agreed to smog the car myself, after which SHIFT would reimburse me for the modest cost of the smog. The vehicle did pass, but SHIFT never sent the check. Continuing the pattern that existed throughout the weeks it took to buy the car, SHIFT promised to "make it right"... just as they had promised with every previous issue.

In summary, these are nice people who don't understand the basic process of selling cars. Unfortunately, their business is selling cars.

Useful 25 Funny 9 Cool 2

Jeff A.
Orinda, CA
23 friends
57 reviews
12 photos

★★★★★ 10/9/2014

Aweome service. Trustworthy people making used car buying and selling a seamless and painless experience. Thank you Shift!! I purchased a 2011 Porsche through them and literally went from first call to test drive to purchase in the convenience and comfort of my home in a matter of hours. The car was spotless and better than advertised. The price was fair. The "salesperson" was knowledgeable and polite. He then offered in a very low key way to help me sell my car, which I did not expect. Took the entire hassle off my hands. Offered a fair price up front and a % of the upside. Car listed and sold in less than two weeks above the list and so I'll be getting a nice check. I hate buying and selling cars. The Porsche dealers were all rude and only allowed short test drives. For the price I was paying I should have received better treatment. Their cars are still sitting on the market and being marked down and I've been driving my sweet ride for over two weeks. This was an incredible experience. Great service is so rare. Glad that if anyone made money on these transactions, it was the SHIFT team.

Useful 6 Funny 3 Cool 4

Ronald K.
Antelope, CA
0 friends
4 reviews

★★★ 10/14/2014 - Updated review

This is an update to my last review. I have upgraded Shift to 3 stars for the reasons cited below.

Shift read my previous review and went out of their way to call me and apologize. It is also good business that Shift takes their social media reviews serious. They had also indicated to me that a change of protocol is in order. Those who are not local and traveling to meet up with one of their field personnel will be kept in the loop. Our whole fiasco could have been avoided if I knew the car we were going to test drive was already being test driven by someone else.

I can't give them 5 stars because of our previous experience. However when they called to apologize I felt it was sincere (and I have a pretty good BS detector).

I hope Shift builds upon their business and can further cement customer relationships. A couple of pointers might be appropriate as I will list below:

Redo and open your website: no code should be needed to view your offerings - Customers should see what you have to offer.

Describe your business complemented with testimonials, pictures of personnel (not LinkedIn pictures but pictures at your offices), etc.

List the hours and days of operation with a single contact number. Voice-mail should include a detailed greeting and business hours of operation.

For those who are not local to SF, state what can be done and who to call/contact.

Hire and train a customer liaison - You have a new and unique business but without a storefront. You're not selling ten dollar dvd's by mail. Get someone trained to hold hands with your potential customers. That person should describe what you offer, thoroughly answer customer questions and why they should do business with you. They should be the main point of contact.

From your field personnel on customer relationships. Standardize on communication protocols. They should be second tier contact after the customer liaison (texting should be a no-no unless it is agreed upon by the customer).

Finally, the customer liaison should follow up after every transaction or potential transaction and record pertinent feedback.

Useful 9 Funny 0 Cool 0

Comment from Jen S. of Shift
Business Manager

10/30/2014 • Thanks for your feedback, Ron. As a new company, we are working very hard to make improvements o...

[Read more](#)

10/30/2014 - Previous review

Overall it was a bad experience.

[Read more](#)

Mark C.
San Francisco, CA
28 friends
22 reviews
1 photo

10/23/2014

I had a great experience buying a car from Shift. It was incredibly convenient and fast.

I scheduled a test drive of two different vehicles. The Shift representative came by my office with one of the vehicles. I drove the car to their parking garage where the other vehicle was located. I drove that car around a while until I decided that which one I wanted. The price was great - below KBB, and I wrote a check on the spot and drove the car home.

I suppose if you are looking for a traditional car lot where you can walk among 100 cars and take your pick, it may not be ideal. But if you are knowledgeable online consumer and know what you want, I cannot imagine a better place to buy a used car.

Useful 7 Funny 4 Cool 5

Comment from Jen S. of Shift
Business Manager

10/30/2014 • We appreciate your glowing review, Mark, and really hope you're loving your new (used) car. Let us know if...

[Read more](#)

Stephen M.
San Francisco, CA
9 friends
6 reviews
3 photos

10/25/2014

I had a great experience with Shift.

Going in to this process I had done extensive research and knew exactly what I wanted. I found a vehicle that Shift was advertising online. I was not familiar with how Shift operated so I sent a short email asking what was the best way to see the vehicle. I received a quick response and was able to set up an appointment for a test drive the next afternoon.

The representative who arrived with the vehicle was nice, seemed very knowledgeable about the vehicle and was able to answer all of our questions regarding the vehicle as well as Shift and the purchase process.

We took it for a test drive, got back to our house and my wife and I headed inside to have a chat about what we wanted to do. We decided to buy, had the representative come in and completed the process in less than a half hour. We also paid under Kelly Blue Book for the vehicle.

The entire experience was convenient and extremely painless. I would buy from Shift again.

Useful 5 Funny 4 Cool 5

Mikel D.
Santa Clara, CA
40 friends
6 reviews

10/25/2014

Shift made my car selling experience painless. The entire process took about three weeks, and I ended up getting a fair value for my car. I would definitely recommend checking them out if you have a car to sell!

Useful 6 Funny 5 Cool 5

Carl G.
Davis, CA
3 friends
4 reviews
6 photos

10/27/2014

I needed a simple straight forward way to sell my car. I wanted more than blue book trade in but didn't want to list, take phone calls or show the car. Kevin from Shift did all of this and more. He picked the car up, kept me in the loop as to when he showed the car and conferred with me on the sell price. When all was done a check showed up as promised. What more I could I ask for. Kevin was a professional throughout the entire sell. And yes I would use them again.

Useful 7 Funny 4 Cool 6

Bill E.
Greenbrae, CA
8 friends
4 reviews

10/26/2014

I recently sold my car through Shift and had a delightful, totally hassle-free sales experience. In addition, they obtained a great price.

Shift handled all aspects of my sale - prepping the car, beautifully photographing it, marketing it on various web sites, test drives, negotiating the sale and completing all of the paperwork. I received periodic updates from my shift rep once I turned the car over to them. My car sold quickly (less than 30 days) and I obtained a nice check several days later. This was the best, most hassle-free car sale process I've ever experienced. I would definitely recommend checking them out.

[Bill E.](#)

Useful 7 Funny 4 Cool 6

danielle s.
San Francisco, CA
0 friends
5 reviews

10/29/2014

I would highly recommend Shift if you need to sell your car! I just sold my car with them and had the most pain-free used car selling experience! I met with 2 different representatives (one to assess the car and one to complete the paperwork and take the car). Both were friendly and professional. My car was sold within 2 weeks of starting the process for almost 2x the quote that the dealership was going to give me for a trade-in. As long as Shift is out there, I will NEVER sell a car on my own again.

Useful 5 Funny 4 Cool 5

Comment from Jon S., of Shift - Business Manager
10/30/2014 + Thanks for your great review, Danielle! We really enjoyed working with you and are glad you were happy with...
Read more

Frank J.
San Francisco, CA
5 friends
11 reviews

11/8/2014

I am very happy with this service. I found out what I would get as a trade-in for my car at the dealer and then contacted Shift. Eric came to my home and inspected the car. He was professional, friendly, and answered all my questions clearly. No mumbo jumbo and no haggling. I understood that they would be motivated to get the best possible price and they would share the profit with me 50/50. The next day I received a minimum estimate that was \$250 higher than the trade-in value I had been quoted by my car dealer. They guaranteed that I would receive at least that amount higher than my dealer had offered. I figured \$250 more was better than nothing so I signed the contract and Eric drove my car away. Less than two weeks later, I was notified that my car had sold at a much higher price than the minimum he had quoted. They split the difference between the minimum and the sale price and sent me a check for an amount that was \$2250 higher than my dealer would have given me. It cost me nothing to go with them, only a few minutes of my time. I can't imagine why anyone would not want to use this service over trading in your car at a dealer.

Thanks, Eric!

Useful 9 Funny 5 Cool 4

1 2 3 4 5 6 7 8 9 > 1 of 62

234 other reviews that are not currently recommended

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- Show all

Car Dealers in South San Francisco

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Other Places Nearby

- Find more Car Buyers near Shift
- Find more Car Dealers near Shift

Near Me

- Car Dealers Cost Guide
- Car Brokers Near Me
- Used Car Dealerships No Credit Check Near Me

People found Shift by searching for...

Auto Consignment South San Francisco

This business is a Yelp member

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Yelp for Business

- Claim your Business Page
- Advertise on Yelp
- Yelp Reservations
- Yelp WiFi
- Yelp Wishlist
- Business Success Stories
- Business Support
- Yelp Blog for Business

Languages

English

Countries

United States

EXHIBIT B
BLOOMBERG ARTICLE COVERING SHIFT



2011 Tesla Roadster 2.5 58k miles	2010 Tesla Roadster Sport 2.5 19k miles	2007 Porsche 911 Turbo 21k miles	2015 Porsche Cayenne G 25k miles
\$90,000	\$86,000	\$68,700	\$67,800

This Startup Drives Used Cars Right to Your Door

Shift brings other people's cars to your driveway. Will it be the end of the used-car lot?

by Kyle Stock

September 1, 2015 — 7:00 AM EDT



The problem with used cars, at least from the app-centric perspective of Silicon Valley's eager disruptors, is that prospective buyers can't simply order up a test drive as easily as a pizza. You can imagine the elevator pitch for a startup promising to remedy this injustice: *It's like Uber for cars. Well ... used cars.*

Shift Technologies has for the past year been trying to steal a slice of secondhand car sales from Craigslist, CarMax, and traditional dealerships. In the magical cities of San Francisco and Los Angeles, where the marginally more convenient future sometimes arrives first, would-be buyers can now skip the used-car lots and awkward e-mails to strangers with a 2009 Honda Civic to spare. Flush with \$50 million of funding led by the venture team at Goldman Sachs, the San Francisco-based Shift plans to take its car-shopping service to 18 more U.S. cities by 2017.

Here's how it works: Someone with a vehicle to sell pings Shift, which collects the car and zips it back to its warehouse for a thorough mechanical audit and some light refurbishment. If the ride passes muster, Shift and the seller agree on a guaranteed minimum price and the vehicle is listed on Shift's site.



SHIFT 150-point inspection

Our professional mechanics give you a full report of their 150-point inspection. They also carefully review service records, vehicle history report, and any other ownership details. This way, you'll have peace of mind knowing the comprehensive health of the car before you buy.



Engine



Transmission



Electrical



Suspension



Cooling



Brakes

When prospective buyers schedule a test-drive, one of Shift's "car enthusiasts" swings by with the vehicle. In the event of a sale, Shift keeps half of every sales dollar over its guaranteed minimum price.

Shift claims that sellers, generally, pocket about 10 percent more than they would on a dealership trade-in, while buyers spend about 15 percent less than they would at a car lot. And all involved get to skip the crapshoot that is the classified market.

"Ultimately, marketplaces win when they offer a better customer experience for less money," says Shift co-founder and chief executive George Arison. "We have the opportunity to do that here."

Shift declined to detail its financial results or sales data, but it's fair to say the business is still pretty small. On Monday morning, just 163 cars were for sale on its San Francisco site and another 46 were in Los Angeles. This morning's funding announcement with Goldman comes about 10 months after Shift raised \$24 million in a round led by Draper Fisher Jurvetson and Highland Capital Partners.

Shift's model is certainly not perfect. The process of actually driving to a dealership and chit-chatting with a salesman tends to weed out people who simply want an exciting test drive and have no intention of buying a car. With Shift, that buffer isn't there. Anyone who wants a gratis joy ride in a Nissan "Godzilla" GTR can now order one up by iPhone. And to a bachelorette party within striking distance of wine country, a fleet of free Porsches probably sounds like a great idea.

"We're going to be one of the largest car sellers in the world without owning cars"

Meanwhile, there is no shortage of rival startups promising to disrupt the business of buying and selling cars. Beepi, a Los Altos (Calif.) outfit, operates a remarkably similar sales platform, including a thorough inspection and vehicle delivery. The only major difference is that Beepi, which was on the hunt for a \$300 million round of funding this spring, doesn't offer test drives. "We're not set up that way, and it's what enables us to offer you such amazing prices," Beepi explains on its site. Carvana, a one-click car market focused on the Southeast, doesn't offer test-drives either. But it does have a used-car vending machine. (Elon Musk take note.)

Shift says it will win with technology. Crammed with computer scientists from California's blue-chip tech companies, Shift says its listing platform is without peer and it is better than its competitors at pricing vehicles and scheduling its workers¹.

Software engineers aren't cheap, nor are delivery drivers and the massive garages near urban centers. But Shift had an edge over classic dealerships: no-cost inventory. The startup never actually buys any of the vehicles, acting instead as a conduit between the seller and eventual owner. "We're going to be one of the largest car sellers in the world without owning cars," Arison says.

Will Shift change the game? Who knows? It's maneuvering in a crowded space with another \$50 million in the tank, trying to address several used-car pain points at once. Some established rivals have made great search platforms for finding cars without offering much in the way of service and sales help. Other would-be disruptors handle the sale well but aren't so hot on the search front.

Shift is also selling a measure of trust with its mechanical audit and a seven-day window in which it offers a full refund to unhappy customers. Arison says those

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features make shoppers more comfortable buying older vehicles than they otherwise might, giving it access to a larger slice of the market.

And the market is massive, roughly \$640 billion a year at the moment, according to TrueCar, another digital car-shopping platform. When things are really humming, Americans buy almost 45 million used cars every year.

Arison, however, is still on the hunt. He's in the market for a BMW i8 and has yet to find one on Shift.



Almost Half of Homes in New York and D.C. Are Now Losing Value

A new home-price index is a warning sign for some property markets

by Prashant Gopal
from **Benchmark**

September 3, 2015 – 8:00 AM EDT



■ Why the Laws of Physics Are Suspended for NYC Housing



Almost half of single-family houses in the New York and Washington metropolitan areas are losing value, a sign that buyers' tolerance for high prices in many large U.S. cities may be reaching a limit.

Exhibit B - 3

Don't Miss Out — Follow Bloomberg On

EXHIBIT C

LOS ANGELES TIMES ARTICLE COVERING SHIFT



ADVERTISEMENT

TECHNOLOGY

On-demand used car buying and selling comes to L.A.



Shift's chief operating officer, Minnie Ingersoll, walks through the Hub, a warehouse where the company photographs and stores the cars until they are sold. (Shift)

BY TRACEY LIEN

JUNE 26, 2015 7:25 AM PT



The on-demand economy has, with a few taps on an app, brought everything from lunches to laundry to our doorsteps. Now it wants to bring us something a lot bigger: used cars.

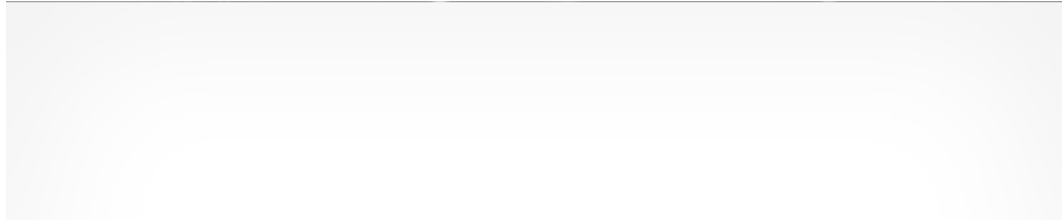
Bay Area start-up [Shift](#) recently rolled out its on-demand car buying and selling service in Los Angeles, providing what it calls the “full end-to-end experience” of buying or selling a used car -- from your desktop or phone. At its core, it’s like Craigslist, but a slew of features brings it closer to on-demand counterparts like grocery delivery service Instacart and postal service Shyp.

For sellers, instead of listing a car and fielding expressions of interest, Craigslist-style, Shift sends one of its “car enthusiasts” (i.e. independent contractors) to the seller to provide a quote, pick up the car, take it to the company’s warehouse for mechanical inspection, handle Department of Motor Vehicles paperwork, and sell the vehicle on the customer’s behalf.

On the buyer’s side, Shift’s contractors bring the car by for a test drive, and handle the paperwork.

ADVERTISING





It's one of several California start-ups launching in Los Angeles that's using technology to facilitate peer-to-peer car buying and selling.

Instamotor, also a Bay Area company, had its own launch in Los Angeles and Orange County last week. Its mobile-first service is more akin to a Craigslist, with the added benefit of an algorithm that scans cars to check for bad history: fraud, past recalls and hidden damage.

In the case of both Shift and Instamotor, neither buyer nor seller pays a fee for the service. Instamotor makes money through brokering loans and pushing warranties; Shift offers similar services through its partners, and also gets a cut of the car's sale price.

The company's independent contractors determine a minimum guarantee with the seller, which is a guaranteed amount the seller receives when the car is sold. Using an algorithm, Shift then determines a sale price for the car, which is competitive with the local market. The difference between the minimum guarantee and the final sale price is then split evenly with the seller and Shift. Buyers do not negotiate the final sale price.

Los Angeles will be Shift's second market after the Bay Area, and its chief operating officer, Minnie Ingersoll, anticipates it will be the company's biggest.

“L.A. is a car city, there’s a car culture, but buying a car there is a real pain point,” said Ingersoll, a Pasadena native. “In L.A. you get stuck on the 405 trying to get anywhere, and having to drive an hour and a half to get to a car dealership... that’s something we want to solve. So we’ll come to you if you’re selling a car, and if you’re a buyer we’ll bring the car to you for a test drive.”

Twitter: [@traceylien](#)

TECHNOLOGY



Tracey Lien

Tracey Lien covered Silicon Valley and the technology industry for The Times’ business section before leaving in 2018 to pursue her MFA at the University of Kansas. A Sydney native, she came to the U.S. because the servings are bigger. She enjoys perpetuating lies about Australian animals, specifically drop bears and boxing kangaroos.



Latest in Business



EXHIBIT D

WALL STREET JOURNAL ARTICLE COVERING SHIFT

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Shift Technologies Raises \$23.8 Million to Build Used Car Marketplace



Exhibit D - 1

UPCOMING EVENTS



Nov

9

2021

7:00 PM - 8:00 PM EDT

WSJ Opinion: A Momentous Term for the Supreme Court

Nov

17

2021

11:00 AM - 3:00 PM EDT

WSJ Pro Sustainable Business Forum

Shift Technologies Chief Executive George Arison
WATSON LU

By [Lizette Chapman](#)

Nov. 18, 2014 7:30 am ET



Investors have put more than \$23 million into [Shift Technologies Inc.](#), a used car marketplace that is racing [Beepi Inc.](#) and others to disrupt the multibillion-dollar sector.

Founded less than a year ago, Shift co-founders see the same market opportunity that prompted Sherpa Ventures and other Beepi investors to plow \$60 million into that startup [last month](#).

The premise is that used car shopping--be it via dealerships or direct to sellers--is unpleasant, inefficient and woefully in need of a technological overhaul.

“It’s a huge market that we see the ability to rethink and rebuild,” said Draper Fisher Jurvetson Partner Emily Melton, who co-led the company’s Series A round.

Ms. Melton said she was most excited about the large opportunity Shift is attacking, which she compared to previous DFJ investments like Redfin for home buying and SpaceX for space travel.

Nov
22
2021

12:00 PM - 1:45 PM EDT

WSJ Women In: Navigating the
New Normal at Work

[ADD TO CALENDAR](#)

MOST POPULAR NEWS

1. ‘Eternals’ Brings Sex to Marvel Cinematic Universe



2. New Jersey Gov. Phil Murphy Wins Tight Election Race



3. Employer Covid-19 Vaccine and Testing Rules Unveiled



4. Inside the World’s Most Blatant Covid-19 Coverup: Secret Burials, a Dead President



5. Election Results 2021: Who Won, From Virginia to New Jersey



MOST POPULAR OPINION

1. Opinion: The Big ‘Racist’ Fail in Virginia

Like Beepi, Shift allows people to buy or sell used cars from their phones. Unlike Beepi, which emphasizes the integrity of its car reviews to eliminate the need for test drives, Shift includes test drives.

Shift employs “car enthusiasts” who function as car concierges. They schedule “instant test drives” with potential buyers and bring cars to them personally. They also meet with sellers to establish a price guarantee and then take the vehicle to a Shift warehouse to be evaluated by mechanics, detailed, photographed and posted for sale across sites including AutoTrader.com, Car.com and CarGurus.com and as well as Shift’s own site, Driveshift.com.

Shift splits the difference between the guarantee price and the final sale price with the car owner.

“Our interests are aligned. If we can get a better price then we will,” Shift co-founder and Chief Executive George Arison said.

Mr. Arison said the startup also generates revenue through add-on services like financing and warranties and plans to expand those products in coming months.

He said he will also use the funding to hire more employees, particularly engineers, and expand the team from 20 to 60 or so within the next six months.

Expanding the San Francisco and Los Angeles markets and ultimately opening new regions is also planned.

“We think we can 10x the business over the next six to nine months,” Mr. Arrison said.



2. Opinion: The Biden Democrats Lose It



3. Opinion: Covid-19 Boosters Aren't for Everyone



4. Opinion: Lessons of the Progressive Fall



5. Opinion: Voters Cancel the War on Police



MOST POPULAR VIDEOS

1. The Great Labor Shift, Explained in One Chart



2. WSJ Opinion: The Biden Democrats Lose It



3. Watch: New Jersey Gov. Phil Murphy Speaks After Winning Re-election



4. The Unconventional Franchise Model Behind Chick-fil-A's Success



DFJ and Highland Capital Partners co-led the \$20 million Series A round with participation from SV Angel, Great Oaks VC and individuals including GoogleMaps co-creator Lars Rasmussen, Meraki Networks Inc. founder Hans Robertson, Square Inc. co-founder Jim McKelvey and Shazam Ltd. founder Chris Barton.

DFJ's Ms. Melton and Highland Capital Partner Manish Patel join the Shift board.

Valuation was north of \$60 million.

Shift raised a \$3.75 million seed round that was previously undisclosed.

Write to Lizette Chapman at lizette.chapman@wsj.com. Follow her on Twitter at [@zettewil](https://twitter.com/zettewil)

5. WSJ Opinion: Biden-Pelosi Overreach Turns Washington Into Fantasyland



EXHIBIT E

FORUM DECISION IN CLAIM NUMBER: FA2007001903441

DECISION

Shift Technologies, Inc. v. Redacted for Privacy
Claim Number: FA2007001903441

PARTIES

Complainant is **Shift Technologies, Inc.** ("Complainant"), represented by **Atul Singh of Ellenoff, Grossman, and Schole LLP**, United States. Respondent is **Redacted for Privacy** ("Respondent"), (Place) Redacted for Privacy.

REGISTRAR AND DISPUTED DOMAIN NAME

The domain name at issue is <**shiftautobrokers.com**>, registered with **NameCheap, Inc.**

PANEL

The undersigned certifies that he has acted independently and impartially and to the best of his knowledge has no known conflict in serving as Panelist in this proceeding.

The Honourable Neil Anthony Brown QC as Panelist.

PROCEDURAL HISTORY

Complainant submitted a Complaint to the FORUM electronically on July 8, 2020; the FORUM received payment on July 8, 2020.

On July 9, 2020, NameCheap Inc. confirmed by e-mail to the FORUM that the <**shiftautobrokers.com**> domain name is registered with NameCheap, Inc. and that Respondent is the... registrant of the name. NameCheap, Inc. has verified that Respondent is bound by the NameCheap, Inc. registration agreement and has thereby agreed to resolve domain disputes brought by third parties in accordance with ICANN's Uniform Domain Name Dispute Resolution Policy (the "Policy").

On July 14, 2020, the FORUM served the Complaint and all Annexes, including a Written Notice of the Complaint, setting a deadline of August 3, 2020 by which Respondent could file a Response to the Complaint, via e-mail to all entities and persons listed on Respondent's registration as technical, administrative, and billing contacts, and to postmaster@shiftautobrokers.com. Also on July 14, 2020, the Written Notice of the Complaint, notifying Respondent of the e-mail addresses served and the deadline for a Response, was transmitted to Respondent via post and fax, to all entities and persons listed on Respondent's registration as technical, administrative and billing contacts.

Having received no response from Respondent, the FORUM transmitted to the parties a Notification of Respondent Default.

On August 5, 2020, pursuant to Complainant's request to have the dispute decided by a single-member Panel, the FORUM appointed The Honourable Neil Anthony Brown QC as Panelist.

Having reviewed the communications records, the Administrative Panel (the "Panel") finds that the FORUM has discharged its responsibility under Paragraph 2(a) of the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules") "to employ reasonably available means calculated to achieve actual notice to Respondent" through submission of Electronic and Written Notices, as defined in Rule 1 and Rule 2. Therefore, the Panel may issue its decision based on the documents submitted and in accordance with the ICANN Policy, ICANN Rules, the FORUM's Supplemental Rules and any rules and principles of law that the Panel deems applicable, without the benefit of any response from Respondent.

RELIEF SOUGHT

Complainant requests that the domain name be transferred from Respondent to Complainant.

PARTIES' CONTENTIONS

A. Complainant

Complainant made the following contentions

Complainant operates an online automobile marketplace. Complainant has common law rights in the SHIFT mark. Respondent's <**shiftautobrokers.com**> domain name is identical or confusingly similar to Complainant's SHIFT mark because it incorporates the mark in its entirety and only adds the generic/descriptive words "auto brokers" and a ".com" generic top-level domain ("gTLD").

Respondent has no rights or legitimate interests in the <**shiftautobrokers.com**> domain name, as Respondent is not commonly known by this domain name. Respondent does not use the disputed domain name for any *bona fide* offering of goods or services, nor does it engage in any legitimate noncommercial or fair uses with the mark. Instead, Respondent initially attempted to attract Internet users for commercial gain by passing off as Complainant and offering similar content and services on the disputed domain name's resolving website. Respondent currently possesses no rights or legitimate interests in the disputed domain name in using the disputed domain name to redirect to Complainant's website or an inactive website.

Respondent registered and uses the <**shiftautobrokers.com**> domain name in bad faith. Respondent initially used the disputed domain name to attract Internet users for commercial gain by passing off as Complainant and offered content or services similar to those offered by Complainant. Respondent also registered the disputed domain name with actual knowledge of Complainant's rights, and use of, the SHIFT mark. Finally, Respondent's current use of the disputed domain name to redirect to Complainant's website demonstrates bad faith usage.

B. Respondent

Respondent failed to submit a Response in this proceeding.

FINDINGS

1. Complainant is a United States company that operates an online automobile marketplace.
2. Complainant has established its common law trademark rights in the SHIFT mark from at least March 14, 2014 and thus prior to the date when the disputed domain name was registered, namely on December 17, 2019.
3. Respondent registered the <**shiftautobrokers.com**> domain name on December 17, 2019.
4. Respondent initially attempted to attract Internet users for commercial gain by passing itself off as Complainant and offering similar content and services on the resolving website of the disputed domain name but more recently has used the domain name to redirect internet users to Complainant's website or an inactive website.

DISCUSSION

Paragraph 15(a) of the Rules instructs this Panel to "decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

Paragraph 4(a) of the Policy requires that Complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

- (1) the domain name registered by Respondent is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (2) Respondent has no rights or legitimate interests in respect of the domain name; and
- (3) the domain name has been registered and is being used in bad faith.

In view of Respondent's failure to submit a response, the Panel shall decide this administrative proceeding on the basis of Complainant's undisputed representations pursuant to paragraphs 5(f), 14(a) and 15(a) of the Rules and draw such inferences it considers appropriate pursuant to paragraph 14(b) of the Rules. The Panel is entitled to accept all reasonable allegations set forth in a complaint; however, the Panel may deny relief where a complaint contains mere conclusory or unsubstantiated arguments. See WIPO Jurisprudential Overview 3.0 at ¶ 4.3; see also *eGalaxy Multimedia Inc. v. ON HOLD* By Owner Ready To Expire, FA 157287 (FORUM June 26, 2003) ("Because Complainant did not produce clear evidence to support its subjective

allegations [...] the Panel finds it appropriate to dismiss the complaint.)

Identical and/or Confusingly Similar

The first question that arises is whether Complainant has rights in a trademark or service mark on which it may rely. Complainant submits that it has common law rights in the SHIFT mark. Where a complainant lacks a registered trademark, common law rights in a mark may satisfy Policy ¶ 4(a)(i). See *Artistic Pursuit LLC v. calcuttawebdevelopers.com*, FA 894477 (FORUM Mar. 8, 2007) (finding that Policy ¶ 4(a)(i) does not require a trademark registration if a complainant can establish common law rights in its mark). Complainant argues that its common law rights suffice in lieu of a trademark.

The next question that arises is whether Complainant has established by evidence that it has the common law rights for which it contends. Complainant argues that the SHIFT mark has secondary meaning, thereby establishing its common law rights in the mark. Secondary meaning may be established under Policy ¶ 4(a)(i) through factors such as longstanding use of the mark, holding an identical domain name, advertising, and widespread recognition. See *Klabzuba Oil & Gas, Inc. v. LAKHPAT SINGH BHANDARI*, FA 1625750 (FORUM July 17, 2015) (holding, “Complainant has provided evidence of secondary meaning by providing evidence of length of use in the mark; evidence of holding an identical domain name; media recognition; and promotional material/advertising (including letterhead and business cards). Complainant has used its mark in the oil and gas industry since 1997. Complainant has used its mark in the real estate industry since 2004. Complainant’s rights were previously recognized in *Klabzuba Oil & Gas, Inc. v. ross michael*, Claim Number: FA1505001619813.”). Complainant provides a copy of its pending USPTO application to argue its use of the mark dates back to March 14, 2014. See Compl. Ex. B. Complainant further provides Yelp reviews dating back to 2014 as well as various articles written about Complainant’s business and its SHIFT mark. See Compl. Exs. C and D. Finally, Complainant provides screenshots of its own website <shift.com>. See Compl. Ex. G. Complainant argues this evidence demonstrates its widespread media recognition of its mark as well as continuous use of the SHIFT mark. As the Panel agrees, it finds Complainant has established common law rights in the SHIFT mark under Policy ¶ 4(a)(i) and that they existed from at least March 14, 2014 and thus prior to the date when the disputed domain name was registered, namely on December 17, 2019.

The next question that arises is whether the disputed domain name is identical or confusingly similar to Complainant’s SHIFT mark. Complainant argues that Respondent’s <shiftautobrokers.com> domain name is identical or confusingly similar to Complainant’s SHIFT mark, as it incorporates the mark in its entirety and merely adds the words “auto brokers” and the “.com” gTLD to the end of the mark. The addition of generic or descriptive terms and a gTLD is generally insufficient to differentiate a domain name from a mark under Policy ¶ 4(a)(i). See *The Toronto-Dominion Bank v. George Whitehead*, FA 1784412 (FORUM June 11, 2018) (“[S]light differences between domain names and registered marks, such as the addition of words that describe the goods or services in connection with the mark and gTLDs, do not distinguish the domain name from the mark incorporated therein per Policy ¶ 4(a)(i).”); see also *Dell Inc. v. pushpender chanhan*, FA 1784548 (FORUM June 11, 2018) (“Respondent merely adds the term ‘supports’ and a ‘.org’ gTLD to the DELL mark. Thus, the Panel finds Respondent’s disputed domain name is confusingly similar to Complainant’s DELL mark per Policy ¶ 4(a)(i).”). Complainant argues that the disputed domain name incorporates Complainant’s SHIFT mark entirely, and only adds the generic/descriptive term “auto brokers” and the “.com” gTLD to the end of the mark. Therefore, the Panel finds Respondent’s domain name is confusingly similar to Complainant’s mark under Policy ¶ 4(a)(i).

Complainant has thus made out the first of the three elements that it must establish.

Rights or Legitimate Interests

It is now well established that Complainant must first make a *prima facie* case that Respondent lacks rights and legitimate interests in the disputed domain name under Policy ¶ 4(a)(ii), then the burden shifts to Respondent to show it does have rights or legitimate interests. See *Advanced International Marketing Corporation v. AA-1 Corp.*, FA 780200 (FORUM Nov. 2, 2011) (finding that a complainant must offer some evidence to make its *prima facie* case and satisfy Policy ¶ 4(a)(ii); see also *Neal & Massey Holdings Limited v. Gregory Ricks*, FA 1549327 (FORUM Apr. 12, 2014) (“Under Policy ¶ 4(a)(ii), Complainant must first make out a *prima facie* case showing that Respondent lacks rights and legitimate interests in respect of an at-issue domain name and then the burden, in effect, shifts to Respondent to come forward with evidence of its rights or legitimate interests”).

The Panel finds that Complainant has made out a *prima facie* case that arises from the following considerations:

- (a) Respondent has chosen to take Complainant’s SHIFT trademark and to use it in its domain name, adding the generic/descriptive term “auto brokers” which does not negate the confusing similarity between the domain name and the trademark;
- (b) Respondent registered the <shiftautobrokers.com> domain name on December 17, 2019;
- (c) Respondent initially attempted to attract Internet users for commercial gain by passing itself off as Complainant and offering similar content and services on the disputed domain name’s resolving website but more recently has used the domain name to redirect internet users to Complainant’s website or an inactive website;
- (d) Respondent has engaged in these activities without the consent or approval of Complainant;
- (e) Complainant submits that Respondent has no rights or legitimate interests in the <shiftautobrokers.com> domain name, as Respondent is not commonly known by the disputed domain name. Under Policy ¶ 4(c)(ii), where a response is lacking, relevant WHOIS information, along with other evidence can support a finding that the respondent is not commonly known by a disputed domain name. See *Educ. Broad. Corp. v. DomainWorks Inc.*, FA 882172 (FORUM Apr. 18, 2007) (concluding that the respondent was not commonly known by the <thirteen.com> domain name based on all evidence in the record, and the respondent did not counter this argument in its response); see also *Chevron Intellectual Property LLC v. Fred Wallace*, FA1506001626022 (FORUM July 27, 2015) (finding that the respondent was not commonly known by the <chevron-europe.com> domain name under Policy ¶ 4(c)(ii), as the WHOIS information named “Fred Wallace” as registrant of the disputed domain name). The WHOIS of record identifies the registrant of the disputed domain name as (Redacted for Privacy). Furthermore, Complainant argues that Respondent’s own Terms of Use identify it as “SE Motors Group” and “Group 1 Automotive”, as Respondent directly copied from another auto retailer. See Compl. Ex. I. Therefore, the Panel finds that Respondent is not commonly known by the disputed domain name under Policy ¶ 4(c)(ii);
- (f) Complainant argues that Respondent has not used the <shiftautobrokers.com> domain name for a *bona fide* offering of goods or services or legitimate noncommercial or fair use. Instead, Respondent used the disputed domain name’s resolving website to pass itself off as Complainant, and now uses the disputed domain name to redirect to Complainant’s <shift.com> website. Passing off as a complainant by using its mark and featuring similar services and content on the disputed domain name’s resolving website is not a *bona fide* offering of goods or services or legitimate noncommercial or fair use under Policy ¶¶ 4(c)(i) or (iii). See *Bittrex, Inc. v. Caroline Alves Maia*, FA 1796113 (FORUM Aug. 6, 2018) (finding the respondent’s attempt to pass itself off as the complainant was not a *bona fide* offering of goods or services pursuant to Policy ¶ 4(c)(i), or a legitimate noncommercial or fair use pursuant to Policy ¶ 4(c)(iii) when the respondent used the disputed domain name to present users with a website that was “virtually identical, with the same color scheme, the same layout and the same substantive content.”). Complainant provides screenshots of Respondent’s original resolving website, which appears to offer a similar website layout as Complainant’s official website, services and business models identical to Complainant’s, other content copied from other similar competitor and Complainant’s official websites, and a link to Complainant’s advertising video to promote Respondent’s own goods and services. See Compl. Exs. F through J. Complainant argues this demonstrates Respondent was attempting to pass itself off as Complainant. As the Panel agrees, it finds Respondent was not using the disputed domain name for a *bona fide* offering of goods or services, or any legitimate noncommercial or fair use under Policy ¶¶ 4(c)(i) and (iii);
- (g) Complainant argues that Respondent does not possess any legitimate rights or interests in the <shiftautobrokers.com> domain name, because it currently uses the disputed domain name to redirect to Complainant’s official website or a blank page. Using a disputed domain name to resolve to Complainant’s own website or an inactive website is insufficient to establish legitimate rights or interests under Policy ¶ 4(a)(ii). See *Direct Line Ins. plc v. Low-cost-domain*, FA 1337658 (FORUM Sept. 8, 2010) (“The Panel finds that using Complainant’s mark in a domain name over which Complainant has no control, even if the domain name redirects to Complainant’s actual site, is not consistent with the requirements of Policy ¶ 4(c)(i) or ¶ 4(c)(iii) . . .”); see also *NutriSystem IPHC, Inc. v. Usama Ayub*, FA1725806 (FORUM June 5, 2017) (holding that “Respondent does not use the <nutrisystemturbo.us> domain for a *bona fide* offering of goods or services because the domain name resolves to a website that currently is designated as ‘under construction.’”). Complainant provides screenshots of the disputed domain name redirecting to Complainant’s website or a blank page, which it claims occurred after Complainant sent a cease and desist letter to Respondent. See Compl. Exs. K through N. As the Panel agrees, it finds Respondent possesses no legitimate rights or interests in the disputed domain name under Policy ¶ 4(a)(ii).

As Respondent has not filed a Response or attempted by any other means to rebut the *prima facie* case against it, the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name.

Complainant has thus made out the second of the three elements that it must establish.

Registration and Use in Bad Faith

It is clear that to establish bad faith for the purposes of the Policy, Complainant must show that the disputed domain name was registered in bad faith and has been used in bad faith. It is also clear that the criteria set out in Policy ¶ 4(b) for establishing bad faith are not exclusive, but that Complainants in UDRP proceedings may also rely on conduct that is bad faith within the generally accepted meaning of that expression.

Having regard to those principles, the Panel finds that the disputed domain name was registered and used in bad faith. That is so for the following reasons.

First, Complainant argues that Respondent’s registration and use of the <shiftautobrokers.com> domain name is in bad faith because Respondent is attracting internet users for commercial gain by passing itself off as Complainant. Using an identical or confusingly similar domain name, along with similar or identical content on the disputed domain’s resolving website, to confuse internet users into believing a disputed domain name is affiliated with a complainant in order to sell competing products or services may be evidence of bad faith under Policy ¶¶ 4(b)(iii) and (iv). See *DatingDirect.com Ltd. v. Aston*, FA 593977 (FORUM Dec. 28, 2005) (“Respondent is appropriating Complainant’s mark to divert Complainant’s customers to Respondent’s competing business. The Panel finds this diversion is evidence of bad faith registration and use pursuant to Policy ¶ 4(b)(iii).”); see also *American Cheerleader Media, LLC. v.*

ilir shoshi / cheer, FA 1592319 (FORUM, January 20, 2015) (“The Panel here finds that Respondent has engaged in bad faith registration and use pursuant to Policy ¶ 4(b)(iv) as ... Respondent utilizes a logo and stylized font identical to Complainant’s own, as well as Complainant’s copyrighted images and text in an attempt to pass itself off as Complainant.”). The Panel recalls Complainant’s screenshots of the disputed domain name’s former resolving website, which Complainant argues contains content and services similar or identical to that on Complainant’s own website. See Compl. Exs. F through J. As the Panel agrees, it finds Respondent registered and uses the disputed domain name in bad faith under Policy ¶¶ 4(b)(iii) and (iv).

Secondly, Complainant further argues that Respondent registered the <shiftautobrokers.com> domain name in bad faith because Respondent had actual knowledge of Complainant’s rights in the SHIFT mark. Using a well-known mark and similar content, as well as a complainant’s own content, such as a video, on a disputed domain name’s resolving website may establish actual notice and bad faith registration under Policy ¶ 4 (a)(iii). See *Google Inc. v. Ahmed Humood*, FA1411001591796 (FORUM Jan. 7, 2015) (“This Panel makes that inference; Respondent has actual knowledge of Complainant’s mark at the time of domain name registration based on the fame of Complainant’s GOOGLE mark and Respondent’s use of one of the disputed domain names to detail Internet domain name registration and maintenance services related to and in competition with Complainant.”); see also *Twentieth Century Fox Film Corporation and Fox International Channels (US), Inc. v. Daniel Pizlo / HS*, FA1412001596020 (FORUM Jan. 27, 2015) (finding that the respondent must have had actual knowledge of the complainant and its rights in the FOX LIFE mark, where the respondent was using the disputed domain name to feature one of the complainant’s videos on its website, indicating that the respondent had acted in bad faith under Policy ¶ 4(a)(iii)). The Panel recalls Complainant’s numerous exhibits which it argues demonstrate the SHIFT mark’s notoriety, as well as the screenshots of Respondent’s past resolving website, offering similar content and services, and Complainant’s own advertising video. See Exs. F through J. As the Panel finds this convincing, it holds that Respondent registered the disputed domain with actual notice, and therefore in bad faith, under Policy ¶ 4 (a)(iii).

Thirdly, Complainant argues Respondent registered and uses the <shiftautobrokers.com> in bad faith by currently redirecting the disputed domain name to Complainant’s own website. Previous Panels have found that redirecting a disputed domain name to Complainant’s website is a bad faith use under Policy ¶ 4(a)(iii). See *Verizon Trademark Servs. LLC v. Boyko*, FA 1382148 (FORUM May 12, 2011) (“The Panel finds that Respondent’s registration and use of the confusingly similar disputed domain name, even where it resolves to Complainant’s own site, is still registration and use in bad faith pursuant to Policy ¶ 4(a)(iii).”). The Panel recalls Complainant’s screenshots that purportedly show the disputed domain name currently resolving to Complainant’s website. See Compl. Ex. K. Therefore, the Panel finds Respondent registered and uses the disputed domain name in bad faith under Policy ¶ 4(a)(iii).

Fourthly, in addition and having regard to the totality of the evidence, the Panel finds that, in view of Respondent’s registration of the disputed domain name using the SHIFT mark and in view of the conduct that Respondent has engaged in when using the disputed domain name, Respondent registered and used it in bad faith within the generally accepted meaning of that expression.

Complainant has thus made out the third of the three elements that it must establish.

REDACTION OF RESPONDENT’S IDENTITY

Before announcing its decision, the Panel wishes to raise another matter. In this proceeding, Respondent contended that it has been the victim of identity theft. In an email sent by the Respondent to the FORUM and dated August 6, 2020 Respondent said “I do not own any domains whatsoever, my debit card was used fraudulently and I have changed all my bank details, I have no idea what this is all about and this is not the only complain I have received under my name, but this is a case of stolen identity as millions of other from what IU was told by the (Redacted for Privacy) Police where I have filled a complaint for more than a year now.”

This evidence has made it clear in the opinion of the Panel that a fraud was perpetrated, that Respondent was the victim to the extent that its debit card was used fraudulently and that further frauds might be committed by the same means in the future by whoever was responsible. Thus, although the named Respondent is the domain name holder and the proper Respondent in this proceeding, the real name and contact details of the person who wrongly effected the registration of the domain name is unknown.

This gives rise to the question whether there should be a redaction from the decision to protect the privacy of the named Respondent. Neither party has requested itself any redaction. However, the Panel has formed the view that it may well be unfair to the named Respondent to continue to have its name associated with this proceeding, especially as it is the Respondent and where the impression may be given to internet users that it has some responsibility for some of the events described in the decision, whereas in fact it does not, being an innocent party.

The Panel has therefore decided to consider on its own initiative whether it should exercise the power to determine whether there should be a redaction from the decision to protect Respondent’s privacy. In considering the issue, the Panel will take the following rules and decisions into account.

Under Policy ¶ 4(j) the Panel has power to determine that portions of its decision may be redacted. The practical result of the exercise of this power is that the provider, in this case the FORUM, will not publish on the internet the full decision, but will redact the portion determined by the Panel to be redacted. It is clear that the language of the Policy in that regard is wide enough to redact from a decision the case caption and any other reference to the named Respondent.

According to Policy ¶ 4(j), “[a]ll decisions under this Policy will be published in full over the Internet, except when an Administrative Panel determines in an exceptional case to redact portions of its decision.” In *Wells Fargo & Co. v. John Doe as Holder of Domain Name <wellsfargo.com>*, FA 362108 (FORUM Dec. 30, 2004) and *Wells Fargo & Co. v. John Doe as Holder of Domain Name <wellsfargoss1>*, FA 453727 (FORUM May 19, 2005), the panels omitted the respondents’ personal information from the decisions, pursuant to Policy ¶ 4(j), to protect the respondents who claimed to be victims of identity theft from becoming aligned with acts the actual registrants appeared to have sought to impute to the respondents.

The Panel notes here that the power given to it by Policy ¶ 4(j) is a discretionary one that must be exercised judicially. In that regard the Panel would have to be satisfied that the case was an “exceptional” one and that it was appropriate to be made in all the circumstances.

ICANN Rule 16(b) also makes practical provision for the publication of the full decision except if the Panel determines otherwise under Policy ¶ 4(j).

It is true that FORUM Supplemental Rule 15(b) provides “All requests pursuant to Policy paragraph 4(j) and Rule 16(b) to have a portion of the decision redacted, must be made in the Complaint, the Response, or an Additional Submission that is submitted before the Panel’s decision is published.” But in those cases where there is no request, such as the present case, the Panel has a discretion although, as has just been noted, the discretion must be exercised judicially.

The Panel notes that previous decisions have held that the registrar-confirmed registrant of a disputed domain name (per the WHOIS at commencement of the proceeding) is the proper respondent, notwithstanding the possibility that said respondent’s identity was stolen. See, e.g., *Banco Bradesco S/A v. Gisele Moura Leite*, D2014-0414 (WIPO Apr. 30, 2014). Despite this, the power to redact a portion of a decision is expressly conferred by Policy ¶ 4(j) and may be implemented by ICANN Rule 16 (b). Thus, in the present case the named registrant is the proper Respondent

The role of the Panel is then to determine whether the circumstances of the present case including the theft of Respondent’s identity and the fraud warrant the redaction of Respondent’s name and any other identifying information from the Panel’s decision.

The Panel has considered this matter carefully. It is clear that whoever was responsible for registering the domain name in the name of Respondent has stolen its identity and been responsible for the fraud. Thus, in the opinion of the Panel, the identity of the Respondent should be protected by redaction.

The Panel has therefore decided that in all the circumstances this is an exceptional case and that it is appropriate to redact Respondent’s name and information from the Panel’s decision. The Panel therefore determines for the purposes of Policy ¶ 4(j) and ICANN Rule 16(b) that this will be done.

DECISION

Having established all three elements required under the ICANN Policy, the Panel concludes that relief shall be **GRANTED**.

Accordingly, it is Ordered that the <shiftautobrokers.com> domain name be **TRANSFERRED** from Respondent to Complainant.

The Honourable Neil Anthony Brown QC
Panelist
Dated: August 6, 2020

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[Click Here](#) to return to our Home Page

EXHIBIT F
SHIFT'S ORIGINALLY FILED TRADEMARK APPLICATION

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 87115509

Filing Date: 07/25/2016

*NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.*

The table below presents the data as entered.

Input Field	Entered
TEAS Plus	YES
MARK INFORMATION	
*MARK	Shift
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	Shift
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Shift Technologies, Inc.
*STREET	2500 Market St.
*CITY	San Francisco
*STATE (Required for U.S. applicants)	California
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants)	94114
PHONE	860-833-1227
EMAIL ADDRESS	XXXX
WEBSITE ADDRESS	www.shift.com
LEGAL ENTITY INFORMATION	
*TYPE	CORPORATION
* STATE/COUNTRY OF INCORPORATION	Delaware
GOODS AND/OR SERVICES AND BASIS INFORMATION	
*INTERNATIONAL CLASS	035
	Operating on-line marketplaces featuring automobiles ; Providing information

*IDENTIFICATION	about automobiles for sale by means of the Internet; Provision of an on-line marketplace for buyers and sellers of goods and services
*FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 03/14/2014
FIRST USE IN COMMERCE DATE	At least as early as 03/14/2014
SPECIMEN FILE NAME(S)	
ORIGINAL PDF FILE	SPE0-1-17324720298-20160725180939133135_ . SHIFT - Specimen of Use PDF .pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\871\155\87115509\xml1\FTK0003.JPG
SPECIMEN DESCRIPTION	Please see attached a PDF image of the Shift Technologies, Inc. webpage (www.shift.com) showing use of the mark, advertising of services and a picture and textual description of the goods and services offered in connection with the mark.
ADDITIONAL STATEMENTS INFORMATION	
*TRANSLATION (if applicable)	
*TRANSLITERATION (if applicable)	
*CLAIMED PRIOR REGISTRATION (if applicable)	
*CONSENT (NAME/LIKENESS) (if applicable)	
*CONCURRENT USE CLAIM (if applicable)	
ATTORNEY INFORMATION	
NAME	Jesse Payne-Johnson
FIRM NAME	Shift Technologies, Inc.
STREET	2500 Market St.
CITY	San Francisco
STATE	California
COUNTRY	United States
ZIP/POSTAL CODE	94114
PHONE	(860) 833-1227
EMAIL ADDRESS	jesse@shift.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
CORRESPONDENCE INFORMATION	
*NAME	Jesse Payne-Johnson
FIRM NAME	Shift Technologies, Inc.
*STREET	2500 Market St.
*CITY	San Francisco
*STATE (Required for U.S. addresses)	California
*COUNTRY	United States

*ZIP/POSTAL CODE	94114
PHONE	(860) 833-1227
*EMAIL ADDRESS	jesse@shift.com
*AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
APPLICATION FILING OPTION	TEAS Plus
NUMBER OF CLASSES	1
FEE PER CLASS	225
*TOTAL FEE PAID	225
SIGNATURE INFORMATION	
* SIGNATURE	/Jesse Payne-Johnson/
* SIGNATORY'S NAME	Jesse Payne-Johnson
* SIGNATORY'S POSITION	Head of Legal, Shift Technologies, Inc.
SIGNATORY'S PHONE NUMBER	(860) 833-1227
* DATE SIGNED	07/25/2016

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 87115509

Filing Date: 07/25/2016

To the Commissioner for Trademarks:

MARK: Shift (Standard Characters, see [mark](#))

The literal element of the mark consists of Shift.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Shift Technologies, Inc., a corporation of Delaware, having an address of
2500 Market St.
San Francisco, California 94114
United States
860-833-1227(phone)
XXXX (not authorized)

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 035: Operating on-line marketplaces featuring automobiles; Providing information about automobiles for sale by means of the Internet; Provision of an on-line marketplace for buyers and sellers of goods and services

Use in Commerce: The applicant is using the mark in commerce on or in connection with the identified goods/services. The applicant attaches, or will later submit, one specimen as a JPG/PDF image file showing the mark as used in commerce on or in connection with any item in the class of listed goods/services, regardless of whether the mark itself is in the standard character format or is a stylized or design mark. The specimen image file may be in color, and the image must be in color if color is being claimed as a feature of the mark.

In International Class 035, the mark was first used by the applicant or the applicant's related company or licensee predecessor in interest at least as early as 03/14/2014, and first used in commerce at least as early as 03/14/2014, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods/services, consisting of a(n) Please see attached a PDF image of the Shift Technologies, Inc. webpage (www.shift.com) showing use of the mark, advertising of services and a picture and textual description of the goods and services offered in connection with the mark..

Original PDF file:

[SPE0-1-17324720298-20160725180939133135 . SHIFT - Specimen of Use PDF .pdf](#)

Converted PDF file(s) (1 page)

[Specimen File1](#)

For informational purposes only, applicant's website address is: www.shift.com

The applicant's current Attorney Information:

Jesse Payne-Johnson of Shift Technologies, Inc. 2500 Market St.
San Francisco, California 94114
United States
(860) 833-1227(phone)
jesse@shift.com (authorized)

The applicant's current Correspondence Information:

Jesse Payne-Johnson
Shift Technologies, Inc.

2500 Market St.
San Francisco, California 94114
(860) 833-1227(phone)
jesse@shift.com (authorized)

E-mail Authorization: I authorize the USPTO to send e-mail correspondence concerning the application to the applicant or applicant's attorney at the e-mail address provided above. I understand that a valid e-mail address must be maintained and that the applicant or the applicant's attorney must file the relevant subsequent application-related submissions via the Trademark Electronic Application System (TEAS). Failure to do so will result in an additional processing fee of \$50 per international class of goods/services.

A fee payment in the amount of \$225 has been submitted with the application, representing payment for 1 class(es).

Declaration

The signatory believes that: if the applicant is filing the application under 15 U.S.C. § 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant is using the mark in commerce on or in connection with the goods/services in the application; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e), the applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Signature: /Jesse Payne-Johnson/ Date Signed: 07/25/2016
Signatory's Name: Jesse Payne-Johnson
Signatory's Position: Head of Legal, Shift Technologies, Inc.

RAM Sale Number: 87115509
RAM Accounting Date: 07/26/2016

Serial Number: 87115509
Internet Transmission Date: Mon Jul 25 18:33:08 EDT 2016
TEAS Stamp: USPTO/FTK-XXX.XXX.XXX.XX-201607251833080
81950-87115509-550432ee2878a387d321f6764
a5f943343508ac67923367b99b5bc7fe86dafdd5
-CC-8015-20160725180939133135

Shift



BROWSE THE BEST

See great deals on cars that passed our rigorous, 200-point inspection.



TEST DRIVES, DELIVERED

We'll bring the car to you and be there to answer any questions.



NO-HASSLE BUYING

Let us handle all the paperwork. We can even help with financing options.



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