

ESTTA Tracking number: **ESTTA843953**

Filing date: **09/05/2017**

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

**Petition for Cancellation**

Notice is hereby given that the following party has filed a petition to cancel the registration indicated below.

**Petitioner Information**

Name	SportsCastr.Live LLC		
Entity	Limited Liability Company	Citizenship	Delaware
Address	595 Madison Avenue #19 New York, NY 10022 UNITED STATES		

Attorney information	Brian J. Focarino Cooley LLP 1299 Pennsylvania Avenue Suite 700 Washington, DC 20004 UNITED STATES Email: trademarks@cooley.com, bjfocarino@gmail.com, kwon@cooley.com Phone: 202-842-7800		
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**Registration Subject to Cancellation**

Registration No.	4309765	Registration date	03/26/2013
Registrant	OneLouder Apps, Inc. Suite 400 909 Walnut Street Kansas City, MO 64106 UNITED STATES		

**Goods/Services Subject to Cancellation**

<p>Class 009. First Use: 2011/08/31 First Use In Commerce: 2011/08/31 All goods and services in the class are subject to cancellation, namely: Software and downloadable software in the nature of mobile applications for use with smart phones, pda devices, tablet computers and other portable handheld digital electronic devices, featuring the access, delivery and utilization of information in the field of athletic events, including real-time delivery of athletic event information through online and mobile distribution channels, including information on athletes, sporting events, scores and other data related thereto; Software and downloadable software for wireless aggregation and content delivery; Computer application software for use with smart phones, pda devices, tablet computers and other portable handheld digital electronic communication devices, namely, software for accessing, viewing, interacting with and downloading athletic event information and related content from websites, smart phones, pda devices, tablet computers and other portable handheld digital electronic communication devices related to real-time delivery of data, messages, images, photographs, documents, text and other data related thereto, including transmission of electronic content in the nature of messages images, photographs, documents, text and other data</p>
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**Grounds for Cancellation**

Abandonment	Trademark Act Section 14(3)
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Attachments	SportsCastr.Live - Petition to Cancel SPORTSCASTER - Reg. No. 4309765.pdf(555851 bytes )
Signature	/Brian J. Focarino/
Name	Brian J. Focarino
Date	09/05/2017

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

In the Matter of Registration No. 4,309,765  
For the Trademark SPORTCASTER  
Issued March 26, 2013

SPORTSCASTR.LIVE LLC,	)	
	)	
Petitioner,	)	
	)	Cancellation No.
v.	)	
	)	
ONELOUDER APPS, INC.,	)	
	)	
Registrant.	)	
<hr style="width:50%; margin-left:0;"/>		

**PETITION TO CANCEL**

Petitioner SportsCastr.Live LLC (“SportsCastr.Live”), a Delaware limited liability company having its principal place of business at 595 Madison Avenue #19, New York, New York 10022, believes it is being damaged and will continue to be damaged by the registration of the SPORTCASTER mark (Registration No. 4,309,765) (the “Subject Registration”) owned by OneLouder Apps, Inc. (“Registrant”), a Delaware corporation with a listed address of 909 Walnut Street, Suite 400, Kansas City, Missouri 64106. SportsCastr.Live hereby petitions to cancel the Subject Registration pursuant to Section 14 of the Trademark Act of 1947, 15 U.S.C. § 1064.

As ground for cancellation, SportsCastr.Live alleges the following:

**The Subject Registration**

**1.** On or about June 30, 2011, Registrant filed Application Serial No. 85/360,448 for the mark SPORTCASTER with the United States Patent and Trademark Office (“USPTO”) in connection with “[s]oftware and downloadable software in the nature of mobile applications for

use with smart phones, pda devices, tablet computers and other portable handheld digital electronic devices, featuring the access, delivery and utilization of information in the field of athletic events, including real-time delivery of athletic event information through online and mobile distribution channels, including information on athletes, sporting events, scores and other data related thereto; Software and downloadable software for wireless aggregation and content delivery; Computer application software for use with smart phones, pda devices, tablet computers and other portable handheld digital electronic communication devices, namely, software for accessing, viewing, interacting with and downloading athletic event information and related content from websites, smart phones, pda devices, tablet computers and other portable handheld digital electronic communication devices related to real-time delivery of data, messages, images, photographs, documents, text and other data related thereto, including transmission of electronic content in the nature of messages images, photographs, documents, text and other data” in International Class 9 on an intent-to-use basis.

2. On July 31, 2012, the USPTO issued a Notice of Allowance for Application Serial No. 85/360,448.

3. On January 31, 2013, Registrant submitted specimens with its Statement of Use attached hereto as Exhibit 1 in connection with its Class 9 goods, stating under oath that the SPORTCASTER mark was first used in connection with all listed Class 9 goods at least as early August 31, 2011, and was also first used in U.S. commerce at least as early as August 31, 2011.

4. On February 22, 2013, the USPTO issued a Notice of Acceptance of Registrant’s Statement of Use, and on March 26, 2013, the Subject Registration issued.

**SportsCastr.Live, its SPORTSCASTR Mark, and Trademark Application Serial No.  
87/249,416**

5. On November 28, 2016, Petitioner filed Application Serial No. 87/249,416 for its

SPORTSCASTR mark in connection with “Downloadable software allowing users to create, update and maintain their own user profiles, portals and databases of information, documents, files, images, graphic designs, photographs and other data; computer software for use on mobile and web platforms which aggregates content from other sources, such as social media feeds, and develops and highlights connections among users” in International Class 9, “Electronic messaging; streaming of video material, including live video and user-generated video content, on the Internet; transmission of electronic media, multimedia content, videos, movies, pictures, images, text, photos, user-generated content, audio content, and information via the Internet and other communications networks; providing community forums for users to post, search, watch, share, critique, rate, and comment on, videos and other multimedia content via the Internet and other communications networks; providing on-line forums that allow people and organizations to officially respond to postings by others, customize user notifications, and share content” in International Class 38, and “Non-downloadable software allowing users to create, update and maintain their own user profiles, portals and databases of information, documents, files, images, graphic designs, photographs and other data; providing a website featuring technology that enables users to upload personal videos and stream other user videos and media content; computer services, namely, creating virtual communities for registered users to organize groups and events, participate in discussions, get feedback from their peers, and engage in social, business and community networking; computer services in the nature of providing customized online pages featuring user-defined or specified information, personal profiles, audio, video, photographic images, text, graphics and data; providing a web site featuring technology that enables users to connect with other people who share similar interests” in International Class 42 on an intent-to-use basis (the “SPORTSCASTR Application”).

6. On March 4, 2017, the USPTO issued an office action with respect to the SPORTSCASTR Application, provisionally refusing registration on the ground that Petitioner's SPORTSCASTR mark is likely to cause confusion with Registrant's SPORTCASTER mark embodied in the Subject Registration. Specifically, the Examining Attorney noted that SPORTSCASTR mark is "merely the plural form of the registered mark ... and thus the marks are confusingly similar." The Examining Attorney also noted that because the parties both "offer software and software services" which are "overlapping." Accordingly, the Examining Attorney refused registration.

7. As the Subject Registration was cited by the USPTO as a block to the SPORTSCASTR Application, the Subject Registration is causing damage and injury to Petitioner.

8. Accordingly, Petitioner has been harmed and believes it will continue to be harmed by the continued registration of Registrant's SPORTCASTER mark in connection with the Class 9 goods identified in the Subject Registration.

**GROUND FOR CANCELLATION:**  
**REGISTRANT'S SPORTCASTER MARK HAS NOT BEEN USED IN U.S. COMMERCE FOR AT**  
**LEAST THREE CONSECUTIVE YEARS**

9. Petitioner repeats and realleges each and every allegation set forth in Paragraphs 1 through 8 as if fully set forth herein.

10. Petitioner is informed and believes, and on that basis alleges, that Registrant has not used Registrant's SPORTCASTER mark in U.S. commerce on or in connection with any of the goods listed in the Subject Registration for at least the most recent three consecutive years.

11. On information and belief, Registrant's use of Registrant's SPORTCASTER mark in the U.S. has been discontinued without any intent to resume use.

12. Thus, Registrant has abandoned any rights to Registrant's SPORTCASTER mark and the Subject Registration should be cancelled.

WHEREFORE, for the foregoing reasons, SportsCastr.Live requests that the present Petition to Cancel be granted, and that Registration No. 4,309,765 be cancelled due to abandonment.

Respectfully submitted,  
COOLEY LLP

Date: September 5, 2017

By: /Brian J. Focarino/  
Karen K. Won  
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*Counsel for SportsCastr.Live LLC*

**CERTIFICATE OF SERVICE**

I hereby certify that on the date indicated below, a true and complete copy of Petitioner SportsCastr.Live LLC's **PETITION TO CANCEL** was served electronically upon correspondent for the subject registration to the following address:

Melissa A. Jobe  
6391 Sprint Parkway  
KSOPHT0101-Z2100  
Overland Park, Kansas 66251  
[uspto-tm@spring.com](mailto:uspto-tm@spring.com)

Date: September 5, 2017

By: /Brian J. Focarino/  
Brian J. Focarino  
COOLEY LLP  
500 Boylston Street  
Boston, MA 02116  
Tel: 617- 937-2347  
Email: bfocarino@cooley.com

*Counsel for SportsCastr.Live LLC*



# **EXHIBIT 1**

## Trademark/Service Mark Statement of Use (15 U.S.C. Section 1051(d))

To the Commissioner for Trademarks:

**MARK:** SPORTCASTER(Standard Characters, see <http://tess2.uspto.gov/ImageAgent/ImageAgentProxy?getImage=85360448>)

**SERIAL NUMBER:** 85360448

The applicant, OneLouder Apps, Inc., having an address of  
Suite 400  
Kansas City, Missouri 64106  
United States

is submitting the following allegation of use information:

For International Class 009:

Current identification: Software and downloadable software in the nature of mobile applications for use with smart phones, pda devices, tablet computers and other portable handheld digital electronic devices, featuring the access, delivery and utilization of information in the field of athletic events, including real-time delivery of athletic event information through online and mobile distribution channels, including information on athletes, sporting events, scores and other data related thereto; Software and downloadable software for wireless aggregation and content delivery; Computer application software for use with smart phones, pda devices, tablet computers and other portable handheld digital electronic communication devices, namely, software for accessing, viewing, interacting with and downloading athletic event information and related content from websites, smart phones, pda devices, tablet computers and other portable handheld digital electronic communication devices related to real-time delivery of data, messages, images, photographs, documents, text and other data related thereto, including transmission of electronic content in the nature of messages images, photographs, documents, text and other data

The mark is in use in commerce on or in connection with all of the goods/services, or to indicate membership in the collective organization listed in the application or Notice of Allowance or as subsequently modified for this specific class.

The mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as 08/31/2011, and first used in commerce at least as early as 08/31/2011, and is now in use in such commerce. The applicant is submitting one specimen for the class showing the mark as used in commerce on or in connection with any item in the class, consisting of a(n) scanned image of downloaded software.

**Original PDF file:**

[SPN0-209135145202-150330281\\_1\\_Sportscaster.pdf](#)

**Converted PDF file(s)** (1 page)

[Specimen File1](#)

**Original PDF file:**

[SPN0-209135145202-150330281\\_1\\_Sportcaster\\_1.pdf](#)

**Converted PDF file(s)** (1 page)

[Specimen File1](#)

**Original PDF file:**

[SPN0-209135145202-150330281\\_1\\_Sportcaster\\_2.pdf](#)

**Converted PDF file(s)** (1 page)

[Specimen File1](#)

**Original PDF file:**

[SPN0-209135145202-150330281\\_1\\_Sportcaster\\_3.pdf](#)

**Converted PDF file(s)** (1 page)

[Specimen File1](#)

The applicant is not filing a Request to Divide with this Allegation of Use form.

A fee payment in the amount of \$100 will be submitted with the form, representing payment for the allegation of use for 1 class.

### Declaration

Applicant requests registration of the above-identified trademark/service mark 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). Applicant is the owner of the mark sought to be registered, and is using the mark in commerce on or in connection with the goods/services identified above, as evidenced by the attached specimen(s) showing the mark as used in commerce.

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements may jeopardize the validity of the form or any resulting registration, declares that he/she is properly authorized to execute this form on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /Matthew J. Smith/ Date Signed: 01/31/2013

Signatory's Name: Matthew J. Smith

Signatory's Position: Attorney of record

Signatory's Phone: 314-889-8000

RAM Sale Number: 85360448

RAM Accounting Date: 02/01/2013

Serial Number: 85360448

Internet Transmission Date: Thu Jan 31 15:16:11 EST 2013

TEAS Stamp: USPTO/SOU-XXX.XXX.XXX.XXX-20130131151611

270297-85360448-500ef6ad1c8295ef9e22c389

d4cea4edf141d25673be6e0bb9f98168789fc74e

3-DA-1524-20130131150330281185

Verizon 2:15 PM

# SPORTCASTER



CONVERSATION



SCHEDULES



SCORES

11



STANDINGS



FANTASY



Verizon 3G 4:13 PM

# SPORTCASTER



CONVERSATION



FANTASY



11  
SCORES

**KC** Vs **OAK**  
23 Vs 20  
FINAL  
SAT 11-07-2010  
4:10 PM ET  
OU 45

SCHEDULES



STANDINGS

# ONE LOUDER

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All Apps Announcements



Slices is a completely new Twitter experience. With the world's first Twitter directory, Live Event streams, and Timeline Slicer, it's simply a better way to discover Twitter. What's your Slice?

"...it's a pretty attractive bird." -PandoDaily

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OneLoudr Wins Social Madness

We are excited to announce we've been named the small company winner of Social Madness 2012. We're donating our \$10,000 award to Connecting for Good, a non-profit helping low-income Kansas City families get connected to Google Fiber.

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Powow includes anyone and everyone on any mobile phone in both one-to-one and group texting. Add in Backlist, Pop-ups and Zap to round out the most complete text messaging available.

"POWOW delivers a sleek messaging experience to Android." -Android Police

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Just a couple weeks ago, the outlook wasn't good for the much-ballyhooed Google Fiber rollout in Kansas City. Only about half the "fiberhood" had enough pre-registrations to qualify for Google's...

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The #1 mobile Twitter app with the most advanced features, Search Party, SmartLits, Zap!, if you don't know what these are, you're not getting the best mobile Twitter experience.

"TweetCaster takes your mobile Twitter experience from being to breaking" -AndroidApps.com

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All the scores and stats you could ever want delivered instantly along with updates from top fantasy gurus and live commentary from players, writers, analysts and bloggers.

"Our one stop shop for sports goodness!" -iMobiLife

[More](#)



With a stylish design and features like pull to refresh, customizable notifications, dark and light themes and a myriad of sharing options, FriendCaster is Facebook done right.

"FriendCaster for Facebook is a fantastic Facebook app." -The Droid Guy


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Simple and stylish, but technologically advanced, Weather offers an alternative to cookie-cutter weather apps. A full suite of accurate, up-to-the-minute weather tools keep you informed.

"The most beautiful weather app we've ever seen!" -AndroidPolice


[More](#)



BaconReader serves up Reddit content in a stylish package with powerful features like subreddit grouping, domain filtering, full user profile access, nextpage support and much more.

"Put simply, BaconReader is a great app for loving Reddit!" -AppStorm

[More](#)



Discover, watch, and share news, gossip, local buzz, celebrity photos, viral videos and more. ChannelCaster offers endless online content right on your smartphone or tablet.

"...ChannelCaster is a winner!" -CNET

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Give Us Your Feedback.

Much of the success we've had with TweetCaster and FriendCaster is owed to our loyal users who provide us with useful feedback.

[Go](#)



# SPORTCASTER

Live Sports with a Social Voice

[Learn More](#)



ChannelCaster

SportCaster

FriendCaster  
for Facebook

TweetCaster  
for Twitter

**Welcome to OneLouder**

What is OneLouder? Well, for those hip enough...or old enough, it's a tip of the hat to a classic: Eleven Is One Louder

[More](#)

**1 Million Followers on Twitter**

OneLouder Apps is excited and honored to announce that we just surpassed 1 million followers on Twitter!

[More](#)

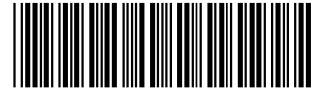
**Give Us Your Feedback**

Much of the success we've had with TweetCaster and FriendCaster is **owed** to our loyal users who provide us with useful feedback.

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**FEE RECORD SHEET**

**Serial Number:** 85360448



**RAM Sale Number:** 85360448

**Total Fees:** \$100

**RAM Accounting Date:** 20130201

<u>Transaction</u>	<u>Fee Code</u>	<u>Transaction Date</u>	<u>Fee per Class</u>	<u>Number of Classes</u>	<u>Total Fee</u>
Statement of Use (SOU)	7003	20130131	\$100	1	\$100

**Transaction Date:** 20130131

