

ESTTA Tracking number: **ESTTA505901**

Filing date: **11/16/2012**

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	OpenCoin, Inc.
Granted to Date of previous extension	12/01/2012
Address	268 Bush Street, #2724 San Francisco, CA 94104-3503 UNITED STATES
Correspondence information	James A. Gale Feldman Gale, P. A. One Biscayne Tower, 30th Floor, 2 S. Biscayne Blvd. Miami, FL 33131 UNITED STATES Trademarks@FeldmanGale.com Phone:(305) 358-5001

Applicant Information

Application No	85475583	Publication date	10/02/2012
Opposition Filing Date	11/16/2012	Opposition Period Ends	12/01/2012
Applicant	Aurora Financial Systems, Inc. 3 Greenwich Office Park Greenwich, CT 06831 UNITED STATES		

Goods/Services Affected by Opposition

Class 036. All goods and services in the class are opposed, namely: Financial transaction services, namely, providing secure commercial transactions and payment options

Grounds for Opposition

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

U.S. Application No.	85746224	Application Date	10/04/2012
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	RIPPLE COMMUNICATIONS		

Design Mark	RIPPLE COMMUNICATIONS		
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1998/07/31 First Use In Commerce: 1998/07/31 Financial services and financial transaction services, namely, providing secure commercial transactions and payment options		

U.S. Application No.	85746235	Application Date	10/04/2012
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	RIPPLE COMMUNICATIONS		
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Design Mark	RIPPLE COMMUNICATIONS		
Description of Mark	NONE		
Goods/Services	Class 038. First use: First Use: 1998/07/31 First Use In Commerce: 1998/07/31 Telecommunication services, namely, telephone and conference calling services; providing electronic telecommunication connections for meetings; electronic voice messaging services, namely, the recording and subsequent transmission of voice messages by telephone; providing telephone services with various features, namely, discussion groups, forums, chat rooms, electronic bulletin boards for transmission of messages among users		

U.S. Application No.	85774758	Application Date	11/08/2012
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	RIPPLE		
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Design Mark	<h1>RIPPLE</h1>
Description of Mark	NONE
Goods/Services	Class 036. First use: First Use: 2004/08/31 First Use In Commerce: 2004/08/31 Financial services, namely, a payment system that uses traditional currency and virtual currency for use by members of an on-line community via a global computer network

Attachments	85746224#TMSN.jpeg (1 page)(bytes) 85746235#TMSN.jpeg (1 page)(bytes) 85774758#TMSN.jpeg (1 page)(bytes) Notice of Opposition RIPPLE CARD 11.16.2012.pdf (6 pages)(35909 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/agk/
Name	Ashley G. Kessler, Attorney for Opposer
Date	11/16/2012

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

OpenCoin, Inc.,

Opposer,

v.

Aurora Financial Systems, Inc.,

Applicant.

Opposition No.:

Mark: RIPPLE CARD

Serial No.: 85,475,583

NOTICE OF OPPOSITION

OpenCoin, Inc. (“OpenCoin” or “Opposer”), a company organized under the laws of California with a principal place of business in San Francisco, California, will be damaged by registration on the Principal Register of the mark RIPPLE CARD, shown in Application Serial No. 85,475,583, filed by Aurora Financial Systems, Inc. (“AFS” or “Applicant”), published in the Official Gazette on October 2, 2012 (“Opposed Application”), and hereby opposes registration of same. As grounds for the opposition, Opposer alleges as follows:

OpenCoin, Inc.

1. OpenCoin owns U.S. Trademark Application Serial No. 85/746,224 (the “’224 Application”) for the mark RIPPLE COMMUNICATIONS in connection with “Financial services and financial transaction services, namely, providing secure commercial transactions and payment options” in international class 36. The ’224 Application sets forth a date of first use of at least as early as July 31, 1998.

2. OpenCoin also owns U.S. Trademark Application Serial No. 85/746,235 (the “’235 Application”) for the mark RIPPLE COMMUNICATIONS in connection with

“Telecommunication services, namely, telephone and conference calling services; providing electronic telecommunication connections for meetings; electronic voice messaging services, namely, the recording and subsequent transmission of voice messages by telephone; providing telephone services with various features, namely, discussion groups, forums, chat rooms, electronic bulletin boards for transmission of messages among users.” The ’235 Application sets forth a date of first use of at least as early as July 31, 1998.

3. OpenCoin also owns U.S. Trademark Application Serial No. 85/774,758 (the “’758 Application”) for the mark RIPPLE in connection with “Financial services, namely, a payment system that uses traditional currency and virtual currency for use by members of an on-line community via a global computer network.” The ’758 Application sets forth a date of first use of at least as early as August 31, 2004.

4. OpenCoin also owns certain common law rights to the marks RIPPLE and RIPPLE COMMUNICATIONS (the “Ripple Common Law Marks”) for use at least in connection with services in International Class 36. In particular, the Ripple Common Law Marks have been in use in connection with “financial services, namely, a payment system that uses traditional currency and virtual currency for use by members of an on-line community via a global computer network” and “financial services and financial transaction services, namely, providing secure commercial transactions and payment options.” One or more of the Ripple Common Law Marks have been continuously in use since at least as early as July 31, 1998. Collectively, the ’224 Application, the ’235 Application, the ’758 Application and the RIPPLE Common Law Marks are referred to herein as the “RIPPLE Marks.”

5. OpenCoin also owns all rights, title and interest in and to the URL domain names <http://www.ripple.com>, <http://www.ripple-project.org>, and <http://www.ripplepay.com> and all goodwill associated thereto.

6. OpenCoin owns all right, title and interest in and to the RIPPLE Marks and the related domain names, as well as all goodwill associated therewith by assignment from Ripple Communications Inc. and Ryan Fugger, an individual.

7. By virtue of their continuous and extensive use, the RIPPLE Marks have acquired substantial goodwill.

Applicant

8. On November 17, 2011, Applicant filed U.S. Trademark App. Ser. No. 85,475,583 on an intent-to-use basis for the mark RIPPLE CARD (the "RIPPLE CARD application"). The RIPPLE CARD application is for use in connection with "financial transaction services, namely, providing secure commercial transactions and payment options" in International Class 036.

9. The Examiner of the RIPPLE CARD application required the Applicant to disclaim the term "CARD" in its application because the term "CARD" merely describes a characteristic of applicant's financial transaction services, namely, financial transaction services available via a card.

10. RIPPLE is the dominant element of the RIPPLE CARD application.

11. The dominant portion of applicant's mark, "RIPPLE," is indistinguishable from the dominant portion of Opposer's RIPPLE Marks.

12. Further, the RIPPLE CARD application recites goods that are identical or closely related to the services provided by Opposer under the RIPPLE Marks.

13. Further still, the services are likely to be provided in similar markets and channels of trade.

14. The identical appearance and sound between the parties' RIPPLE Marks and the RIPPLE CARD application creates a likelihood of confusion among the consuming public. The Applicant's use of the RIPPLE Marks in services identical or closely associated with Opposer's services creates an even higher likelihood of confusion among the consuming public. Thus, Section 2(d) of the Trademark Act bars registration of the Applicant's Mark.

15. OpenCoin would be damaged by the registration of Applicant's mark RIPPLE CARD.

WHEREFORE, OpenCoin, Inc. respectfully requests that the Trademark Trial and Appeal Board grant this Opposition and deny AFS's application to register the mark RIPPLE CARD, Application Serial No. 85,475,583.

Dated: November 16, 2012

Respectfully Submitted,

OpenCoin, Inc.

By: /agk/
Ashley G. Kessler
Alejandro J. Fernandez
James A. Gale
Attorneys for Opposer

Notice of Opposition
November 16, 2012
Page 5 of 6

Application Serial No. 85,475,583
Mark: RIPPLE CARD

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CERTIFICATE OF ELECTRONIC FILING
AND CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **NOTICE OF OPPOSITION** is being submitted electronically via the Electronic Filing System for Trademark Trial and Appeals on this 16th day of November, 2012.

I further hereby certify that a true and complete copy of the foregoing **NOTICE OF OPPOSITION** has been served on Applicant by mailing said copy on this 16th day of November, 2012 by First Class Mail, postage prepaid and by electronic mail to:

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/agk/

Ashley G. Kessler
Attorney for Opposer