

ESTTA Tracking number: **ESTTA837804**

Filing date: **08/07/2017**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	OX ZION, LLC
Granted to Date of previous extension	08/05/2017
Address	23811 Chagrin Blvd Suite 226 Cleveland, OH 44122 UNITED STATES
Attorney information	Adam M Runkle Starkey Law Firm, LLC 638 W. MAPLE STREET HARTVILLE, OH 44632 UNITED STATES Email: AMR@STARKEYLAWFIRM.COM Phone: 3304949077

Applicant Information

Application No	87178792	Publication date	06/06/2017
Opposition Filing Date	08/07/2017	Opposition Period Ends	08/05/2017
Applicant	Centeva, LLC Jan Esplin 10813 S River Front Pkwy #135 South Jordan, UT 84095 UNITED STATES		

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: Computer software used for team management and consolidation of tools, resources, information and communications across an organization

Grounds for Opposition

The mark is merely descriptive	Trademark Act Section 2(e)(1)
The mark is generic	Trademark Act Sections 1, 2 and 45

Attachments	Opposition.pdf(145702 bytes)
-------------	-------------------------------

Signature	/s/ Adam M. Runkle
Name	Adam M Runkle
Date	08/07/2017

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

OX ZION, LLC,)	Serial No.: 87/178792
)	
Plaintiff-Opposer)	No. 91228807
v.)	
)	Mark: OX Chat
CENTEVA, LLC)	
		Published: June 6, 2017
Defendant-Applicant		Filing Date: September 21, 2016

NOTICE OF OPPOSITION

In the matter of Application Serial No. 87/178792 for the registration of “OX CHAT” in International class 009 by CENTEVA, LLC (“Applicant”), which was published in the Official Gazette on June 6, 2017 (“Application”. OZ ZION, LLC (“Opposer”) an Ohio limited liability company, having a principal place of business at 23811 Chagrin Blvd, Suite 244, Beachwood, Ohio 44122, after receiving an extension of time to file this notice, believes it will be damaged by the registration and therefore opposes on the following grounds. Allegations with respect to Opposer are based on knowledge. Allegations with respect to Applicant and third-parties are based upon information and belief.

1. Opposer is the owner of the OX ZION business operating system which allows business leaders to represent, prioritize, guide and monitor their underlying business operational scenarios. In the course of the promotion and provision of its business operating system, Opposer uses various modules with prefix “ox” which stands for operational excellence.

2. Applicant seeks to register its intent to use mark “OX Chat” in connection with computer software used for team management and consolidation of tools, resources, information and communications across an organization in International Class 009.

3. Applicant is a Utah limited liability company having an address of 10813 S. River Front Parkway, Suite 135, South Jordan, Utah, 84095.

4. The opposed application Serial No. 87/178792 was filed on or about September 21, 2016 under Section 1(b) on an “intent to use” basis. No related Statement of Use or Allegation of Use was filed before the US Trademark Office.

5. It appears that Applicant disseminates information from a related or affiliated website <https://operationsxchange.com/#/#home>, having a physical address the same as that of the Applicant.

6. The alleged mark is inherently generic for the designated category of goods and is thus not registrable because the term “OX” is an abbreviation of the term “operational excellence” meaning an optimization of operational processes for companies and organizations, and has been used and is generally understood by the public in the context of operational process optimization, in advertisements, and in trade publications. Adding the term “OX” to the word “chat” for which Applicant make no claim of exclusive use, is simply an expansion of the generic term “OX.”

7. For example, other companies in the industry use terms such as “OX Mail,” “OX Contact,” “OX Portal,” “OX Calendar,” “OX Tasks,” “OX Text,” “OX Messenger” and the like. The alleged mark is similar to such terms and as such it generic and not registrable because consumers and the public, including other competitors, understand the term “OX” to refer to “Operational Excellence” which is used to describe a wide field of operational process optimization.

8. In the alternative, pursuant to 15 U.S.C. §1052(e)(1) the alleged mark is merely description of the recited goods inasmuch as it describes and ingredient, quality, characteristic function, feature, purpose, or use of the recited goods and has not acquired distinctiveness or secondary meaning under Section 2(f) of the Trademark Act due to the fact that the alleged mar is

not adapted to distinguish and does not actually distinguish the goods with which it is allegedly intended to be used, or in respect of which use may be alleged notwithstanding the Section 1(b) status of the Application , from the goods utilized by the Opposer and/or other competitors and suppliers in the industry in the provision of the Opposer's services and/or a competitor's goods and/or services; "OX" is a commonly known acronym, initialism or shorthand for "operational excellence" (i.e. the wording that OX stands for is merely descriptive of the goods, and/or the OX acronym or initialism is readily understood by relevant purchasers to be "substantially synonymous with the merely descriptive wording 'operational excellence' it representing); and/or the common use of a chat feature related to operational excellence software and/or platforms as evidenced by industry standards, marketing, advertising, sales, and/or other use by the Opposer and/or other companies prior to Applicant's filing date, and/or prior to any use of the alleged mark by Applicant.

9. If the Applicant is granted the registration herein opposed, it would thereby obtain at least a prima facie exclusive right to the use of the mark. Such registration would be a source of damage and injury to Opposer and others in operational process optimization related industries, and/or software industries who use the commonly accepted designation "OX" to indicate that a specific feature or function is related to operational excellence, require Opposer and others in the trade to abandon its or their use of "OX" or the like use and change any current or planned promotional and advertising tactics, all to the great expense and detriment of Opposer and others in the trade.

10. As the Opposer (by itself and/or its related company/companies, or affiliates) presently uses a chat/instant message function in connection with its operational excellence platform, and as the recited products are within the normal expansion of Opposer's business, the

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.