

ESTTA Tracking number: **ESTTA1115682**

Filing date: **02/19/2021**

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	Twitter, Inc.
Granted to Date of previous extension	02/21/2021
Address	1355 MARKET STREET, SUITE 900 SAN FRANCISCO, CA 94103 UNITED STATES
Correspondence information	ADAM S. WEISS POL SINELLI PC 150 N. RIVERSIDE PLAZA, SUITE 3000 CHICAGO, IL 60606 UNITED STATES Primary Email: uspt@polsinelli.com Secondary Email(s): docketing@polsinelli.com , aweiss@polsinelli.com , dmullar-key@polsinelli.com , jwillard@polsinelli.com 312-873-3644

Applicant Information

Application No.	88884253	Publication date	08/25/2020
Opposition Filing Date	02/19/2021	Opposition Period Ends	02/21/2021
Applicant	B. FERNANDEZ& HNOS. CARR. 5 #305, URB. INDUSTRIAL LUCHETTI BAYAMON, 00961 PUERTO RICO		

Goods/Services Affected by Opposition

Class 031. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Bird food

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
Dilution by blurring	Trademark Act Sections 2 and 43(c)
Dilution by tarnishment	Trademark Act Sections 2 and 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	4338963	Application Date	04/16/2009
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Registration Date	05/21/2013	Foreign Priority Date	NONE
Word Mark	TWEET		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 038. First use: First Use: 2008/05/00 First Use In Commerce: 2008/05/00 Telecommunications services, namely, providing online and telecommunication facilities for real-time interaction between and among users of computers, mobile and handheld computers, and wired and wireless communication devices; enabling individuals to send and receive messages via email, instant messaging or a website on the internet in the field of general interest; providing on-line chat rooms and electronic bulletin boards for transmission of messages among users in the field of general interest; providing an online community forum for users to share information, photos, audio and video content about themselves, their likes and dislikes and daily activities, to get feedback from their peers, to form virtual communities, and to engage in social networking</p> <p>Class 041. First use: First Use: 2008/05/00 First Use In Commerce: 2008/05/00 Providing on-line journals, namely, blogs featuring user-defined content</p> <p>Class 045. First use: First Use: 2008/05/00 First Use In Commerce: 2008/05/00 Online social networking services; providing a website on the internet for the purpose of social networking; providing on-line computer databases and on-line searchable databases in the field of social networking</p>		

U.S. Application No.	85116717	Application Date	08/26/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	TWEET		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 0 First Use In Commerce: 0 Software and software applications to enable transmission, access, organization, and management of text messaging, instant messaging, online blog journals, text, weblinks, and images via the internet and other communications networks; computer software used to enhance the capabilities and features of other software and nondownloadable online software; software for accessing information on a global computer network; downloadable software via the internet and wireless devices for accessing, sending, and receiving information on a global computer network; downloadable software for computers, portable handheld digital electronic communication devices, mobile devices, and wired and wireless communication devices in the field of social networking; downloadable software in the nature of a mobile application for use with computers, portable handheld digital electronic communication devices, mobile devices, and wired and wireless communication devices; downloadable software in the nature of a mobile application for social networking; downloadable software in the nature of a mobile application for real-time delivery of data, messages, location, photographs, links, text and other data related thereto; downloadable software to facilitate on-line advertising, business promotion, connecting social network users with businesses and for tracking users and advertising of others to provide strategy, insight, marketing, and predicting consumer behavior</p> <p>Class 035. First use: First Use: 0 First Use In Commerce: 0 advertising and marketing; advertising services; online advertising and market-</p>		

	ing services; business data analysis; promotional services; business networking; online service for connecting social network users with businesses; business monitoring and consulting services, namely,tracking users and advertising of others to provide strategy, insight, marketing guidance, and for analyzing, understanding and predicting consumer behavior and motivations, and market trends
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Attachments	TWEET Opposition.pdf(258199 bytes)
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Signature	/daniel mullarkey/
Name	Daniel P. Mullarkey
Date	02/19/2021

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

In the Matter of Application No. 88/884,253

Mark: TWEET

Twitter, Inc.)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
B. Fernandez& Hnos.)	
)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Twitter, Inc., a Delaware corporation, having a place of business at 1355 Market Street, Suite 900, San Francisco, CA 94103 (hereinafter “Twitter” or “Opposer”) believes it will be damaged by the registration of the mark TWEET (“Applicant’s TWEET Mark”), as claimed in Application Serial Number 88/884,253; (“Applicant’s TWEET Application”) by B. Fernandez& Hnos. (“Applicant”).

As grounds for this opposition it is alleged that:

1. Twitter, a pioneer in the communication and social networking space, is world renowned for its innovative microblogging and social media platform. More specifically, Twitter provides a real-time global information network that allows the public to discover what’s happening in the world, share information and connect to anyone, anywhere in real time. Since at least as early as 2006, Twitter has offered a platform that allows users to send, receive, post, share and access messages, photos, music, videos and other information and engage in real-time sharing of information and social networking.

2. On April 16, 2009, Twitter filed Application Serial Number 77/715,815 for

TWEET (the “TWEET Mark”), which the United States Patent and Trademark Office (the “USPTO”) issued on May 21, 2013, as United States Trademark Registration Number 4,338,963 (the “TWEET Registration”), with a first-use date at least as early as May, 2008, covering the following services: “Telecommunications services, namely, providing online and telecommunication facilities for real-time interaction between and among users of computers, mobile and handheld computers, and wired and wireless communication devices; enabling individuals to send and receive messages via email, instant messaging or a website on the internet in the field of general interest; providing on-line chat rooms and electronic bulletin boards for transmission of messages among users in the field of general interest; providing an online community forum for users to share information, photos, audio and video content about themselves, their likes and dislikes and daily activities, to get feedback from their peers, to form virtual communities, and to engage in social networking,” in International Class 38; “Providing on-line journals, namely, blogs featuring user-defined content” in International Class 41; and “Online social networking services; providing a website on the internet for the purpose of social networking; providing on-line computer databases and on-line searchable databases in the field of social networking” in International Class 45. The TWEET Registration has become incontestable, and the mark claimed in the TWEET Registration is currently in use and has been continuously in use since at least as early as the foregoing first use date. A copy of the registration certificate and the TSDR status page for the TWEET Registration is attached hereto as Exhibit A.

3. On August 26, 2010, Twitter filed Application Serial Number 85/116,717 (the “TWEET Application”) for the TWEET Mark, which now covers the following goods and services: “Software and software applications to enable transmission, access, organization, and management of text messaging, instant messaging, online blog journals, text, weblinks, and images

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