

ESTTA Tracking number: **ESTTA868837**

Filing date: **01/03/2018**

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	Textio, Inc.
Granted to Date of previous extension	01/03/2018
Address	1218 3rd Ave #1900 Seattle, WA 98101 UNITED STATES

Attorney information	Connie L. Ellerbach Fenwick & West LLP 801 California Street Silicon Valley Center Mountain View, CA 94041 UNITED STATES Email: trademarks@fenwick.com Phone: 650-988-8500
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**Applicant Information**

Application No	87329561	Publication date	09/05/2017
Opposition Filing Date	01/03/2018	Opposition Period Ends	01/03/2018
Applicant	Zipstorm Inc 11704 NE 34th Street Bellevue, WA 98005 UNITED STATES		

**Goods/Services Affected by Opposition**

<p>Class 035. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Advertising, including promotion relating to the sale of articles and services for third parties by the transmission of advertising material and the dissemination of advertising messages on computer networks; Providing advertising services; Providing employment counseling information on how to successfully transition jobs; Providing networking opportunities for individuals seeking employment; Providing on-line employment information in the field of careers, job resources and listings, resumes, opportunities for jobs, philanthropic work, mentorship, and readiness of a person for a professional role; Providing on-line interactive employment counseling and recruitment services; Providing online databases featuring information relating to employers and employees and places of employment; Providing an on-line searchable database featuring employment opportunities</p>
<p>Class 038. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Broadcast communication services, namely, transmitting e-mails, faxes, text messages and telephone voice messages to designated recipients for others; Computer-aided transmission of messages and images; Delivery of messages by electronic transmission; Electronic transmission of data and documents via computer terminals; Elec-</p>

tronic transmission of messages and data; Providing multiple user access to proprietary collections of information by means of global computer information networks; Providing on-line forums for transmission of messages among computer users; Providing telecommunication connectivity services for transfer of images, messages, audio, visual, audiovisual and multimedia works; Transmission and delivery of messages via a messaging system that filters irrelevant messages and values recipient attention; Transmission of messages; Transmission of messages over electronic media; Transmission of location-based messaging; Broadcasting services, namely, transmission of advertising programs and media advertising communications via digital communications networks; Communication services, namely, providing electronic transmission of information stored in a database via interactively communicating computer systems

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


All goods and services in the class are opposed, namely: Computer services comprised of an electronic, and software applications for messaging; Computer services, namely, creating an on-line community for registered users to message each other, advertise, identify opportunities, search and find suitable candidates, organize groups, events, participate in discussions, get feedback from their peers form virtual communities, share information and resources, and engage in social, business and community networking; Computer services, namely, filtering of unwanted e-mails; Computer services, namely, providing search platforms to allow users to search and find relevant candidates for positions; Computer services, namely, providing search platforms to allow users to search target specific users for messaging, and recruiters to search potential candidates for positions; Computer services, namely, providing an interactive web site featuring technology that allows users to consolidate and manage social networks, accounts, and connections to existing and emerging application programming interfaces (APIs); Computer services, namely, redirecting electronic mail to changed personal electronic address; Design and development of computer hardware and software; Online computer services, namely, providing spam filtering services to protect websites and online applications from receiving unsolicited messages; Providing information relating to on-line non-downloadable software to facilitate electronic communication between individuals provided via the Internet; Providing temporary use of non-downloadable cloud-based software for recruitment, job seeking, advertising, and messaging; Providing temporary use of on-line non-downloadable software and applications for recruitment, job seeking, advertising, and messaging; Providing a web site featuring temporary use of non-downloadable software for use in database management; Research and development of advanced learning technologies and teaching methods


## Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
False suggestion of a connection with persons, living or dead, institutions, beliefs, or national symbols, or brings them into contempt, or disrepute	Trademark Act Section 2(a)

## Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	5097421	Application Date	10/13/2014
Registration Date	12/06/2016	Foreign Priority Date	NONE
Word Mark	TEXTIO		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 042. First use: First Use: 2015/07/15 First Use In Commerce: 2015/07/15 Providing temporary use of non-downloadable software to analyze text and documents; providing on-line non-downloadable software for text recognition functions,data visualization functions and data analytics functions

U.S. Application No.	86422592	Application Date	10/13/2014
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	TEXTIO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 0 First Use In Commerce: 0 downloadable text recognition software;downloadable data visualization software; downloadable data analytics software		

Attachments	86980718#TMSN.png( bytes ) 86422592#TMSN.png( bytes ) Textio_NEXTIO_Notice of Opposition_US.pdf(177531 bytes ) Textio_NEXTIO_Opposition_Exhibit A - Complaint.pdf(2638913 bytes ) Textio_NEXTIO_Opposition_Exhibit B - TEXTIO TSDR Records.pdf(885715 bytes )
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Signature	/Eric J. Ball/
Name	Eric J. Ball
Date	01/03/2018

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

In the matter of  
Trademark App. Ser. No. 87/329,561  
Filed: February 9, 2017  
Published: September 5, 2017  
Mark: NEXTIO

Textio, Inc.,	)	
Opposer,	)	
	)	Opposition No. _____
vs.	)	
	)	
ZipStorm Inc.,	)	
Applicant.	)	
_____	)	

NOTICE OF OPPOSITION

Textio, Inc. (“Opposer”), a Delaware corporation having a place of business at 1218 3rd Ave, Suite 1900 Seattle, Washington, United States 98101, believes that it will be damaged by registration of the NEXTIO mark in Application Serial No. 87/329,561 (the “Application”) filed by ZipStorm Inc. (“Applicant”), and hereby opposes the Application, alleging as grounds for the opposition that:

1. On November 15, 2017, Opposer filed a lawsuit in the United States District Court for the Western District of Washington, case number 2:17-cv-01719, against Applicant alleging Federal trademark infringement, Federal unfair competition and false designation of origin, Washington common law trademark infringement, Washington statutory unfair business practices, and Washington common law unfair competition. Attached as **Exhibit A** is a copy of the complaint.

2. As is shown by publication of the Application in the Official Gazette on September 5, 2017, Applicant filed the Application on an intent-to-use basis on February 9, 2017, seeking to register the NEXTIO mark in Classes 35, 38 and 42 for the following services:

**Class 35:** Advertising, including promotion relating to the sale of articles and services for third parties by the transmission of advertising material and the dissemination of advertising messages on computer networks; Providing advertising services; Providing employment counseling information on how to successfully transition jobs; Providing networking opportunities for individuals seeking employment; Providing on-line employment information in the field of careers, job resources and listings, resumes, opportunities for jobs, philanthropic work, mentorship, and readiness of a person for a professional role; Providing on-line interactive employment counseling and recruitment services; Providing online databases featuring information relating to employers and employees and places of employment; Providing an on-line searchable database featuring employment opportunities;

**Class 38:** Broadcast communication services, namely, transmitting e-mails, faxes, text messages and telephone voice messages to designated recipients for others; Computer-aided transmission of messages and images; Delivery of messages by electronic transmission; Electronic transmission of data and documents via computer terminals; Electronic transmission of messages and data; Providing multiple user access to proprietary collections of information by means of global computer information networks; Providing on-line forums for transmission of messages among computer users; Providing telecommunication connectivity services for transfer of images, messages, audio, visual, audiovisual and multimedia works; Transmission and delivery of messages via a messaging system that filters irrelevant messages and values recipient attention; Transmission of messages; Transmission of messages over electronic media; Transmission of location-based messaging; Broadcasting services, namely, transmission of advertising programs and media advertising communications via digital communications networks; Communication services, namely, providing electronic transmission of information stored in a database via interactively communicating computer systems; and

**Class 42:** Computer services comprised of an electronic, and software applications for messaging; Computer services, namely, creating an on-line community for registered users to message each other, advertise, identify opportunities, search and find suitable

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