

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

January 08, 2019

Examiner Lakeisha Munn Lewis  
Trademark Examining Attorney  
United States Patent and Trademark OfficeRE: Serial No: 88040656  
Mark: Acquire  
Applicant: Acquire Corp  
Office Action Of: November 13, 2018

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**APPLICANT'S RESPONSE TO OFFICE ACTION**

The following is the response of Applicant, by Counsel, to the Office Action sent via email on November 13, 2018.

**LIKELIHOOD OF CONFUSION REFUSAL**

The Examining Attorney has refused registration of the proposed mark pursuant to Trademark Act Section 2(d), 15 U.S.C. §1052(d), on the grounds that the mark is likely to be confused with mark in Registration No. 4853471. Because the Registrant's and Applicant's goods are significantly different when compared in the marketplace, and the consumer base is significantly different, Applicant respectfully disagrees with the findings and requests that the Examining Attorney reconsider the statutory refusal and allow registration of Applicant's mark.

**ARGUMENT**

While there is no "litmus rule" for determining whether a likelihood of confusion exists between two marks, it is the duty of the examiner to consider all the evidence to determine whether the marks will cause consumers to believe that the goods "emanate from the same source." *Paula Payne Prods. Co. v. Johnson's Pub'g Co., Inc.*, 473 F.2d 902. In the seminal case involving section 2(d) (*In re E. I. du Pont de Nemours & Co.*) the court discussed and laid out the relevant factors to determination whether a likelihood of confusion exists between two marks. 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973). The evidence below, as it relates to the relevant *Du Pont* factors, clearly indicates that a likelihood of confusion does not exist between Applicant's mark and Registrants' marks.

***A. The Goods of Applicant are Significantly Different from the Goods of Registrant***

As shown with the following evidence, Applicant's and Registrant's goods, when compared in the marketplace, are dissimilar. It should be appreciated that the facts of each case can vary significantly, therefore, there is no clear rule that any particular goods are per se related or similar enough to find a likelihood of confusion result. See TEMP 1207.01(a)(ii)(A).

When comparing goods or services in a likelihood of confusion analysis, the examining attorney can consider evidence beyond the written description of the goods to determine relevance within an industry.

As shown in Exhibit A, Applicant is hereby amending the application to further distinguish Applicant's goods from Registrant's goods. Applicant provides a software for a communications platform, a customer service platform, and a live chat software that allows for the facilitation of co-browsing, screen sharing, and audio and video calls between consumers and customer support personnel. As further shown in Exhibit B and C, it is clear that Applicant's software allows for a user to share a mobile application screen with a customer support personnel through media streaming to a computer, wherein a customer service representative can then assist the user through screen sharing/co-browsing/live chat, and the like.

Applicant's goods are primarily offered to mobile application companies, wherein the software is integrated into a mobile application. This allows for use of the screen sharing and co-browsing features without the need for the user to download additional software on their device. Accordingly, Applicant offers a unique software that has a specific purpose to facilitate the customer service and live chat feature for mobile application users.

Registrant, on the other hand, advertises a providing "geoscience data management software and services for the mining industry", see Exhibits A and D. Registrant's software is specifically directed to a niche industry, namely the mining industry, and provides data management, which is wholly different from the Applicant's products. In Exhibit E, Registrant's website is further shown, wherein several data logging screens are shown, which clearly display that Registrant's software is exclusively for data management and processing. Even in the broadest sense of data processing, there is no inclusion of software that facilitates screen sharing, software for live chat to facilitate customer support for mobile applications, or any other feature that is part of Applicant's goods.

It should further be appreciated that Registrant's consumer is wholly different from Applicant's consumer. As discussed, Applicant's consumer could be any mobile application company who desires to incorporate the software into their application. Registrant, on the other hand, would consist of commercial consumers in the mining industry, and not those developing, marketing, or selling mobile applications.

Accordingly, based on these overwhelming differences, Applicant's mark and Registrant's mark will not run any risk of consumer confusion., and Applicant respectfully requests that the Examiner reconsider the outstanding likelihood of confusion rejection.

### **CONCLUSION**

In conclusion, despite any similarities, the differences discussed, specifically the differences in the goods, both in the applications and the real world, create significantly different commercial impressions. Thus, Applicant requests that the Examining Attorney reconsider the statutory refusal and allow registration of Applicant's mark.

Applicant has responded to all issues raised in the Office Action. If any further information or response is required, please contact Applicant's attorney. The attorney may be reached by telephone at 903-780-9522.

Exhibits:

**Exhibit A** – A table showing the two marks in question and the associated goods.

**Exhibit B** – A screenshot showing Applicant's goods.

**Exhibit C** – A screenshot showing Applicant's goods.

**Exhibit D** – A screenshot showing Registrant's goods.

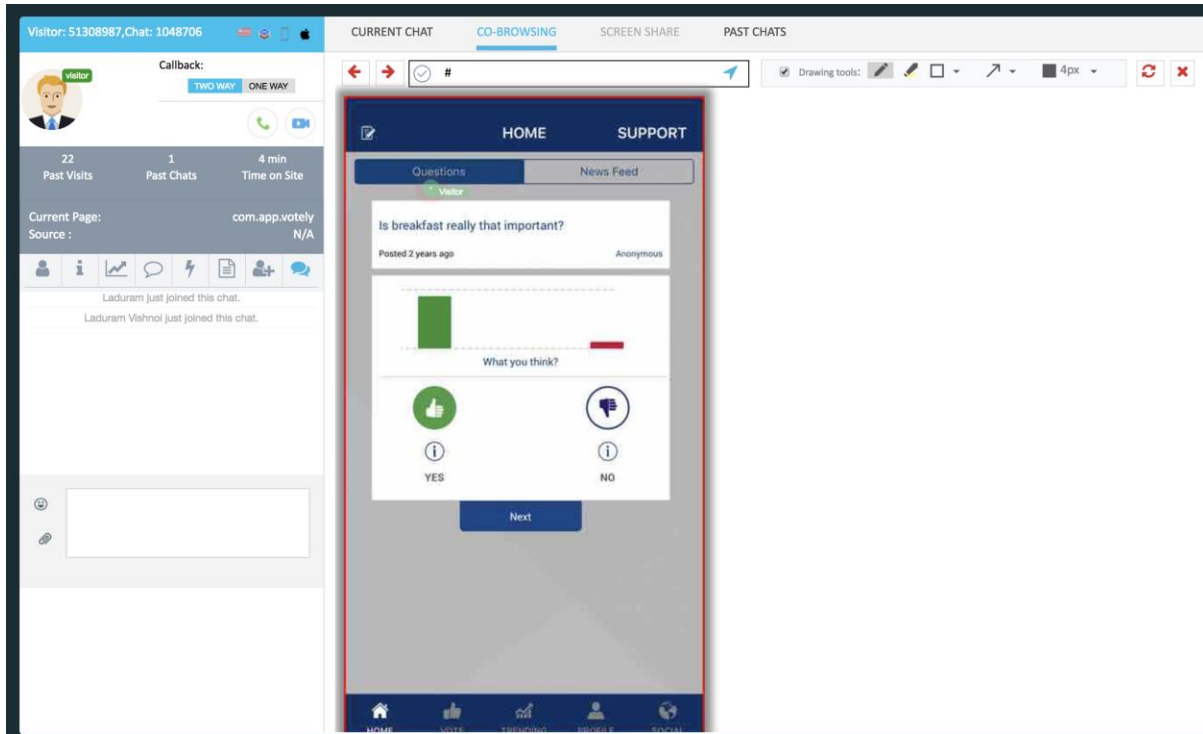
**Exhibit E** – A screenshot showing Registrant's goods.

**EXHIBIT A**

<b>Number</b>	<b>MARK</b>	<b>GOODS/SERVICES</b>
<b>88040656</b>	Acquire	009-Software for a customer communications platform and a customer support platform, namely software for integration into a mobile application that provides customer support through tools including co-browsing, screen sharing, and audio and video calls, and live chat between an agent and a mobile application user.
<b>4853471</b>	acquire	<p>042-Installation, updating and maintenance of computer software; technical support services, namely, troubleshooting of computer hardware and computer software problems; leasing of computer software programs; leasing of computer software for database management systems and information management systems for resource exploration, mine evaluation, mine design, mine development, mining operations, civil engineering operations, oil and gas operations, environmental operations, and drilling operations; leasing of computer software to enable and facilitate users of electronic communications networks to locally or remotely identify, locate, group, distribute, and manage data and links to computer servers, computer processors and computer users in the electronic communication networks; leasing of computers, computer hardware, apparatus for data storage, telecommunication devices including devices to enable and facilitate electronic communications networks, computer peripherals; design and development of computer software; design and development of computer software for database management systems and information management systems for resource exploration, mine evaluation, mine design, mine development, mining operations, civil engineering operations, oil and gas operations, environmental operations and drilling operations; design and development of computer software to enable and facilitate users of electronic communications networks to locally or remotely identify, locate, group, distribute, and manage data and links to computer servers, computer processors and computer users in the electronic communication networks; computer software consulting services in the field of database management software systems and information management software systems for resource exploration, mine evaluation, mine design, mine development, mining operations, civil engineering operations, oil and gas operations, environmental operations and drilling operations; provision of advice and information in relation to all of the foregoing services, namely, consulting services in the field of computer-based information systems for businesses</p> <p>041-Providing training and online training via electronic communications networks in the use, operation and maintenance of computer software including database management systems and information management systems for resource exploration, mine evaluation, mine design, mine development, mining operations, civil</p>

	<p>engineering operations, oil and gas operations, environmental operations, and drilling operations; providing training and online training via electronic communications networks in the use and operation of computer software to enable and facilitate users of electronic communications networks to locally or remotely identify, locate, group, distribute, and manage data and links to computer servers, computer processors and computer users in the electronic communication networks; providing training and online training via electronic communications networks in the use, operation and maintenance of computers, computer hardware, apparatus for data storage, telecommunication devices including devices to enable and facilitate electronic communications networks</p> <p>009-Computer software for database management systems and for information management in the fields of natural resource exploration, mine evaluation, mine design, mine development, mining operations, civil engineering operations, oil and gas operations, environmental operations, and drilling operations; computer software to enable and facilitate users of electronic communications networks to locally or remotely identify, locate, group, distribute, and manage data and links to computer servers, computer processors and computer users in the electronic communication networks; computers and parts thereof; computer hardware; computer storage devices and parts thereof, namely, high-speed storage subsystems for storage and backup of electronic data either locally or via a telecommunications network; computer hardware and parts thereof, for storage of data; telecommunications and data networking hardware and parts thereof, namely, devices for transporting and aggregating voice, data and video communications across multiple network infrastructures and communications protocols; computer peripherals and parts thereof</p>
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**EXHIBIT B**



### EXHIBIT C

Home / Docs

- Agent reporting
- Export report
- Create Automation with chatbots**
  - Add question and answer
  - Import FAQ and Knowledge base
  - Setup common question
- Support with Chat (Dashboard)**
  - Chat transfer and invite other user
  - How to use chat
  - Others (Attachment, translate, voice to text)
  - Save lead to CRM
- Screen sharing**
  - Video chat
- Manage and create profiles**
  - Chatbots
  - Create group and transfer data
  - Email configuration and template
  - Filter
  - Import lead (CSV, intercom, mailchimp and stripe)

Search here ... Try For Free

## Screen sharing

[Table Of Content](#)  
Screen sharing

A Live Chat software bundled up with world class features like Co-browse, Screen Share, Audio and Video calls, there is nothing much left to desire for in a complete live chat software.

**Screen share** is a feature used for sharing one's screen on the other end. Likewise, an agent can share his screen on the client side and vice versa. It a simple process which starts the screen share with just a click of button.

Here are few steps to follow to initiate a screen share, screen share can be done from Agent end only:

**STEP 1:**

Once you are into an active chat with the visitor/client and an issue needs to be resolved with a brief screen share session. You can share screen by navigating to the "Screen Share" tab.

Once on this

Chat window details:

- Search for messages...
- Co-Browsing
- Screen Share (highlighted)
- Messages:
  - #Simulate Visitor - 2 min ago: Help!
  - #Simulate Visitor - 2 min ago: I need a little more info about the screen share
  - #Simulate Visitor - 2 min ago: Oh, sorry! I'm still learning how to respond to this. Can I transfer you over to a team member?
  - #Simulate Visitor - just now: That would be awesome :)

EXHIBIT D



Home > Company > About acQure



## About Us

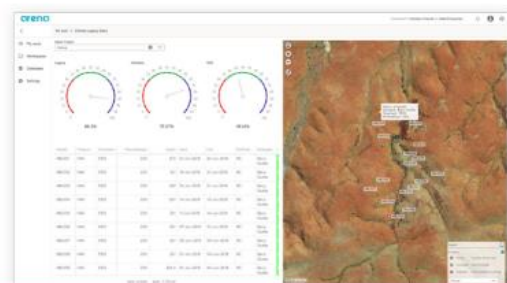
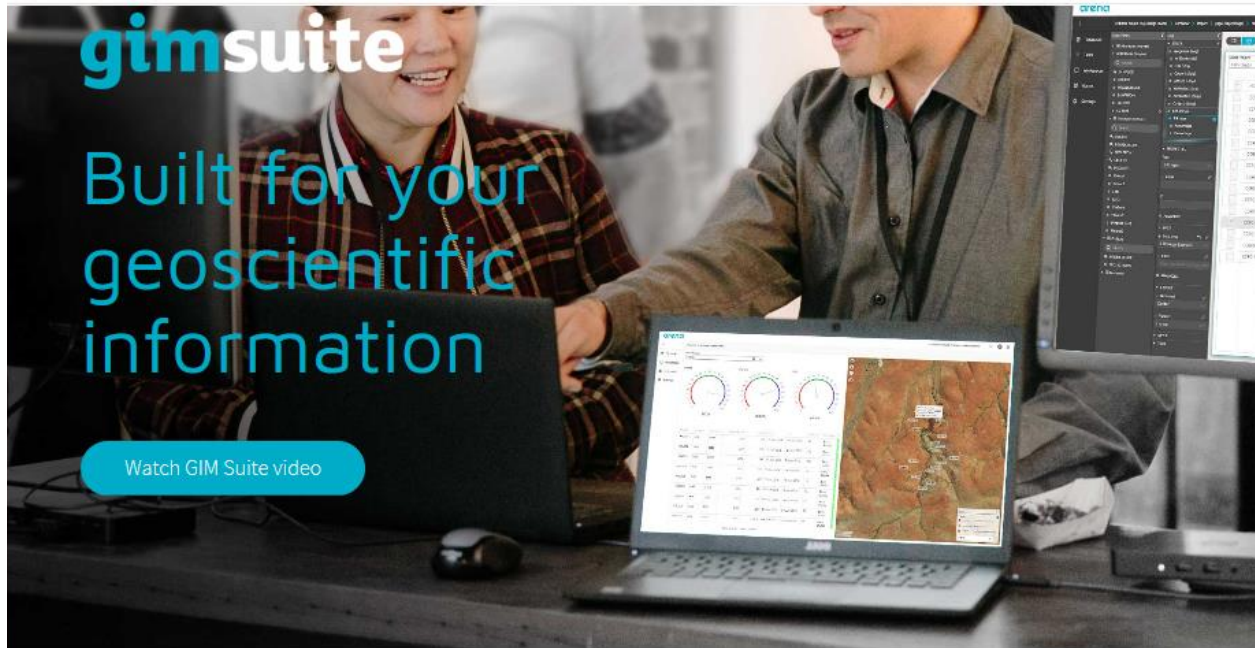
acQure provide geoscience data management software and services for the mining industry. Organisations working in exploration, resource development or mining rely on our data management solution to make profitable business decisions based on the quality and integrity of their data assets.





EXHIBIT E

acquire



## Your single source of geoscientific data

Every resources company have their own way of using data to explore and manage resources – and that’s where things get complex.

GIM Suite provides a standardised source for your data is the single source of truth for your organisation. It also gives you tools to configure your

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