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TTAB

OUR FILE NO.:
862-12111501

November 15, 2012
VIA USPS EXPRESS MAIL #EV558259185us

Trademark Trial and Appeal Board
U.S. PATENT AND TRADEMARK OFFICE
P.O. Box 1451
Alexandria, VA 22313-1451

RE: APPLICATION SERIAL NO. 85227678
MARK: ODYSSEY
OPPOSER: HSIAO & MONTANO, INC DBA ODYSSEY INNOVATIVE DESIGNS

<input type="checkbox"/> Please handle	<input type="checkbox"/> For signature and return
<input type="checkbox"/> Per your request	<input type="checkbox"/> Per our conversation
<input type="checkbox"/> For your file	<input type="checkbox"/> Please advise
<input type="checkbox"/> For your information	<input checked="" type="checkbox"/> Please file and return conformed postcard

REMARKS :

ENCLOSED PLEASE FIND:

OPPOSER'S NOTICE OF OPPOSITION
 ACKNOWLEDGMENT POST CARD

PLEASE NOTE THAT OUR FILE NUMBER FOR THIS CASE IS:

862-12111501


11-16-2012

U.S. Patent and Trademark Office #72

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

HSIAO & MONTANO, INC. dba
ODYSSEY INNOVATIVE DESIGNS,

Opposer,

v.

SWITCHEASY LIMITED,

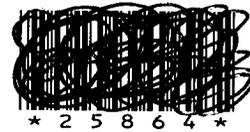
Applicant.

Opposition No. _____

Application Serial No. 85227678

Mark: ODYSSEY

Published in *Official Gazette*
on October 16, 2012



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PATENT TRADEMARK OFFICE

CERTIFICATE OF TRANSMISSION VIA U.S.P.S. EXPRESS MAIL

I hereby certify that this correspondence is being transmitted via Express Mail to:

Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

Dated: November 15, 2012


Tracy Phillip

OPPOSER'S NOTICE OF OPPOSITION

Opposer Hsiao & Montano, Inc. dba Odyssey Innovative Designs ("Opposer"), a California corporation having its principal place of business at 809 W. Santa Anita Street, San Gabriel, California 91776, believes it will be damaged by the registration of the subject mark (hereinafter, the "Subject Mark") in connection with U.S. Trademark Application Serial No. 85227678, and the services

identified therein, and hereby opposes its registration. The grounds for opposition are as follows:

1. Opposer is the owner of U.S. Trademark Registration No. 2,674,302, for the mark "ODYSSEY," (hereinafter, the "'302 Mark") registered by the USPTO on January 14, 2003 under Trademark International Class 009 and 012 for, without limitation, "electronic audio equipment accessories, namely, carrying cases, storage cases, portable consoles and stands and racks for use by mobile disc jockeys, musicians and recording studios;" and "dollies for use by mobile disc jockeys, musicians and recording studios." A true and correct copy of the registration certificate for U.S. Trademark Registration No. 2,674,302 is attached hereto and incorporated herein as **Exhibit "A."**

2. Opposer is the owner of U.S. Trademark Registration No. 2,760,846, for the mark "ODYSSEY," (hereinafter, the "'846 Mark") registered by the USPTO on September 9, 2003 under Trademark International Class 009 and 011 for, without limitation, "electronic audio equipment accessories, namely, carrying cases, storage cases, portable consoles and stands and racks for use by mobile disc jockeys, musicians and recording studios;" and "electric lighting apparatus, namely fluorescent lighting tubes electric light bulbs and electric lamps and lighting systems and devices composed of fluorescent lighting tubes and electric light bulbs and electric lamps for use by mobile disc jockeys, musicians

and recording studios." A true and correct copy of the registration certificate for U.S. Trademark Registration No. 2,760,846 is attached hereto and incorporated herein as **Exhibit "B."**

3. Opposer is the owner of U.S. Trademark Registration No. 2,519,263, for the mark "ODYSSEY INNOVATIVE DESIGNS," (hereinafter, the "'263 Mark") registered by the USPTO on December 18, 2001 under Trademark International Class 009 and 012 for, without limitation, "electronic audio equipment accessories, namely, carrying cases, storage cases, portable consoles and stands and racks for use by mobile disc jockeys, musicians and recording studios;" and "dollies for use by mobile disc jockeys, musicians and recording studios." A true and correct copy of the registration certificate for U.S. Trademark Registration No. 2,519,263 is attached hereto and incorporated herein as **Exhibit "C."**

4. The '302 Mark, '846 Mark, and '263 Mark are collectively hereinafter referred to as the "ODYSSEY Mark."

5. Opposer has well-established trademark rights in the ODYSSEY Mark and said mark is valid and subsisting.

6. Opposer is a leading designer and manufacturer of cases and accessory solutions for professional audio-electronic markets, including but not limited to solutions for musical instruments, and disc jockeys.

7. Opposer adopted the ODYSSEY Mark at least as early as January 1, 1995, and has continuously and actively utilized its ODYSSEY Mark to promote its goods.

8. Opposer has extensively advertised, promoted and offered Opposer's goods under the ODYSSEY Mark to the public through various channels of trade and commerce with the result that Opposer's customers have come to know and recognize Opposer's ODYSSEY Mark and associate the same with Opposer and goods offered by Opposer.

9. Opposer's ODYSSEY Mark has thus attained significant goodwill and Opposer has acquired substantial common law rights in the ODYSSEY Mark.

10. As a result, the ODYSSEY Mark has become an asset of substantial value to Opposer.

11. Opposer's ODYSSEY Mark is an inherently distinctive strong mark and deserving of a broad scope of protection.

12. On January 27, 2011, applicant SwitchEasy Limited ("Applicant") filed a trademark application with the United States Patent and Trademark Office (Serial No. 85227678, hereinafter the "'678 Application"), under International Trademark Class 009, pursuant to Trademark Act Section 1(b) for the standard character Subject Mark: "ODYSSEY."

13. Applicant bases its '678 Application for the Subject Mark on a claimed bona fide intent to use the Subject Mark in commerce in the United States.

14. Applicant's '678 Application for the Subject Mark covers, *inter alia*, "electronic and non-electronic user interface and interactive devices, namely user input and output devices, protective cases, carrying cases, holsters, data cables, electrical and non-electrical couplings, electrical and non-electrical adaptors, converters, stands and docking stations; all being accessories for use with particular personal electronic devices, namely, with portable computing devices, portable digital data storage media and devices, handheld personal electronic devices, namely, digital media player devices, audio and video players, personal digital assistant, handheld wireless devices, cellular handsets, and handheld digital audio and/or video capture devices; all the above-mentioned goods are not for use by mobile disk jockeys, musicians, and recording studios; computer user interface accessories."

15. Applicant's Subject Mark was published for opposition in the *Official Gazette* on October 16, 2012 and therefore, Opposer's Notice of Opposition is timely.

16. Upon information and belief, any use or intent to use the Subject Mark by Applicant occurred/arose after Opposer's adoption, use, application for and/or registration of Opposer's ODYSSEY Mark.

17. Upon information and belief, Applicant did not use the Subject Mark prior to January 27, 2011, the date on which Applicant's intent-to-use '678 Application was filed.

18. Opposer's rights in its ODYSSEY Mark precedes any rights Applicant may have in its Subject Mark.

19. Applicant's Subject Mark is substantially similar and virtually identical to Opposer's ODYSSEY Mark in terms of, without limitation, sound, appearance, commercial impression and connotation.

20. The goods recited in Applicant's '678 Application for the Subject Mark are listed under International Trademark Class 009, as is Opposer's ODYSSEY Mark, and are closely related and virtually identical to the goods provided by and listed under Opposer's ODYSSEY Mark.

21. Upon information and belief, the conditions surrounding any actual or intended marketing and promotion of Applicant's goods under the Subject Mark are such that the goods would be marketed to the same industries, to the same purchasers and/or end users, and through the same overlapping channels of trade as used by Opposer.

22. Registration of Applicant's Subject Mark will create a high likelihood of confusion or mistaken belief as to the source, sponsorship or affiliation of such goods and services, causing injury or damage to the Opposer.

23. Upon information and belief, Opposer has prior and senior rights in its ODYSSEY Mark pursuant to, without limitation, its prior use in commerce, and its United States Trademark Registration Nos. 2,674,302; 2,760,846; and 2,519,263.

24. Opposer will be damaged by any registration of Applicant's Subject Mark because it so resembles Opposer's ODYSSEY Mark as to be likely to cause confusion, mistake and/or to deceive pursuant to Lanham Act § 2(d), 15 U.S.C. § 1052(d).

25. Registration of Applicant's Subject Mark is inconsistent with the rights of Opposer.

26. According rights of federal registration to Applicant's Subject Mark is inimical to the superior rights of the Opposer to use its ODYSSEY Mark in connection with the same, similar or related goods as those listed under the Subject Mark.

Wherefore, Opposer respectfully requests that this Notice of Opposition be sustained and that Applicant's '678 Application for the Subject Mark be denied.

Respectfully submitted,

WU & CHEUNG, LLP

Dated: November 15, 2012

By: 
Charles C.H. Wu
Vikram M. Reddy
Attorneys for Opposer
Hsiao & Montano, Inc. dba
Odyssey Innovative Designs

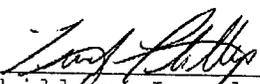
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Irvine, CA 92618-3105
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Fax: (949) 251-1588
USPTO CUSTOMER NO.: 25864



CERTIFICATE OF SERVICE

I hereby certify that on November 15, 2012, a copy of the foregoing OPPOSER'S NOTICE OF OPPOSITION was served via first-class mail to the following:

Mr. James M. Slattery
Attorneys for Applicant
BIRCH STEWART KOLASCH & BIRCH LLP
P.O. Box 747
Falls Church, VA 22040-0747



Trudy Phillip, Legal Assistant

EXHIBIT "A"

Int. Cls.: 9 and 12

Prior U.S. Cls.: 19, 21, 23, 26, 31, 35, 36, 38 and 44

United States Patent and Trademark Office

Reg. No. 2,674,302

Registered Jan. 14, 2003

**TRADEMARK
PRINCIPAL REGISTER**



HSIAO AND MONTANO, INC. (CALIFORNIA CORPORATION)
155 N. ASPAN AVENUE
AZUSA, CA 91702

FOR: ELECTRONIC AUDIO EQUIPMENT ACCESSORIES, NAMELY, CARRYING CASES, STORAGE CASES, PORTABLE CONSOLES AND STANDS AND RACKS FOR USE BY MOBILE DISC JOCKEYS, MUSICIANS AND RECORDING STUDIOS, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 11-1-2000; IN COMMERCE 11-1-2000.

FOR: DOLLIES FOR USE BY MOBILE DISC JOCKEYS, MUSICIANS AND RECORDING STUDIOS, IN CLASS 12 (U.S. CLS. 19, 21, 23, 31, 35 AND 44).

FIRST USE 11-1-2000; IN COMMERCE 11-1-2000.

SER. NO. 76-310,581, FILED 9-6-2001.

ASMAT KHAN, EXAMINING ATTORNEY

EXHIBIT "B"

Int. Cls.: 9 and 11

Prior U.S. Cls.: 13, 21, 23, 26, 31, 34, 36 and 38

United States Patent and Trademark Office

Reg. No. 2,760,846

Registered Sep. 9, 2003

TRADEMARK
PRINCIPAL REGISTER

ODYSSEY

HSIAO AND MONTANO, INC. (CALIFORNIA
CORPORATION)
155 N. ASPAN AVENUE
AZUSA, CA 91702

FOR: ELECTRONIC AUDIO EQUIPMENT AC-
CESSORIES, NAMELY, CARRYING CASES, STO-
RAGE CASES, PORTABLE CONSOLES AND
STANDS AND RACKS FOR USE BY MOBILE DISC
JOCKEYS, MUSICIANS AND RECORDING STU-
DIOS, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 1-1-1995; IN COMMERCE 1-1-1995.

FOR: ELECTRIC LIGHTING APPARATUS,
NAMELY FLOURESCENT LIGHTING TUBES,

ELECTRIC LIGHT BULBS AND ELECTRIC LAMPS
AND LIGHTING SYSTEMS AND DEVICES COM-
POSED OF FLOURESCENT LIGHTING TUBES AND
ELECTRIC LIGHT BULBS AND ELECTRIC LAMPS
FOR USE BY MOBILE DISC JOCKEYS, MUSICIANS
AND RECORDING STUDIOS, IN CLASS 11 (U.S.
CLS. 13, 21, 23, 31 AND 34).

FIRST USE 1-1-1995; IN COMMERCE 1-1-1995.

OWNER OF U.S. REG. NO. 2,519,263.

SER. NO. 76-327,142, FILED 10-17-2001.

CATHERINE CAIN, EXAMINING ATTORNEY

EXHIBIT "C"

Int. Cls.: 9 and 12

Prior U.S. Cls.: 19, 21, 23, 26, 31, 35, 36, 38 and 44

United States Patent and Trademark Office

Reg. No. 2,519,263

Registered Dec. 18, 2001

**TRADEMARK
PRINCIPAL REGISTER**



HSIAO AND MONTANO, INC. (CALIFORNIA CORPORATION)
14520 JOANBRIDGE STREET
BALDWIN PARK, CA 91706

FOR: ELECTRONIC AUDIO EQUIPMENT ACCESSORIES, NAMELY, CARRYING CASES, STORAGE CASES, PORTABLE CONSOLES, AND STANDS AND RACKS FOR USE BY MOBILE DISC JOCKEYS, MUSICIANS, AND RECORDING STUDIOS, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 1-1-1995; IN COMMERCE 1-1-1995.

FOR: DOLLIES FOR USE BY MOBILE DISC JOCKEYS, MUSICIANS AND RECORDING STUDIOS, IN CLASS 12 (U.S. CLS. 19, 21, 23, 31, 35 AND 44).

FIRST USE 1-1-1995; IN COMMERCE 1-1-1995.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "INNOVATIVE DESIGNS", APART FROM THE MARK AS SHOWN.

SER. NO. 75-853,556, FILED 11-19-1999.

CIMMERIAN COLEMAN, EXAMINING ATTORNEY