

TTAB

Attorney Docket: EI-29 (#90044)

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

In the Matter of Application Serial No. 76/539,284, filed August 7, 2003
Published in the *Official Gazette* on page TM 281 on April 27, 2004
Mark: CES (stylized) in International Class 9
Applicant: CES Corporation



)
Consumer Electronics Association,)
)
 Opposer,)
)
 vs.)
)
CES Corporation,)
)
 Applicant.)

06-17-2004

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #22

Opposition No. _____

NOTICE OF OPPOSITION

Box TTAB - FEE
Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

06/18/2004 TSMITH 00000130 76539284
01 FC:6402 300.00 OP

Consumer Electronics Association, a corporation of the Commonwealth of Virginia, located and doing business at 2500 Wilson Boulevard, Arlington, Virginia 22201-3834 (hereinafter referred to as "CEA" or "Opposer") believes that it will be damaged by registration of the mark "CES" shown in the above-identified application and hereby opposes same.

The grounds for opposition are as follows:

1. Opposer herein, itself and through its Related Companies ("Related Companies" as used herein, means any corporation or other business entity, which is or was controlled by Opposer or its predecessors, or did control Opposer; "control," as used herein, means ownership

of at least fifty percent (50%) interest of the voting stock or at least fifty percent (50%) in the income of that corporation or other business entity), is now and has been for a number of years engaged in the arranging and conducting of educational trade shows for a segment of the electronics industry, under the marks CES, CES and Design, CONSUMER ELECTRONICS SHOW, WINTER CONSUMER ELECTRONICS SHOW, INTERNATIONAL WINTER CONSUMER ELECTRONICS SHOW, SUMMER CONSUMER ELECTRONICS SHOW and INTERNATIONAL CONSUMER ELECTRONICS SHOW.

2. Opposer has sponsored and managed educational trade shows for a segment of the electronics industry under the mark CES and other marks set forth in preceding paragraph 1, and has acquired and become the owner of CES as a mark for the above-described services, and goods and services associated with the foregoing services.

3. Opposer has become widely known nationally and internationally as a source of Opposer's services and goods having good quality and has acquired a favorable reputation throughout large segments of the electronics industry for its above-described services and goods sold under, and in association with, the mark CES. Conversely, the term "CES" (stylized) is the subject of merely an intent-to-use application by Applicant.

4. Opposer is the owner of U.S. Service Mark Registration No. 1,296,762 registered September 18, 1984, for the mark CES & design as used in association with sponsoring and managing an educational trade show for a segment of the electronics industry. The registration was based on application serial no. 73/441,336 filed in the U.S. Patent and Trademark Office on August 29, 1983, claiming first use in commerce on June 25, 1967, which is a date prior to the date of filing of Applicant's application. Said service mark and registration therefor are valid and subsisting, and Opposer owns the CES mark, the registration, and the goodwill of the business

associated with such mark. A copy of Opposer's Registration No. 1,296,762 and the recordation in the United States Patent and Trademark Office of the assignment of the mark to Opposer are attached hereto, and made part hereof as Opposer's Exhibit A.

5. Opposer is also the owner of U.S. Service Mark Registration No. 1,296,763 registered September 18, 1984, for the mark CES as used in association with sponsoring and managing educational trade shows for a segment of the electronics industry. The registration was based on application serial no. 73/441,411 filed in the U.S. Patent and Trademark Office on August 29, 1983, claiming first use in commerce on June 25, 1967, which is a date prior to the date of filing of Applicant's application. Said service mark and registration therefor are valid and subsisting, and Opposer owns the CES mark, the registration, and the goodwill of the business associated with such mark. A copy of Opposer's Registration No. 1,296,763 and the recordation in the United States Patent and Trademark Office of the assignment of the mark to Opposer are attached hereto, and made a part hereof as Opposer's Exhibit B.

6. Opposer is the applicant of U.S. trademark application Serial No. 76/541,066 filed August 29, 2003 for the mark "CES" in International Class 37 for the services of "providing resources for information on heating systems", in International Class 38 for the services of "providing resources for information on telecommunication", and in International Class 41 for services of "Educational services, namely, providing instruction in the fields of electronic home systems, heating systems, air conditioning systems, cable televisions, audio equipment, computers, food heating and cooling appliances, food processing appliances, control systems for coordinating and controlling the operation of electronic systems in the home, lighting systems, security systems, communication systems, telephones, pagers, intercom systems, global network communication systems, environmental systems, systems for controlling heating, ventilation, and

air conditioning systems, water management, electrical wiring of houses for proper electrical distribution, controlling security, and computer and television systems” (emphasis added). This mark has been in use in commerce for all of these services from at least March 1, 2002. A copy of the filing receipt for the application is attached hereto as Exhibit C.

7. Notwithstanding Opposer's long prior rights in and to said mark, Applicant on August 7, 2003, filed an application for registration of the trademark "CES" (stylized) for goods in the electronics industry, that is, "Loudspeakers, Audio Speakers, Audio Mixers, Headphones, Megaphones, Microphones, Amplifiers" in International Class 9. Said application was given Serial No. 76/539,284 and the mark was published for opposition in the Official Gazette of April 27, 2004, at page TM 281, International Class 9.

8. The "CES" mark proposed for registration is virtually identical in sound, appearance and meaning to Opposer's mark "CES".

9. Since prior to August 7, 2003, Opposer, itself and through its Related Companies, provides a great many services, including forums and education programs, under the mark and name of "CES" in which makers, marketers, implementers, programmers, and engineers of computer and other electronic systems can demonstrate to and educate potential purchasers of their computer and electronic systems. Some of those participating in the services of Opposer and purchasers of computer and other electronic systems attending such forums and participating in such education programs are believed to be possible actual or potential customers of Applicant's goods of loudspeakers, audio speakers, audio mixers, headphones, megaphones, microphones, and/or amplifiers. Customers of Opposer's services are likely to believe, to be confused or deceived into thinking that Applicant's goods originate with, or in some way are associated with, connected with, sponsored, endorsed, or authorized by Opposer. By reason of

the common identity and virtually identical appearance and sound of Applicant's alleged mark "CES" (stylized) and the similar professional contacts of the class of customers and channels of trade of Applicant, Applicant's alleged mark, when applied to their goods is likely to cause confusion or mistake, or to deceive, all to the injury or threatened injury to Opposer.

10. Applicant's potential customers are likely to have attended or at least be familiar with CES, the Consumer Electronics Association trade show, which is sponsored, produced and managed by Opposer. These potential customers of Applicant are reasonably likely to be confused into believing that Applicant's goods are in some way sponsored by or provided by Opposer.

11. Opposer, itself and through its Related Companies, has developed an exceedingly valuable amount of goodwill with respect to its mark "CES". By virtue of its efforts, and the expenditure of considerable sums on promotional activities and by virtue of the excellence of its services, Opposer has gained for its "CES" mark a most valuable reputation.

12. If Applicant is permitted to register "CES" as specified in the application herein opposed, confusion in trade resulting in damage and injury to Opposer would be caused and would result by reason of the perception of a relationship between goods bearing the mark and name "CES" of Applicant and Opposer's services bearing the "CES" mark and name. In this respect, consumers may have the impression that goods of Applicant having the "CES" mark are being marketed, endorsed, approved or sponsored by Opposer. Persons familiar with the mark and name "CES" of Opposer would be likely to buy Applicant's goods as goods marked, endorsed, approved or sponsored by Opposer. Any such confusion in the trade inevitably would result in dilution of the goodwill created by Opposer. Furthermore, any defect, objection or fault found with Applicant's goods marketed under the "CES" mark would unnecessarily reflect upon

and seriously injure the reputation which Opposer has established with respect to its educational programs for a segment of the electronics industry associated with its "CES" mark and name.

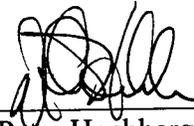
13. Based upon the foregoing, the registration of the mark depicted in application Serial No. 76/539,284 filed August 7, 2003, on the Principal Register of the United States Patent and Trademark Office would cause injury and damage to Opposer.

WHEREFORE, Opposer requests that registration of Applicant's mark CES & design application Serial No. 76/537,284 be denied, and this opposition be sustained.

This Notice is submitted in triplicate.

Respectfully submitted,

Dated: June 15, 2004



D. Peter Hochberg, Esq.
Reg. No. 24,603

DPH/KRV
D. PETER HOCHBERG CO., L.P.A.
The Baker Building, 6th Floor
1940 East 6th Street
Cleveland, Ohio 44114
(216) 771-3800

Attachment: Exhibits A, B, C; Credit Card Payment Form

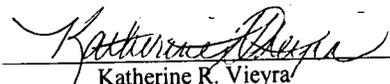
Fee Payment:

- Attached is a credit card payment form authorizing a charge of \$300.00
- Charge Account No. 08-2441, and this is a request therefore to charge for any additional extension and/or fee required. This page is submitted in duplicate.

CERTIFICATE OF MAILING

I hereby certify that this document is being deposited with the United States Postal Service as First Class mail in an envelope addressed: Box TTAB - Fee, Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513.

June 15, 2004
Date



Katherine R. Vieyra

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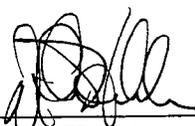
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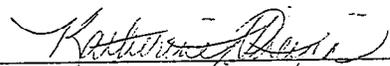
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June 15, 2004
Date



Katherine R. Vieyra

Int. Cl.: 35

Prior U.S. Cl.: 101

United States Patent and Trademark Office

Reg. No. 1,296,762

Registered Sep. 18, 1984

SERVICE MARK
Principal Register



Electronic Industries Association (Illinois corporation)
2001 Eye St., NW.
Washington, D.C. 20006

For: SPONSORING AND MANAGING AN
EDUCATIONAL TRADE SHOW FOR A SEG-
MENT OF THE ELECTRONICS INDUSTRY, in
CLASS 35 (U.S. Cl. 101).

First use Jun. 25, 1967; in commerce Jun. 25, 1967.

The mark consists of a stylized representation of
the letters "CES".

Ser. No. 441,336, filed Aug. 29, 1983.

RUSS HERMAN, Examining Attorney

FROM

EL8114US

(FRI) 10:20'00 12:32/ST. 12:28/NO. 3500556844 P 16



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

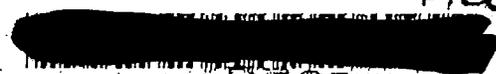
JIH
MRM
FILE

JULY 10, 2000

PTAS

MORGAN, LEWIS & BOCKIUS LLP
JASON I. HEWITT, ESQ.
1800 M STREET, N.W.
WASHINGTON, D.C. 20036-5869

JUL 17 2000



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MORGAN, LEWIS & BOCKIUS LLP

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PTAS

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 04/20/2000

REEL/FRAME: 002069/0161
NUMBER OF PAGES: 7

BRIEF: ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL

ASSIGNOR:
ELECTRONIC INDUSTRIES ALLIANCE

DOC DATE: 12/22/1999
CITIZENSHIP: ILLINOIS
ENTITY: NONPROFIT CORPORATION

ASSIGNEE:
CONSUMER ELECTRONICS ASSOCIATION
2500 WILSON BOULEVARD
ARLINGTON, VIRGINIA 22201

CITIZENSHIP: VIRGINIA
ENTITY: NONPROFIT CORPORATION

APPLICATION NUMBER: 75408775
REGISTRATION NUMBER:

FILING DATE: 12/19/1997
ISSUE DATE:

MARK: ATSC CERTIFIED DTV DIGITAL TELEVISION
DRAWING TYPE: WORDS, LETTERS, OR NUMBERS IN TYPED FORM

REVIEWED
BY DOCKET

cmh

[REDACTED]

002069/0161 PAGE 3

APPLICATION NUMBER: 73803393
REGISTRATION NUMBER: 1629548

FILING DATE: 05/30/1989
ISSUE DATE: 12/25/1990

MARK: CEBUS

DRAWING TYPE: WORDS, LETTERS, OR NUMBERS IN TYPED FORM

APPLICATION NUMBER: 73441336
REGISTRATION NUMBER: 1296762

FILING DATE: 08/29/1983
ISSUE DATE: 09/18/1984

MARK: CES

DRAWING TYPE: WORDS, LETTERS, OR NUMBERS AND DESIGN

APPLICATION NUMBER: 73441411
REGISTRATION NUMBER: 1296763

FILING DATE: 08/29/1983
ISSUE DATE: 09/18/1984

MARK: CES

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APPLICATION NUMBER: 74393046
REGISTRATION NUMBER: 1821315

FILING DATE: 05/21/1993
ISSUE DATE: 02/15/1994

MARK: CDIF

DRAWING TYPE: WORDS, LETTERS, OR NUMBERS AND DESIGN

APPLICATION NUMBER: 73386493
REGISTRATION NUMBER: 1256350

FILING DATE: 09/20/1982
ISSUE DATE: 11/01/1983

MARK: COMPUT-A-MATCH

DRAWING TYPE: WORDS, LETTERS, OR NUMBERS IN TYPED FORM

APPLICATION NUMBER: 74686127
REGISTRATION NUMBER: 2265926

FILING DATE: 06/09/1995
ISSUE DATE: 08/03/1999

MARK: HABITECH

DRAWING TYPE: WORDS, LETTERS, OR NUMBERS IN TYPED FORM

APPLICATION NUMBER: 74686129
REGISTRATION NUMBER: 1963550

FILING DATE: 06/09/1995
ISSUE DATE: 03/19/1996

MARK:

DRAWING TYPE: MISCELLANEOUS DESIGN

APPLICATION NUMBER: 73555203
REGISTRATION NUMBER: 1386780

FILING DATE: 08/26/1985
ISSUE DATE: 03/18/1986

MARK: SERVICE PROFIT PROFILES

DRAWING TYPE: WORDS, LETTERS, OR NUMBERS IN TYPED FORM

APPLICATION NUMBER: 73333996
REGISTRATION NUMBER: 1403378

FILING DATE: 10/26/1981
ISSUE DATE: 07/29/1986

MARK: INTERNATIONAL SUMMER CONSUMER

DRAWING TYPE: WORDS, LETTERS, OR NUMBERS IN TYPED FORM

EXHIBIT

B

CLEVELAND, OHIO 44102-1799

Int. Cl.: 35

Prior U.S. Cl.: 101

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FROM

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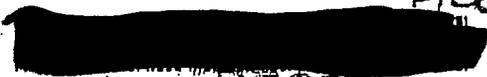


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cmh

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APPLICATION NUMBER: 74393046
REGISTRATION NUMBER: 1821315

FILING DATE: 05/21/1993
ISSUE DATE: 02/15/1994

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ISSUE DATE: 08/03/1999

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REGISTRATION NUMBER: 1963550

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ISSUE DATE: 03/18/1986

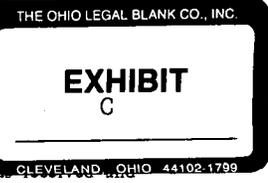
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MARK: INTERNATIONAL SUMMER CONSUMER
DRAWING TYPE: WORDS, LETTERS, OR NUMBERS IN TYPED FORM

FILING RECEIPT FOR TRADEMARK APPLICATION



Receipt on the DATE OF FILING of the application for registration and filing fees is acknowledged for the mark identified below. The is contingent upon the collection of any payment made by check or draft. Your application will be considered in the order in which it w you will be notified as to the examination thereof. Action on the merits should be expected from the Patent and Trademark Office in approximately 06 months from the filing date. When inquiring about this application, include the SERIAL NUMBER, DATE OF FILING, OWNER NAME, and MARK.

D. PETER HOCHBERG
D. PETER HOCHBERG CO., L.P.A.
1940 EAST 6TH STREET - 6TH FLOOR
CLEVELAND OH 44114

ATTORNEY
REFERENCE NUMBER
E18918US.1 (

PLEASE REVIEW THE ACCURACY OF THE FILING RECEIPT DATA.

A request for correction to the filing receipt should be submitted within 30 days to the following address: ASSISTANT COMMISSIONER FOR TRADEMARKS, 2900 CRYSTAL DRIVE, ARLINGTON, VIRGINIA 22202-3513. The correspondence should be marked to the attention of the Preexamination File Receipt Section. Or fax a request to 703-308-9096. The Patent and Trademark Office will review the request and make corrections when appropriate.

SERIAL NUMBER: 76/541066
FILING DATE: Aug 29, 2003
REGISTER: Principal
LAW OFFICE: 105
MARK: CES
MARK TYPE(S): Service Mark
DRAWING TYPE: Words, letters, or numbers in typed form
FILING BASIS: Sect. 1(a) (Use in Commerce)

ATTORNEY: D. Peter Hochberg

OWNER: Consumer Electronics Association (VIRGINIA, Corporation)
2500 Wilson Boulevard
Arlington, VIRGINIA 222013834

FOR: providing resources for information on heating systems
INT. CLASS: 037
FIRST USE: Mar 1, 2002 USE IN COMMERCE: Mar 1, 2002

FOR: providing resources for information on telecommunications
INT. CLASS: 038
FIRST USE: Mar 1, 2002 USE IN COMMERCE: Mar 1, 2002

FOR: Educational services, namely, providing instruction in the fields of electronic home systems, heating systems, air conditioning systems, cable televisions, audio equipment, computers, food heating and cooling appliances, food processing appliances, control systems for coordinating and controlling the operation of electronic systems in the home, lighting systems, security systems, communication systems, telephones, pagers, intercom systems, global network communication systems, environmental systems, systems for controlling heating, ventilation, and air conditioning systems, water management, electrical wiring of houses for proper electrical distribution, controlling security, and computer and television systems
INT. CLASS: 041
FIRST USE: Mar 1, 2002 USE IN COMMERCE: Mar 1, 2002

ALL OF THE GOODS/SERVICES IN EACH CLASS ARE LISTED