

TTAB

DHC-102

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: SWAIM390 Investigations, Inc.

Serial. No.: 78/544,617

Mailing Date: March 28, 2006

Mark: **YOUR PRIVATE EYES AND EARS**

CERTIFICATE OF MAILING

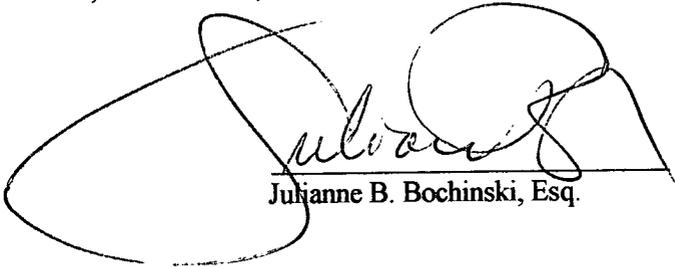
Commissioner for Trademarks:
Box: TTAB
P.O. Box 1451
Alexandria, VA 22313-1451

I hereby certify that the following attached correspondence comprising:

-----Notice of Opposition

-----Check in the amount of \$300

Is being deposited with the United States Postal Service as "First Class Mail postage" prepaid in an envelope addressed to: Commissioner for Trademarks, BOX: TTAB, P.O. Box 1451, Alexandria, VA 22313-1451 on March 28, 2006.



Julianne B. Bochinski, Esq.

March 28, 2006

(Date of Deposit)



04-03-2006

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

In re Application of: SWAIM390 Investigations, Inc.

Serial No. 78/544,617

Filed: January 10, 2005

Service Mark: YOUR PRIVATE EYES AND EARS

Published: November 29, 2005

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COMMISSIONER FOR TRADEMARKS

BOX: TTAB

P.O. BOX 1451

ALEXANDRIA, VA 22313-1451

NOTICE OF OPPOSITION

Dear Sir:

Kenneth C. Cantamount, a U.S. Citizen and Resident of the State of California, doing business as Private Eyes, a licensed member of the California Association of Licensed Investigators, organized and existing under the laws of the State of California, doing business at P.O. Box 620944, Woodside, California 94062 ("Opposer"), believes that it will be damaged by registration of the mark shown in application Serial No. 78/544,617, filed January 10, 2005 in International Class 45 for "private investigation services, investigation or surveillance on background profiles," and hereby opposes the same.

As grounds for opposition, it is alleged that:

1. On or about January 10, 2005, Applicant, SWAIM390 Investigations, Inc., a corporation organized and existing under the laws of the State of California, doing business at 4223 Glencoe

Ave., Suite C203, Marina Del Rey, California 90292, filed an application in the U.S. Patent and Trademark Office, Serial No. 78/544,617, seeking registration on the Principal Register of the service mark YOUR PRIVATE EYES AND EARS for “private investigation services, investigation or surveillance on background profiles” in Class 45.

2. Applicant seeks to register the mark YOUR PRIVATE EYES AND EARS for “private investigation services, investigation or surveillance on background profiles” in Class 45, as evidenced by the publication of said mark in the *Official Gazette* of November 29, 2005.

3. Commencing on, November 1, 1995, Opposer began using the service mark PRIVATE EYES in connection with “licensed private investigative services for civil and criminal matters, security and protection services and information research services.”

4. Opposer is the owner of U.S. Service Mark Application Serial No. 78/635,611 for PRIVATE EYES filed on June 2, 2005 for “licensed private investigative services for civil and criminal matters, security and protection services and information research services” in Class 42, filed for the Principal Register.

5. Commencing on November 1, 1995 and continuing to the present, Opposer has offered “licensed private investigative services for civil and criminal matters, security and protection services and information research services” in connection with the service mark PRIVATE EYES in interstate commerce.

6. As a result of offering and promoting its “licensed private investigative services for civil and criminal matters, security and protection services and information research services” under the “PRIVATE EYES” mark, Opposer’s mark has acquired distinctiveness and has built up substantial goodwill in this mark that has come to signify “licensed private investigative services

for civil and criminal matters, security and protection services and information research services” originating with Opposer.

7. Opposer’s and Applicant’s marks share the phrase “PRIVATE EYES” and are the same in sound, appearance and meaning, and commercial impression.

8. The respective services of Opposer and Applicant are closely related, travel and are promoted through the same channels of trade for sale to, and use by, the same class of purchasers such that clients of Opposer and others familiar with Opposer’s “PRIVATE EYES” mark, upon seeing Applicant’s services offered under the same mark, would be likely to believe and would be justified in so believing that such services originated from Opposer or were offered in association or affiliation with, or under authorization by, Opposer. Thus Applicant’s mark, as used with private investigation services, investigation or surveillance on background profiles would lead a person familiar with Opposer’s “PRIVATE EYES” mark to believe that Applicant’s services are offered by, in affiliation with, or under licence from Opposer.

9. Additionally, Applicant’s mark, by reason of it being so similar to Opposer’s “PRIVATE EYES” mark, will likely cause irreparable loss, injury and damage to Opposer’s business and to the goodwill thereto and recognized by its “PRIVATE EYES” mark.

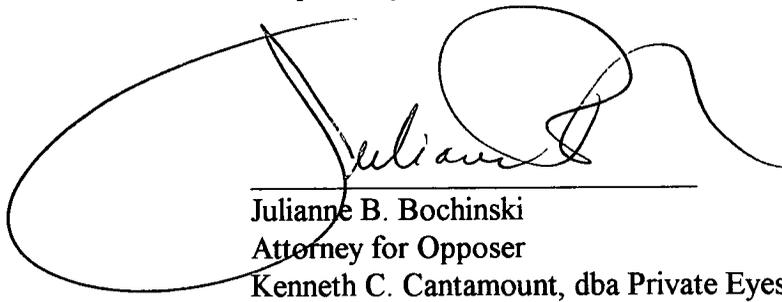
10. Opposer would be injured by the granting to Applicant of a Certificate of Registration for the mark “PRIVATE EYES” because Applicant would obtain thereby at least a *prima facie* exclusive right to use such mark. Such registration would be a source of damage and injury to Opposer and Opposer’s clients.

11. A duplicate copy of this Notice of Opposition and the statutory fee are enclosed herewith.

WHEREFORE, Opposer prays that this Opposition be sustained and that the registration sought

in Service Mark Application Serial No. 78/544,617 be denied and that the citation of this application be removed as a basis for rejection in Opposer's pending application. Enclosed is a fee of \$300.00 for filing the Notice of Opposition.

Respectfully submitted,



Julianne B. Bochinski
Attorney for Opposer
Kenneth C. Cantamount, dba Private Eyes

Date: 3/28/06

LAW OFFICE OF JULIANNE B. BOCHINSKI
Colonial Green
250 Post Road East, Suite 102
Westport, CT 06880
(203) 226-8833
(203) 226-3364 (facsimile)