

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

In the matter of Application Serial No. 78/750,622
Published for Opposition in the OFFICIAL GAZETTE of July 11, 2006

MEGATRAX PRODUCTION MUSIC, INC.

Opposer

Opposition No.:

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:
:

v.

MEGA MUSIC, LLC

Applicant

08/03/2006 KGIBBONS 00000014 78750622

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300.00 DP

NOTICE OF OPPOSITION

Megatrax Production Music, Inc. ("Opposer"), a California corporation, having its principal place of business in North Hollywood, California, believes it would be damaged by registration of the mark MEGA MUSIC RECORDS as shown in Application Serial No. 78/750,622 filed by Mega Music, LLC ("Applicant") and hereby opposes same.

As grounds for this opposition it is alleged:

1. On or before November 9, 2005, Applicant filed an application with the United States Patent & Trademark Office to register the mark MEGA MUSIC RECORDS for audio records featuring music in International Class 9.
2. Opposer has been using the mark MEGATRAX for publications, namely, pre-recorded compact discs featuring music and CD-ROMs featuring music and catalogs of music; maintaining a library of recorded music; record production services; music publishing services,

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producing audio recordings of music and sound effects; publications for cultural and educational purpose of musical works; music editing services for others and ownership recording studio services for others, and composition of music for others since April 12, 1993.

3. Opposer has been using the mark MEGATRAX on the above-referenced goods and services since at least as early as April 12, 1993. As such, Opposer has for many years been engaged in the manufacture and sale of pre-recorded compact discs featuring music and CD-ROMs featuring music and catalogs of music in International Class 9, the services of maintaining a library of recorded music; record production services; music publishing services, producing audio recordings of music and sound effects; publications for cultural and educational purpose of musical works; music editing services for others and ownership recording studio services for others in International Class 41; and composition of music for others in International Class 42 since April 12, 1993 as set forth in paragraph 2 of this Notice of Opposition.

4. Opposer is the owner of the following United States trademark registrations for MEGATRAX and MEGATRAX (stylized): Registration No. 286607 for pre-recorded compact discs featuring music and CD-ROMs featuring music and catalogs of music in International Class 9; and maintaining a library of recorded music; record production services; music publishing services, producing audio recordings of music and sound effects; publications for cultural and educational purpose of musical works; music editing services for others, composition of music of others and ownership recording studio services for others in International Class 41; Registration No. 1931471 for music libraries; record production; music publishing services, namely producing audio recordings of music and sound effects in International Class 41; and licensing of intellectual property, namely proprietary recorded music and sound effects; composition of music for others in International Class 42; and Registration

No. 1898704 for pre-recorded compact discs featuring music, and CD-ROMs featuring music and catalogs of music in International Class 9; maintaining a library of recorded music; record production services in International Class 41; and composition of music for others in International Class 42.

5. Since prior to Applicant's filing of the application for the mark MEGA MUSIC RECORDS and/or any alleged use of the mark, Opposer has made substantial and continuous use of the MEGATRAX mark in interstate commerce on and in connection with the advertising, promotion, and sale of its goods and services, as set forth above.

6. By virtue of the aforesaid advertising, promotions and sales, Opposer's MEGATRAX trademarks have come to represent valuable goodwill owned by Opposer.

7. The goods and services in connection with which Opposer uses its MEGATRAX mark and the goods for which Applicant seeks to register the MEGA MUSIC RECORDS mark are closely related and they are sold through the same channels of trade and to the same class of purchasers.

8. Furthermore, Opposer's mark MEGATRAX and Applicant's mark MEGA MUSIC RECORDS are highly similar.

9. Use by Applicant of the mark MEGA MUSIC RECORDS would be likely to cause confusion, mistake or deception with Opposer's aforesaid MEGATRAX trademarks and result in the belief that Applicant or its goods are in some manner legitimately connected with, sponsored by, or approved by Opposer.

10. Any use Applicant has made or may make of the mark MEGA MUSIC RECORDS is and will be without Opposer's consent or permission.

WHEREFORE registration by Applicant of the aforesaid trademark for the aforesaid goods will be damaging to Opposer and Opposer, therefore, requests that the Opposition be sustained.

Opposer submits herewith the requisite \$300.00 filing fee. Please charge any additional fees or credit overpayment to Deposit Account No. 13-3735.

Please address all correspondence to Lucy B. Arant, Esq., Mitchell, Silberberg & Knupp, LLP, 11377 West Olympic Boulevard, Suite 603, Los Angeles, California 90064.

This Request is being submitted in triplicate as required by 37.C.F.R. § 2.102(d).

Respectfully submitted,



Lucy B. Arant, Esq.
Mitchell, Silberberg & Knupp, LLP
11377 W. Olympic Boulevard
Los Angeles, CA 90064
310-312-3253
Attorneys for Opposer

Date of Deposit: July 28, 2006

I hereby certify that this paper or fee is being deposited
with the United States Postal Service on the date
indicated above and is addressed to: Assistant
Commissioner for Trademarks, Box TTAB Fee, P.O. Box 1451,
Alexandria, Virginia 22313-1451.

(Signature)-

Lucy B. Hart

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Respectfully submitted,

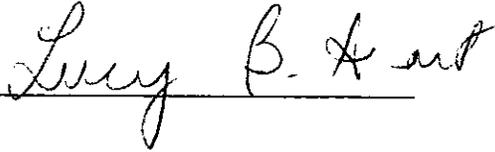


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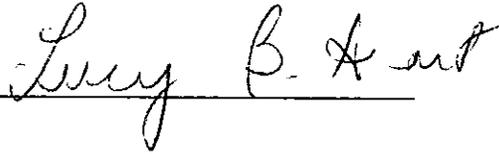


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