

ESTTA Tracking number: **ESTTA114255**

Filing date: **12/12/2006**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Cricket Communications, Inc.
Granted to Date of previous extension	12/13/2006
Address	10307 Pacific Center Court San Diego, CA 92121 UNITED STATES

Attorney information	Lisa M. Martens Fish & Richardson P.C. P.O. Box 1022 Minneapolis, MN 55440-1022 UNITED STATES tmdocsd@fr.com,martens@fr.com,abrams@fr.com Phone:858-678-5070
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Applicant Information

Application No	78773206	Publication date	08/15/2006
Opposition Filing Date	12/12/2006	Opposition Period Ends	12/13/2006
Applicant	Mobile Connect, Inc. 80 Broad Street 5th Floor New York, NY 10004 UNITED STATES		

Goods/Services Affected by Opposition

Class 038. All goods and services in the class are opposed, namely: Wireless electronic transmission of voice signals, data, facsimiles, images and informations

Attachments	Cricket Notice of Opposition (2).pdf (13 pages)(371190 bytes)
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Signature	/lisa m. martens/
Name	Lisa M. Martens
Date	12/12/2006

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

CRICKET COMMUNICATIONS, INC.,

Opposer,

v.

MOBILE CONNECT, INC.,

Applicant.

In re App. Ser. No. 78/773,206

Mark: JUMPSYNC

Filing Date: December 14, 2005

Publication Date: August 15, 2006

Opposition No.: _____

United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Arlington, VA 22313-1451

NOTICE OF OPPOSITION

Cricket Communications, Inc. (“Opposer”), a Delaware corporation having a principal place of business at 10307 Pacific Center Court, San Diego, California 92121, believes that it will be damaged by the registration of the mark shown in Application Serial No. 78/773,206, and hereby opposes the same.

The grounds for opposition are as follows:

1. Opposer is a well-known nationwide telecommunications company which provides affordable and innovative communications solutions in interstate commerce.
2. Opposer has been using the trademark JUMP continuously and without interruption in interstate commerce to identify its wireless telecommunications services and to distinguish Opposer’s services from the goods and services of others since at least as early as March 15, 2005.
3. Opposer is the owner of a federal trademark application for JUMP (Application

Serial No. 78/874,891) in the United States for use in connection with “telecommunications services, namely, providing local, long distance and international transmission of voice, data, images, audio, video, and information by means of wireline and wireless telephone, cable, satellite, and the Internet, and providing personal communications services, electronic mail and voice messaging services, directory services, paging services, computer-aided transmission of messages and images, and transmitting and broadcasting audio and audio-visual works, telephone telecommunications services provided via prepaid telephone calling cards.” A printout from the U.S. Patent and Trademark Office of Opposer’s application for the JUMP mark is attached hereto as Exhibit A.

4. Opposer is also the owner of federal trademark applications for JUMP BY CRICKET (Application Serial No. 76/658,383) and JUMP BY CRICKET & Design (Application Serial No. 76/658,391) in the United States for use in connection with “telecommunications services, namely, local, long distance and international transmission of voice, data, text, facsimile, video, advertising, gaming, and graphics, by means of telephone, cable, satellite, wireless and handheld and PDA devices and the Internet; providing access to directory services by telephone, cable, satellite, wireless and handheld and PDA devices and the Internet; electronic mail and voice messaging services, namely, recording, storage and subsequent transmission of messages by telephone, cable, satellite, wireless and handheld and PDA devices the Internet; computer-aided transmission of messages and images; transmitting streamed sound and audio-visual recordings via telephone, cable, satellite, wireless and handheld and PDA devices and the Internet; paging services; communications exchange services via telephone, cable satellite, wireless and handheld and PDA devices and the Internet.” Printouts

from the U.S. Patent and Trademark Office of Opposer's applications for the JUMP BY CRICKET marks are attached hereto as Exhibit B and Exhibit C, respectively.

5. Opposer has spent considerable time, money, and effort promoting its JUMP mark and developing customer recognition and goodwill in the mark nationwide on television, in numerous industry and non-industry publications, and on Opposer's websites at *www.mycricket.com* and *www.jumpmobile.com*. In addition, Opposer's telecommunications services provided in connection with the JUMP mark are offered in countless retail locations across the United States.

6. As a result of Opposer's extensive use of its mark in sales, manufacturing, and advertising, Opposer's JUMP mark is recognized among consumers and members of the trade as indicating the source and quality of the services offered by Opposer. The JUMP mark and its associated goodwill is an asset of immense value to Opposer.

7. On information and belief, Applicant Mobile Connect, Inc. ("Applicant"), a New York corporation having a place of business at 80 Broad Street, 5th Floor, New York, New York 10004 is the record owner of Application Serial No. 78/773,206 (the "Application") for the mark JUMPSYNC for use in connection with "wireless electronic transmission of voice signals, data, facsimiles, images and informations."

8. On information and belief, Applicant filed the Application on or about December 14, 2005 based on a bona fide intent to use the JUMPSYNC mark in commerce.

9. Opposer adopted and began using its JUMP mark in commerce in connection with telecommunications services approximately six months before the filing date of the Application.

10. On information and belief, Opposer's priority date in its JUMP trademark precedes any priority date upon which Applicant may rely.

11. Applicant's JUMPSYNC mark is confusingly similar to Opposer's JUMP mark. The dominant portions of Opposer's JUMP mark and Applicant's JUMPSYNC mark are identical and/or highly similar in sight, sound, and commercial impression.

12. The services recited in Applicant's Application are closely related to the services offered by Opposer under the JUMP mark. Specifically, Opposer's services are telecommunications services which provide transmission of voice, data, images, audio, video, and information by means of wireless telephones, while Applicant intends to provide wireless electronic transmission of voice signals, data, images and information.

13. On information and belief, Opposer's and Applicant's customers are identical. Specifically, both parties market their respective services to consumers seeking wireless communications services via mobile devices.

14. The mark Applicant has applied for so resembles Opposer's JUMP mark as to be likely, when used on or in connection with Applicant's services, to cause confusion, or to cause mistake, or to deceive. Customers and prospective customers of Applicant are likely to believe, mistakenly, that the services of Applicant offered under the JUMPSYNC mark are produced, sponsored, endorsed, or approved by Opposer, or that Applicant is in some way affiliated, connected, or associated with Opposer, all to the detriment of Opposer. Therefore, registration of Applicant's mark should be refused under 15 U.S.C. §§ 1052(d) and 1063.

15. Registration of Applicant's mark would be a further source of damage to Opposer because it would confer upon Applicant various statutory presumptions to which it is not entitled in view of Opposer's prior use of its distinctive JUMP trademark.

WHEREFORE, pursuant to Section 13 of the Lanham Act, 15 U.S.C. § 1063, Opposer respectfully requests that its opposition be sustained, that Application Serial No. 78/773,206 be

rejected, and that registration of the mark therein in connection with the services therein specified be refused.

Please apply the \$300 fee to Deposit Account No. 06-1050, making reference to 20521-084PP1.

Please direct all communications concerning the above-captioned opposition proceeding to the undersigned attorneys at the address indicated.

Respectfully Submitted,

Date 12-12-06



Lisa M. Martens
Andrew M. Abrams
FISH & RICHARDSON P.C.
12390 El Camino Real
San Diego, CA 92130
(858) 678-5070

ATTORNEYS FOR CRICKET
COMMUNICATIONS, INC.

EXHIBIT A



Trademarks > Trademark Electronic Search System(Tess)

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JUMP

Word Mark **JUMP**

Goods and Services IC 038. US 100 101 104. G & S: telecommunications services, namely, providing local, long distance and international transmission of voice, data, images, audio, video, and information by means of wireline and wireless telephone, cable, satellite, and the Internet, and providing personal communications services, electronic mail and voice messaging services, directory services, paging services, computer-aided transmission of messages and images, and transmitting and broadcasting audio and audio-visual works, telephone telecommunications services provided via prepaid telephone calling cards. FIRST USE: 20050315. FIRST USE IN COMMERCE: 20050315

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Design Search Code

Serial Number 78874891

Filing Date May 2, 2006

Current Filing Basis 1A

Original Filing Basis 1A

Owner (APPLICANT) Cricket Communications, Inc. CORPORATION DELAWARE 10307 Pacific Center Court San Diego CALIFORNIA 92121

Attorney of Record Lisa M. Martens

Type of Mark SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

EXHIBIT B



Trademarks > Trademark Electronic Search System(Tess)

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JUMP BY CRICKET

Word Mark **JUMP BY CRICKET**

Goods and Services IC 038. US 100 101 104. G & S: Telecommunications services, namely, local, long distance and international transmission of voice, data, text, facsimile, video, advertising, gaming, and graphics, by means of telephone, cable, satellite, wireless and handheld and PDA devices and the Internet; providing access to directory services by telephone, cable, satellite, wireless and handheld and PDA devices and the Internet; electronic mail and voice messaging services, namely, recording, storage and subsequent transmission of messages by telephone, cable, satellite, wireless and handheld and PDA devices the Internet; computer-aided transmission of messages and images; transmitting streamed sound and audio-visual recordings via telephone, cable, satellite, wireless and handheld and PDA devices and the Internet; paging services; communications exchange services via telephone, cable satellite, wireless and handheld and PDA devices and the Internet

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Design Search Code

Serial Number 76658383

Filing Date April 13, 2006

Current Filing Basis 1B

Original Filing Basis 1B

Published for Opposition November 28, 2006

Owner (APPLICANT) **Cricket** Communications, Inc. CORPORATION DELAWARE 10307 Pacific Center Court San Diego CALIFORNIA 92121

Assignment Recorded ASSIGNMENT RECORDED

Attorney of LISA M. MARTENS

Record

Prior Registrations 2359369;2359370

Type of Mark SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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EXHIBIT C



Trademarks > Trademark Electronic Search System(Tess)

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Word Mark **JUMP BY CRICKET**

Goods and Services IC 038. US 100 101 104. G & S: Telecommunications services, namely, local, long distance and international transmission of voice, data, text, facsimile, video, advertising, gaming, and graphics, by means of telephone, cable, satellite, wireless and handheld and PDA devices and the Internet; providing access to directory services by telephone, cable, satellite, wireless and handheld and PDA devices and the Internet; electronic mail and voice messaging services, namely, recording, storage and subsequent transmission of messages by telephone, cable, satellite, wireless and handheld and PDA devices the Internet; computer-aided transmission of messages and images; transmitting streamed sound and audio-visual recordings via telephone, cable, satellite, wireless and handheld and PDA devices and the Internet; paging services; communications exchange services via telephone, cable satellite, wireless and handheld and PDA devices and the Internet

Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code 26.01.15 - Circles, three or more; Three or more circles
26.01.21 - Circles that are totally or partially shaded.

Serial Number 76658391

Filing Date April 13, 2006

Current Filing Basis 1B

Original Filing Basis 1B

Owner (APPLICANT) Cricket Communications, Inc. CORPORATION DELAWARE 10307 Pacific Center Court San Diego CALIFORNIA 92121

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Lisa M. Martens, Christopher S. Marchese, Scott C. Harris, Gregory M. Krakau, John A. Mizhir Jr., Desa L. Burton, Andrew M. Abrams, Timothy A. French

Type of Mark SERVICE MARK

Register PRINCIPAL

Live/Dead
Indicator

LIVE

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