

ESTTA Tracking number: **ESTTA122105**

Filing date: **01/29/2007**

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	Bose Corporation
Granted to Date of previous extension	01/27/2007
Address	The Mountain Framingham, MA 01701-9168 UNITED STATES
Attorney information	Charles Hieken, Amy L. Brosius Fish & Richardson P.C. P.O. Box 1022 Minneapolis, MN 55440-1022 UNITED STATES tmdoctc@fr.com, apsi@fr.com, smolinsky@fr.com Phone:617 542 5070

Applicant Information

Application No	78845279	Publication date	11/28/2006
Opposition Filing Date	01/29/2007	Opposition Period Ends	01/27/2007
Applicant	Exceptional Innovation LLC 480 Olde Worthington Road, Suite 350 Westerville, OH 43082 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. All goods and services in the class are opposed, namely: Computer server hardware, firmware and software for use in the amplification and distribution of multiple streams of digital audio through home and business wired and wireless networks to remotely located speakers; said hardware, firmware, and software capable of simultaneously amplifying and distributing said multiple streams; said hardware, firmware, and software further being capable of distributing audio from multiple audio playing sources, namely the following-- PCs, CD players, MP3 players, high definition audio players, receivers, radio and satellite radio tuners; said device further capable of being accessed via client access points, namely the following-- PCs, remote controls, televisions, audio-video controllers, touch panels, touch screens, wireless devices, and mobile devices

Attachments	02103-853PP1 notice of opposition.pdf (14 pages)(4905732 bytes)
Signature	/amy l. brosius/
Name	Amy L. Brosius
Date	01/29/2007

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

In the matter of Application Serial No. 78/845279
For the Mark LIFE | WAVE
Published in the Official Gazette on November 28, 2006

Bose Corporation,

Opposer,

v.

Exceptional Innovation LLC,

Applicant.

Opposition No.

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

NOTICE OF OPPOSITION

Bose Corporation, The Mountain, Framingham, Massachusetts, 01701-9168, a corporation duly organized and existing under the laws of the State of Delaware, believes that it will be damaged by registration of the mark shown in the above-identified application, and hereby opposes same.

The grounds for opposition are as follows:

1. Opposer uses and/or has used since long prior to March 24, 2006, the registered trademarks LIFESTYLE, WAVE and ACOUSTIC WAVE for loudspeaker systems and music systems consisting of a loudspeaker system and power amplifier and at least one of a CD player and radio tuner; home theatre systems; home entertainment systems; digital circuitry for the afore-mentioned products; custom design and installation of the afore-mentioned products; on one or more of radios, clock radios, portable radio and cassette recorder combinations, compact

stereo systems and portable compact disc players; loudspeaker systems and music systems consisting of a loudspeaker system and amplifier and at least one of a radio tuner, compact disc player and audio tape cassette player, including surround sound loudspeaker systems and surround sound music systems

2. Opposer is the owner of the following U.S. Trademark Registrations:

Reg. No. 1,622,251, issued November 13, 1990, for the mark LIFESTYLE in connection with loudspeaker systems;

Reg. No. 2,108,847, issued October 28, 1997, for the mark LIFESTYLE in connection with music systems consisting of a loudspeaker system and power amplifier and at least one of a CD player and radio tuner.

Reg. No. 1,633,789, issued February 5, 1991, for the mark WAVE in connection with radios, clock radios, audio tape recorders and players, portable radio and cassette recorder combinations, compact stereo systems and portable compact disc players;

Reg. No. 1,338,571 issued May 28, 1985, for the mark ACOUSTIC WAVE in connection with loudspeaker systems; and

Reg. No. 1,764,183 issued April 13, 1993, for the mark ACOUSTIC WAVE in connection with loudspeaker systems and music systems consisting of a loudspeaker system and amplifier and at least one of a radio tuner, compact disc player and audio tape cassette player.

These registrations are valid and subsisting and in full force and effect as evidenced by the attached copies.

3. Opposer accordingly owns valuable goodwill in its LIFESTYLE, WAVE and ACOUSTIC WAVE marks.

4. Applicant, Exceptional Innovations LLC, filed trademark application Serial No. 78/845279 on March 24, 2006 to register LIFE | WAVE for “Computer server hardware, firmware and software for use in the amplification and distribution of multiple streams of digital audio through home and business wired and wireless networks to remotely located speakers; said hardware, firmware and software capable of simultaneously amplifying and distributing said multiple streams; said hardware, firmware and software further being capable of distributing audio from multiple audio playing sources, namely the following—PCs, CD players, MP3 players, high definition audio players, receivers, radio and satellite radio tuners; said device further capable of being accessed via client access points, namely the following—PCs, remote controls, televisions, audio-video controllers, touch panels, touch screens, wireless devices and mobile devices” in International Class 9, on the basis of intent to use in commerce. Said application was published in the Official Gazette of November 28, 2006

5. Applicant’s LIFE | WAVE mark as applied to “Computer server hardware, firmware and software for use in the amplification and distribution of multiple streams of digital audio through home and business wired and wireless networks to remotely located speakers; said hardware, firmware and software capable of simultaneously amplifying and distributing said multiple streams; said hardware, firmware and software further being capable of distributing audio from multiple audio playing sources, namely the following—PCs, CD players, MP3 players, high definition audio players, receivers, radio and satellite radio tuners; said device further capable of being accessed via client access points, namely the following—PCs, remote controls, televisions, audio-video controllers, touch panels, touch screens, wireless devices and mobile devices” so resembles the previously used and registered LIFESTYLE, WAVE and

ACOUSTIC WAVE marks of Opposer, as used in connection with Opposer's goods and services, as to be likely to cause confusion or cause mistake, or to deceive.

6. Based upon the foregoing, registration of the mark depicted in Application Serial No. 78/845279 on the Principal Register of the United States Patent and Trademark Office will cause injury and damage to Opposer.

WHEREFORE, Opposer hereby opposes registration of Applicant's LIFE | WAVE mark in International Class 9 and requests that registration of Applicant's mark LIFE | WAVE Application Serial No. 78/845279 be denied.

Please apply any outstanding fees to Deposit Account No. 06-1050, Reference 02103-853PP1.

Respectfully submitted,

Date:

January 29, 2007

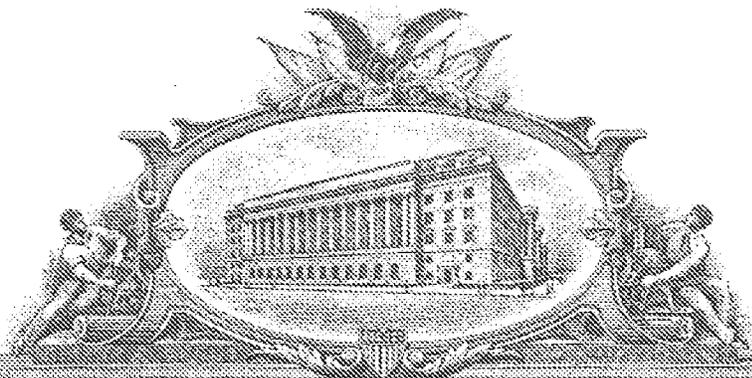


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Cynthia Johnson Walden
Amy L. Brosius
Ashley K. Long
FISH & RICHARDSON P.C.
225 Franklin Street
Boston, Massachusetts 02110-2804
Telephone: (617) 542-5070
Facsimile: (617) 542-8906
Email: tmdbos@fr.com, apsi@fr.com

Attorneys for Opposer,
BOSE CORPORATION

Enclosures:

Reg. No. 1,622,251
Reg. No. 2,108,847
Reg. No. 1,633,789
Reg. No. 1,338,571
Reg. No. 1,764,183



THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

November 09, 2005

THE ATTACHED U.S. TRADEMARK REGISTRATION 1,622,251 IS CERTIFIED TO BE A TRUE COPY WHICH IS IN FULL FORCE AND EFFECT WITH NOTATIONS OF ALL STATUTORY ACTIONS TAKEN THEREON AS DISCLOSED BY THE RECORDS OF THE UNITED STATES PATENT AND TRADEMARK OFFICE.

REGISTERED FOR A TERM OF 10 YEARS FROM *November 13, 1990*
1st RENEWAL FOR A TERM OF 10 YEARS FROM *November 13, 2000*
SECTION 8 & 15

SAID RECORDS SHOW TITLE TO BE IN:

Registrant

By Authority of the
Under Secretary of Commerce for Intellectual Property
and Director of the United States Patent and Trademark Office



P. R. GRANT
Certifying Officer

Int. Cl.: 9

Prior U.S. Cl.: 21

United States Patent and Trademark Office

Reg. No. 1,622,251

Registered Nov. 13, 1990

TRADEMARK
PRINCIPAL REGISTER

LIFESTYLE

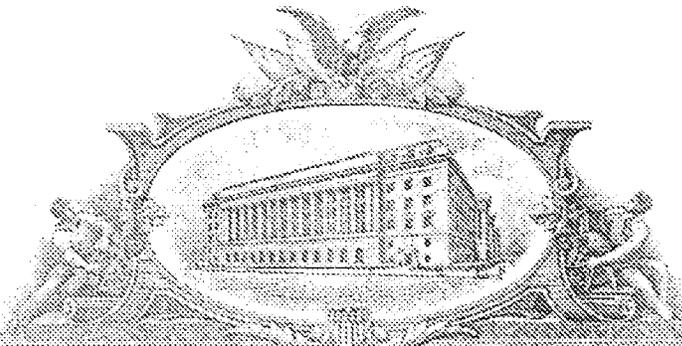
BOSE CORPORATION (DELAWARE CORPO-
RATION)
THE MOUNTAIN
FRAMINGHAM, MA 01701

FIRST USE 9-12-1989; IN COMMERCE
9-12-1989.

SER. NO. 74-028,663, FILED 2-13-1990.

FOR LOUDSPEAKER SYSTEMS, IN CLASS 9
(U.S. CL. 21).

STEVEN R. POSTER, EXAMINING ATTORNEY



THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

November 09, 2005

THE ATTACHED U.S. TRADEMARK REGISTRATION 2,108,847 IS CERTIFIED TO BE A TRUE COPY WHICH IS IN FULL FORCE AND EFFECT WITH NOTATIONS OF ALL STATUTORY ACTIONS TAKEN THEREON AS DISCLOSED BY THE RECORDS OF THE UNITED STATES PATENT AND TRADEMARK OFFICE.

REGISTERED FOR A TERM OF 10 YEARS FROM *October 28, 1997*

SECTION 8 & 15

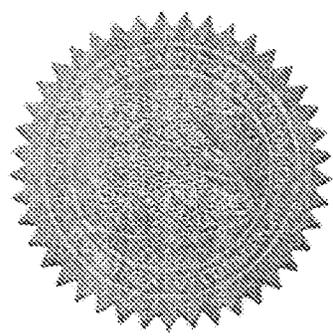
SAID RECORDS SHOW TITLE TO BE IN:

Registrant

By Authority of the
Under Secretary of Commerce for Intellectual Property
and Director of the United States Patent and Trademark Office

A handwritten signature in cursive script, appearing to read "P. R. Grant", is written over the printed name.

P. R. GRANT
Certifying Officer



Int. Cl.: 9

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

Reg. No. 2,108,847

United States Patent and Trademark Office

Registered Oct. 28, 1997

TRADEMARK
PRINCIPAL REGISTER

LIFESTYLE

BOSS CORPORATION (DELAWARE CORPORATION)
THE MOUNTAIN
FRAMINGHAM, MA 0190168

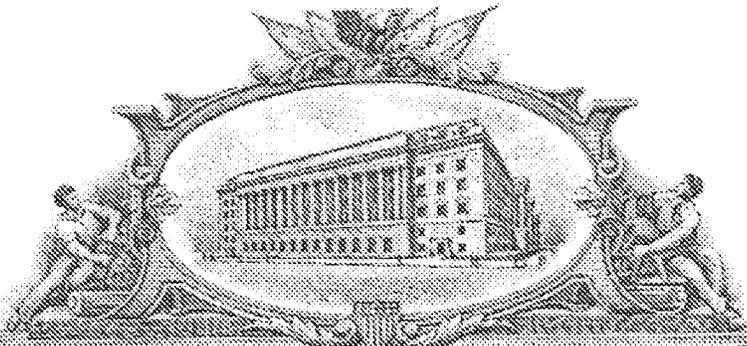
FIRST USE 6-8-1992 IN COMMERCE
6-8-1992.

OWNER OF U.S. REG. NOS. 1,622,231 AND
1,915,785.

FOR: MUSIC SYSTEMS CONSISTING OF A
LOUDSPEAKER SYSTEM AND POWER AM-
PLIFIER AND AT LEAST ONE OF A CD
PLAYER, ~~RECORD PLAYER~~ AND RADIO TUNER,
IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

SER. NO. 75-171,091, FILED 9-24-1998.

MARTHA SANTOMARTINO, EXAMINING AT-
TORNEY



THE UNITED STATES OF AMERICA

**TO ALL TO WHOM THESE PRESENTS SHALL COME:
UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office**

February 14, 2005

THE ATTACHED U.S. TRADEMARK REGISTRATION 1,633,789 IS
CERTIFIED TO BE A TRUE COPY WHICH IS IN FULL FORCE AND
EFFECT WITH NOTATIONS OF ALL STATUTORY ACTIONS TAKEN
THEREON AS DISCLOSED BY THE RECORDS OF THE UNITED STATES
PATENT AND TRADEMARK OFFICE.

REGISTERED FOR A TERM OF 10 YEARS FROM *February 05, 1991*
1st RENEWAL FOR A TERM OF 10 YEARS FROM *February 05, 2001*
SECTION 8 & 15

LESS GOODS

SAID RECORDS SHOW TITLE TO BE IN:

*BOSE CORPORATION
A DELAWARE CORPORATION*

By Authority of the
COMMISSIONER OF PATENTS AND TRADEMARKS



A handwritten signature in dark ink, appearing to read 'P. Swain', is written over the printed name of the certifying officer.

P. SWAIN
Certifying Officer

Int. Cl.: 9

Prior U.S. Cls.: 21 and 36

Reg. No. 1,633,789

United States Patent and Trademark Office Registered Feb. 5, 1991

TRADEMARK
PRINCIPAL REGISTER

WAVE

THOMSON CONSUMER ELECTRONICS, INC.
(DELAWARE CORPORATION)
600 N. SHERMAN DRIVE
INDIANAPOLIS, IN 46201

~~FOR: TELEVISION RECEIVERS, VIDEO
CASSETTE RECORDERS, VIDEO CASSETTE
PLAYERS, CAMCORDERS, RADIOS, CLOCK
RADIOS, AUDIO TAPE RECORDERS AND
PLAYERS, PORTABLE RADIO AND CAS-~~

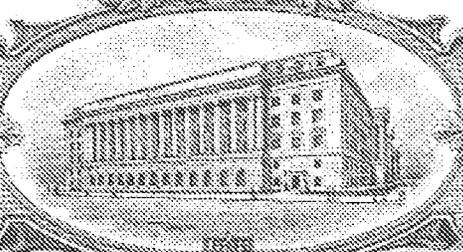
SETTE RECORDER COMBINATIONS, COM-
PACT STEREO SYSTEMS AND PORTABLE
COMPACT DISC PLAYERS, IN CLASS 9 (U.S.
CLS. 21 AND 36).

FIRST USE 9-25-1989; IN COMMERCE
9-25-1989.

SER. NO. 71-530,246, FILED 10-10-1989

J. TIMLEY, EXAMINING ATTORNEY

756172



THE UNITED STATES OF AMERICA

~~TO ALL TO WHOM THESE PRESENTS SHALL COME:~~

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

February 17, 2005

THE ATTACHED U.S. TRADEMARK REGISTRATION 1,338,571 IS CERTIFIED TO BE A TRUE COPY WHICH IS IN FULL FORCE AND EFFECT WITH NOTATIONS OF ALL STATUTORY ACTIONS TAKEN THEREON AS DISCLOSED BY THE RECORDS OF THE UNITED STATES PATENT AND TRADEMARK OFFICE.

REGISTERED FOR A TERM OF 20 YEARS FROM *May 28, 1982*

1st RENEWAL FOR A TERM OF 10 YEARS FROM *May 28, 2002*

SECTION 8

SAID RECORDS SHOW TITLE TO BE IN:

REGISTRANT

By Authority of the
COMMISSIONER OF PATENTS AND TRADEMARKS



Trudie Wallace
TRUDIE WALLACE

Certifying Officer

Int. Cl.: 9

Prior U.S. Cl.: 21

United States Patent and Trademark Office

Reg. No. 1,338,571

Registered May 28, 1985

TRADEMARK
SUPPLEMENTAL REGISTER

ACOUSTIC WAVE

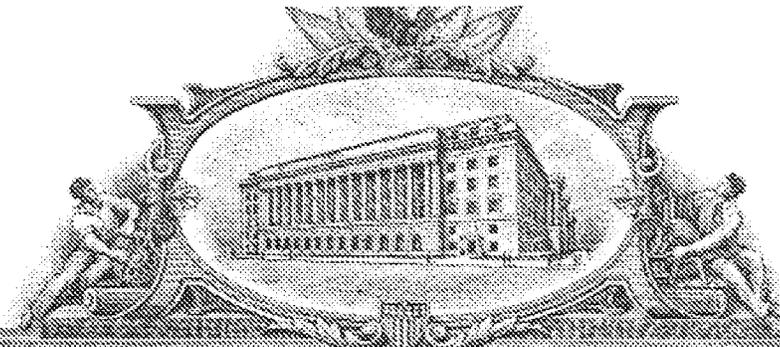
BOSE CORPORATION (DELAWARE CORPORATION)
THE MOUNTAIN
FRAMINGHAM, MA 01701

FIRST USE 2-1-1984; IN COMMERCE
2-1-1984.

SER. NO. 477,755, FILED P.R. 4-30-1984; AM.
S.R. 3-18-1985.

FOR: LOUDSPEAKER SYSTEMS, IN CLASS 9
(U.S. CL. 31).

JOHN CURTIN, EXAMINING ATTORNEY



784132

THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

February 14, 2005

THE ATTACHED U.S. TRADEMARK REGISTRATION *1,764,183* IS CERTIFIED TO BE A TRUE COPY WHICH IS IN FULL FORCE AND EFFECT WITH NOTATIONS OF ALL STATUTORY ACTIONS TAKEN THEREON AS DISCLOSED BY THE RECORDS OF THE UNITED STATES PATENT AND TRADEMARK OFFICE.

REGISTERED FOR A TERM OF *10* YEARS FROM *April 13, 1993*

1st RENEWAL FOR A TERM OF *10* YEARS FROM *April 13, 2003*

SECTION 8 & 15

SAID RECORDS SHOW TITLE TO BE IN:

Registrant

By Authority of the
COMMISSIONER OF PATENTS AND TRADEMARKS



A handwritten signature in cursive script, appearing to read "P. Swain".

P. SWAIN
Certifying Officer

Int. Cl.: 9

Prior U.S. Cls.: 21, 26 and 36

Reg. No. 1,764,183

United States Patent and Trademark Office Registered Apr. 13, 1993

TRADEMARK
PRINCIPAL REGISTER

ACOUSTIC WAVE

HOSE CORPORATION (DELAWARE CORPORATION)
THE MOUNTAIN
FRAMINGHAM, MA 01701-9168

FOR: LOUDSPEAKER SYSTEMS AND MUSIC SYSTEMS CONSISTING OF A LOUDSPEAKER SYSTEM AND AMPLIFIER AND AT LEAST ONE OF A RADIO TUNER, COMPACT DISC PLAYER AND AUDIO TAPE CASSETTE PLAYER, IN CLASS 9 (U.S. CLS. 21, 26 AND 36).

FIRST USE 2-1-1984; IN COMMERCE 2-1-1984.

OWNER OF U.S. REG. NOS. 1,338,571 AND 1,633,789.

SEC. 2(F).

SER. NO. 74-242,129, FILED 2-3-1992.

ELISSA ROSENBERGH, EXAMINING ATTORNEY