

ESTTA Tracking number: **ESTTA149290**

Filing date: **07/03/2007**

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

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| Name | iLike, inc. |
| Granted to Date of previous extension | 07/04/2007 |
| Address | 1605 Boylston Ave.Suite 202 Seattle, WA 98122 UNITED STATES |

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| Attorney information | Rochelle D. Alpert Morgan, Lewis & Bockius LLP One Market, Spear Street Tower San Francisco, CA 94105 UNITED STATES ralpert@morganlewis.com, srsmith@morganlewis.com Phone:415-442-1326 |
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Applicant Information

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| Application No | 76658412 | Publication date | 03/06/2007 |
| Opposition Filing Date | 07/03/2007 | Opposition Period Ends | 07/04/2007 |
| Applicant | Chung, Shin-Ming NO.26, LANE 375, HUACHENG RD. SINJHUANG CITY, TAIPEI COUNTY, TAIWAN | | |

Goods/Services Affected by Opposition

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| <p>Class 009. First Use: 2006/01/20 First Use In Commerce: 2006/04/01 All goods and services in the class are opposed, namely: Computer hardware; Computer software for manipulating digital audio information for use in audio media applications; Computer software for processing digital music files; Laptop carrying cases; Flash memory card; Computer mouse; Computer keyboards; Bags for personal digital assistants; Compact disc cases; Bags for cameras and photographic equipment; Substitute protective shell cases for portable music players namely MP3 players; Accessories for portable music players and MP3 players, namely removable belt clip which is used to fix on the belt, wearable holders in the nature of crisscrossing cords for portable electronic devices, namely MP3 players and cellular phones; Protective carrying cases for portable music players namely MP3 players; Loudspeakers; Earphones; Batteries; Computer connectors; Radio transmitters; Remote controls for electronic devices, namely radios, televisions, and stereos; Memory expansion modules; Battery chargers; Electronic locks</p> |
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Grounds for Opposition

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| Priority and likelihood of confusion | Trademark Act section 2(d) |
| <i>Torres v. Cantine Torresella S.r.l.Fraud</i> | 808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986) |

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| Other | Lack of use prior to filing Application. |
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Mark Cited by Opposer as Basis for Opposition

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| U.S. Application No. | 78936428 | Application Date | 07/24/2006 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | ILIKE | | |
| Design Mark | | | |
| Description of Mark | NONE | | |
| Goods/Services | <p>Class 009. First use: Musical sound recordings; musical video recordings; prerecorded compact discs featuring music; prerecorded minidisks featuring music; prerecorded audio loops, namely prerecorded music; prerecorded electronic media, namely, DVDs, audio tapes; MP3s featuring recorded music and recorded music video consisting of musical performances; downloadable musical sound recordings; downloadable musical video recordings; downloadable electronic publications in the nature of magazines and newsletters on music, musicians, musical artists, musical technology, song writing, musical composition and entertainment; audio loudspeakers; amplifiers; audio equipment, namely receivers, stereos, speakers, equalizers, cross overs; electric audio playback units with lights and speakers; stereo tuners; guitar amplifiers; guitar cables; guitar effects processors; digital storage devices, namely blank computer disks, computer disk drives, prerecorded video tapes featuring music, blank CD-ROMs all for audio and video recording; karaoke machines; digital audio workstations, namely personal recording studio comprised of eight track players, effects processors, digital audio recorders and players; signal converters; input "break-out" cables; remix stations for mixing digital audio files and music; disc jockey equipment, namely microphones, turntables, remixing headphones, music mixers, fog machines, light controllers; CD players and recorders, digital audio players and recorders; flash memory cards; hard drives for computers; audio equipment, namely, input/output mixing boards; computer control surfaces, namely touch pads; Internet enabled recorders, namely digital audio and video recorders for recording and playing music and digital files over the Internet; music analog and digital synthesizers; special effects processors for processing audio and digital data; digital signal processors; downloadable ring tones via a global computer network and wireless devices; music and sound samplers; downloadable computer software for management of personal information and preferences as to music, video and entertainment products; downloadable computer software for use in authoring, transmitting, receiving, editing, extracting, encoding, decoding, playing, storing and organizing audio and video; downloadable computer software to enable the hosting and distribution of digital content over computer networks; downloadable computer software to enable the creation of digital content for distribution over computer networks; downloadable computer software to enable audio, video, text and graphical content to be accessed on-demand or via a subscription over computer networks</p> <p>Class 015. First use: Guitars; electric guitars; guitar picks; guitar straps; guitar strings; keyboard instruments, namely, musical Instrument digital Interface (MIDI) controllers; electronic drum machines</p> <p>Class 016. First use: Bumper stickers; print magazines and newsletters on music, musicians, musical artists, musical technology, song writing, musical composition, and entertainment</p> | | |

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| | <p>Class 025. First use: Clothing, namely t-shirts, sweatshirts, hats and jackets</p> <p>Class 035. First use: Consulting services in the fields of music promotion and distributorship in the field of prerecorded music; management advice services for musical artists and musicians; retail store services in the field of music, video and entertainment provided via the internet and other computer and electronic communication networks; promoting the goods and services of others over the Internet; advertising services, namely providing online computer databases and online searchable databases featuring classified listings and want ads; providing online databases of business information on music, videos and entertainment to consumers, namely, lists of best selling products and consumer preferences; consumer product rating services provided via a global computer network, namely, rating and identifying all types of music, video and entertainment products for production and distribution</p> <p>Class 038. First use: Podcasting services, webcasting services, subscription services for audio broadcasting; providing online chat rooms and electronic bulletin boards for transmission of messages among users in the fields of music and of general interest; providing email and instant messaging service; providing electronic transmission of product and music recommendations, and personal preferences; delivery of personalized information in response to user inquiries via the Internet</p> <p>Class 040. First use: Media duplication of data and digital information; duplication of audio tapes; duplication of video tapes</p> <p>Class 041. First use: Entertainment services, namely, arranging and conducting interactive musical contests; providing reviews and ratings of musicians, music and videos; providing commentary and information about musical artists, musical technology, musicians, song writing, musical composition, music and entertainment, namely, musical event scheduling information and radio and television programming via the Internet; providing radio musical programming; production of television programming, radio programming and films featuring music, musicians, musical artists; television series featuring a continuing interactive talent competition; conducting live concerts and performances; providing information about music, videos and entertainment to customers based on preferences, similarities and behavior of other customers</p> <p>Class 042. First use: Computer services, namely, hosting online web facilities for others for organizing and conducting online meetings, gatherings and interactive discussions; computer services in the nature of customized web pages featuring user-defined information, personal profiles and information</p> <p>Class 045. First use: Internet based dating, introduction and social networking services</p> |
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| Attachments | 78936428#TMSN.jpeg (1 page)(bytes) Notice of Opposition to I LIKE -.pdf (7 pages)(21331 bytes) |
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| Signature | /RDA/ |
| Name | Rochelle D. Alpert |
| Date | 07/03/2007 |

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

In the matter of application Serial No. 76/658,412
Filed April 13, 2006
For the mark ILIKE
Published in the OFFICIAL GAZETTE on March 6, 2007

iLike, inc.,

Opposer,

v.

Shin-Ming Chung,

Applicant.

Opposition No.:

BOX TTAB — FEE
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

iLike, inc., a California corporation, having its principal place of business at 1605
Boylston Ave., Suite 202, Seattle, Washington 98122 (“iLike” or “Opposer”), believes
that it will be damaged by the registration of the mark shown in application, Serial No.
76,658,412, purportedly owned by Shin-Ming Chung and hereby opposes same.

As grounds for the opposition, iLike alleges as follows:

1. iLike owns and uses the mark iLike in the United States. Opposer operates
a web site at the ilike.com domain name, which makes available online music, social

networking and other services directly and through the use of downloadable software.

Also, iLike owns and uses its name iLike, inc. for its corporate name and does business under that name throughout the United States.

2. iLike owns the application, Serial No. 78/936,428, for the mark ILIKE for a wide variety of goods and services.

3. Applicant Shin-Ming Chung purports to be the owner of a use Application, Serial No. 76/658,412, for the mark ILIKE and Design (“Application”), claiming use in connection with a broad range of goods, specifically including “computer hardware; computer software for manipulating digital audio information for use in audio media applications; computer software for processing digital music files; laptop carrying cases; flash memory card; computer mouse; computer keyboards; bags for personal digital assistants; compact disc cases; bags for cameras and photographic equipment; substitute protective shell cases for portable music players namely MP3 players; accessories for portable music players and MP3 players, namely removable belt clip which is used to fix on the belt, wearable holders in the nature of crisscrossing cords for portable electronic devices, namely MP3 players and cellular phones; protective carrying cases for portable music players namely MP3 players; loudspeakers; earphones; Batteries; computer connectors; radio transmitters; remote controls for electronic devices, namely radios, televisions, and stereos; memory expansion modules; battery chargers; electronic locks;” in International Class 9.

4. On April 13, 2006, in connection with the filing of the purported use Application No. 76/658,412, Applicant submitted a sworn declaration, dated April 10, 2006, to the United States Patent and Trademark Office (“USPTO”) that the applied-for

mark ILIKE and Design had been used in the United States as of the filing date of April 13, 2006 in interstate commerce in connection with *all* of the goods identified in the Application since at least as early as April 1, 2006.

5. In connection with its claimed use application, Applicant submitted a specimen of use. That specimen of use does not bear Applicant's name anywhere. To the contrary, the specimen appears to bear the name of an entity, which on its face is not Applicant.

FIRST GROUND FOR OPPOSITION Non-Use of the Mark

6. Opposer incorporates herein and realleges as if fully set forth the allegations contained in paragraphs 1 through 5 of this Notice of Opposition.

7. On information and belief, Applicant had not used in the United States in interstate commerce the applied for mark on or before April 13, 2006 for all of the applied-for goods in the Application as he swore to in the declaration he submitted, including "computer hardware; computer software for manipulating digital audio information for use in audio media applications; computer software for processing digital music files; laptop carrying cases; flash memory card; computer mouse; computer keyboards; bags for personal digital assistants; compact disc cases; bags for cameras and photographic equipment; substitute protective shell cases for portable music players namely MP3 players; accessories for portable music players and MP3 players, namely removable belt clip which is used to fix on the belt, wearable holders in the nature of crisscrossing cords for portable electronic devices, namely MP3 players and cellular phones; protective carrying cases for portable music players namely MP3 players;

loudspeakers; earphones; batteries; computer connectors; radio transmitters; remote controls for electronic devices, namely radios, televisions, and stereos; memory expansion modules; battery chargers; electronic locks.”

8. Because Applicant did not have use of the applied-for mark all of the goods covered by the Application, the use application that is the subject of this opposition the Application should be denied.

SECOND GROUND FOR OPPOSITION Fraud on the Trademark Office

9. iLike incorporates herein and realleges as if fully set forth the allegations contained in paragraphs 1 through 5 and 7 through 8 of this Notice of Opposition.

10. On information and belief, when Applicant filed his Application, he stated under penalty of perjury that he had used the applied-for ILIKE and Design designation in interstate commerce since at least as early as April 1, 2006 for all of the goods identified in his application, and that he understood that any false statements would jeopardize the validity of the application.

11. On information and belief, iLike alleges that Applicant had not used the applied-for mark for all goods identified in the opposed Application, on or before April 13, 2006, the filing date of the Application.

12. On information and belief, Applicant falsely represented the nature of his use in the United States of the applied-for mark. Rather, on or before April 13, 2006, Applicant had not used the applied-for mark on all of the applied-for goods and he had not used the applied-for designation for any goods.

13. Applicant swore in his application that “Applicant is using the mark in commerce on or in connection with the below identified goods or services...” when he himself provided no proof of use. The one specimen of use submitted only identified an entity by the name of Chen Han Plastic Musical Instruments Factory Co., Ltd. Nowhere in the Application is there any explanation of who that entity is and its relationship, if any, to Applicant or any specimen that shows any use by Applicant of the applied for designation.

14. On information and belief, Applicant filed the Application by false means and/or by knowingly and willingly making a false and/or fraudulent declaration that Applicant has used the mark as shown in the Application in the United States in interstate commerce for all of the goods identified in his Application by his claimed first use in commerce date, April 1, 2006, or by April 13, 2006, the filing date of the Application. In addition, on information and belief, Applicant filed the Application by false means with his submission of a specimen only bearing the name of an entirely different third party, without explanation.

15. On information and belief, these false statements were made with the intent to induce the United States Patent and Trademark Office to issue a registration for the ILIKE and Design mark identified in the Application. Reasonably relying on the truth of these false statements, the United States Patent and Trademark Office published the Application believing that there had been use by Applicant of the applied-for mark for all of the applied-for goods as of the filing date of the application, when there was not.

16. On information and belief, Applicant knew or should have known at the time Applicant filed his Application that the statements contained in the declaration and his Application were false.

17. Therefore, Applicant is not entitled to a registration for the ILIKE and Design mark as shown in the Application since, on information and belief, Applicant committed fraud in the filing of his Application claiming use in the United States in interstate commerce for all goods identified in the Application, when he did not have such use, and by filing a specimen of use that evidences only that a third party owns the applied-for designation.

18. As a result, iLike will be damaged by the registration of the designation sought to be protected in Application, Serial No. 76/658,412, and requests that the opposed application be denied.

THIRD GROUND FOR OPPOSITION Likelihood of Confusion

19. iLike incorporates herein and realleges as if fully set forth the allegations contained in Paragraphs 1 through 5, 7 through 8, and 10 through 18 of this Notice of Opposition.

20. As to certain of the goods covered by the Application where there has been no use of the applied-for designation by Applicant as of the filing date of the Application, there is a likelihood of confusion with Opposer's use of its name, domain name and mark.

21. As a result, iLike will be damaged by the registration of the designation sought to be protected in the Application, Serial No. 76/658,412, and requests that the opposed application be denied.

WHEREFORE, iLike prays that application Serial No. 76/658,412 be rejected, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer iLike.

The Assistant Commissioner is hereby authorized to charge \$300.00 to Deposit Account No. 13-4520, and all other fees necessary to institute this opposition.

Dated: July 3, 2007

Respectfully submitted,

By: _____ /s/

Rochelle D. Alpert
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