



Andrew D. Price

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March 31, 2008

By Hand

TTAB

Trademark Assistance Center
Madison East, Concourse Level Room C 55
600 Dulany Street
Alexandria, VA 22314

Re: *Sony Ericsson Mobile Communications AB v. E28 Limited*
Opposition No.: TBA
Mark: **SMARCORE and Design**
Serial No.: 78/951,832
Attorney Reference No.: 74725-252834

Dear Sir:

Submitted herewith in support of the captioned application is the following document:

- Notice of Opposition

Authorization is granted to deduct the \$300.00 filing fee, and any other fees, from Deposit Account No. 22-0261.

Please direct all communication regarding this application to the undersigned at the above address and phone number.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "ADP".

Andrew D. Price

ADP/vdb
Enclosure(As Stated)

DC2DOCS1/944130(01)



03-31-2008

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

SONY ERICSSON MOBILE
COMMUNICATIONS AB

Opposer

v.

E28 LIMITED,

Applicant.

Serial No.: 78/951,832

Opposition No.: _____

Published: October 2, 2007

Atty. Ref.: 74725-252834

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Trademark Assistance Center
Madison East, Concourse Level Room C 55
600 Dulany Street
Alexandria, VA 22314

NOTICE OF OPPOSITION

04/03/2008 SWILSON1 00000002 220261 78951832

01 FC:6402 Sir: 300.00 DA

Sony Ericsson Mobile Communications AB ("Opposer"), is a corporation organized and existing under the laws of the Country of Sweden. It is located at Nya Vattentorget, Lund, Sweden, SE-22188.

For the reasons set forth below, Opposer believes it will be damaged by registration of the mark in the captioned application ("Applicant's Mark") for all the goods/services in the captioned application, namely, "mobile-phone operating system software; recorded computer software for operating mobile phones; recorded computer operating software; recorded computer operating systems; recorded computer programs for mobile phone communication; recorded computer programs for editing and

transmitting sound, images, video and messages, all in connection with mobile phone communication; recorded computer programs for transmitting internet content, standard wireless protocol roaming and auto switching, all in connection with mobile phone communication; mobile phones," in International Class 9, ("Applicant's Goods/Services"), by E28 Limited ("Applicant").

Upon information and belief, Applicant is a limited liability company of the Cayman Islands located at 4th Floor, One Capital Place, P.O. Box 847GT, Grand Cayman, Cayman Islands. Applicant's Mark is the subject of Application Serial No. 78/951,832 ("Application"), filed on August 14, 2006, on an intent-to-use basis.

Opposer hereby opposes registration of Applicant's Mark, before the deadline of March 31, 2008 (since March 30, 2008, was a Sunday). The Trademark Trial and Appeal Board of the United States Patent and Trademark Office ("USPTO") granted Opposer's prior requests for extension of time to file a Notice of Opposition.

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Opposer's grounds for opposition are as follows:

1. Opposer is the owner of the following marks and USPTO registrations:

MARK ("Opposer's Mark")	FILING DATE	REG. NO. ("Opposer's Registrations")	GOODS AND SERVICES ("Opposer's Goods/Services")
Miscellaneous Design (<i>Sphere</i>)	3/22/02 (with priority from 9/28/01)	3,036,165	"Telephone apparatus and instruments, namely, telephone handsets, earpieces, hands free sets and telephone holders; cellular telephones; mobile telephones; telephone receivers; electric power supplies for telephone systems; battery chargers; computer programs in recorded form and fixed in electronic memory circuits, computer memories and cores all for use in relation to telecommunication devices for electronic games, for the transmission, reproduction, receiving, accessing, searching, indexing and retrieving of games, images, music, sounds, text, movies, video and animations in the field of general entertainment, and data, for general database management, for the management and operation of wireless communication devices, for enabling and securing electronic transactions, and for the transmission, reproduction, receiving, accessing, searching, indexing and retrieving of games, images, music, sounds, text, movies, video and animations in the field of general entertainment, and data from computer or communication networks; printed circuit boards; frequency generators; wireless communication and cellular telephone systems, namely, mobile stations consisting of mobile telephones, PDA's and portable computers and base stations consisting of radio signal transceivers and mobile switching center equipment consisting of hardware and software for the switching, routing and management of

			wireless communications; AC/DC power supplies, electrical power supplies and their structural parts, all sold as a unit; optical components all for use in relation to telecommunication devices namely, viewing screens, cameras and viewfinders. computer programs for electronic games, for the transmission, reproduction, receiving, accessing, searching, indexing and retrieving of games, images, music, sounds, text, movies, video and animations in the field of general entertainment, and data, for general database management, for the management and operation of wireless communication devices, for enabling and securing electronic transactions, and for the transmission, reproduction, receiving, accessing, searching, indexing and retrieving of games, images, music, sounds, text, movies, video and animations in the field of general entertainment, and data from computer or communication networks, all for use in relation to telecommunication devices carrying electronic circuits, batteries; photographic apparatus and instruments, namely, still and video cameras adapted for use in relation to telecommunication devices," in International Class 9.
Miscellaneous Design (<i>Sphere</i>)	9/24/02	2,953,075	"Handheld unit for playing electronic games, namely, a telecommunication apparatus for playing electronic games," in International Class 28.

2. The effective filing dates of Opposer's Registrations are earlier than the effective filing date of the Application.

3. Upon information and belief, Applicant did not – either itself or through Applicant's related company, licensee, or predecessor in interest – use Applicant's Mark

on or in connection with Applicant's Goods/Services in U.S. commerce before the effective filing dates of Opposer's Registrations.

4. Opposer's Mark and Applicant's Mark are highly similar in appearance and commercial impression.

5. Opposer's Mark and Applicant's Mark consist of, or feature, a sphere with a revealed core. In addition, the word "CORE" in Applicant's Mark draws a consumer's attention to the fact that Applicant's Mark features a sphere with a revealed core.

6. Opposer's Goods/Services and Applicant's Goods/Services are substantially related.

7. Opposer's Goods/Services and Applicant's Goods/Services include "mobile phones," "mobile telephones," or "telecommunication apparatus."

8. Applicant's Mark, as applied-for and intended to be used by Applicant on or in connection with Applicant's Goods/Services, is so similar to Opposer's Mark, as owned by Opposer, that the trade and consumers are likely to be confused and likely to believe that *Applicant's Goods/Services* originate from Opposer or an entity in some way associated with Opposer, resulting in damage to Opposer.

9. Applicant's Mark, as applied-for and intended to be used by Applicant on or in connection with Applicant's Goods/Services, is so similar to Opposer's Mark, as owned by Opposer, that the trade and consumers are likely to be confused and likely to believe that *Opposer's Goods/Services* originate from Applicant or an entity in some way associated with Applicant, resulting in damage to Opposer.

10. Opposer believes that registration of Applicant's Mark as proposed in the Application would result in damage to Opposer under the provisions of the Lanham Act, 15 U.S.C. § 1052(d), pursuant to the allegations stated above.

ACCORDINGLY, Opposer respectfully requests that the entire registration sought by Applicant, in Application Serial No. 78/951,832, be refused and that this Notice of Opposition be sustained.

Opposer appoints Andrew D. Price, Mark B. Harrison, Barbara L. (Pixie) Waite, Marcia A. Auberger, Janet F. Satterthwaite, Jacqueline L. Patt, and Ellen W. Woodward, along with the law firm of Venable LLP, to transact all business on its behalf in connection with this Opposition.

Please conduct all correspondence with Andrew D. Price at Venable LLP, P.O. Box 34385, Washington, DC 20043-9998.

Authorization is granted to debit the requisite fee of \$300 for filing a Notice of Opposition in one International Class, or the requisite fees, from Deposit Account No. 22-0261.

A Certificate of Services is attached.

Respectfully submitted,

By: 

Andrew D. Price
Attorneys for Opposer

Venable LLP
P.O. Box 34385
Washington, DC 20043-9998
(202) 344-4000

Date: March 31, 2008

DC2DOCS1/943191

CERTIFICATE OF SERVICE

The undersigned attorney for Opposer hereby certifies that he served by first class mail, postage prepaid, a copy of the foregoing:

NOTICE OF OPPOSITION

upon:

Nancy Sabarra, Esq.
Fross Zelnick Lehrman & Zissu, P.C.
866 United Nations Plz
New York, NY 10017-1822

Attorneys for Applicant

This March 31, 2008.



Andrew D. Price

DC2DOCS1/943191