

ESTTA Tracking number: **ESTTA252134**

Filing date: **12/01/2008**

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	uBid, Inc.
Granted to Date of previous extension	11/30/2008
Address	8725 W. Higgins Chicago, IL 60631 UNITED STATES

Attorney information	Lee J. Eulgen Neal Gerber & Eisenberg LLP 2 N. LaSalle Chicago, IL 60602 UNITED STATES leulgen@ngelaw.com, gleighton@ngelaw.com, hschroeder@ngelaw.com
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**Applicant Information**

Application No	76671087	Publication date	06/03/2008
Opposition Filing Date	12/01/2008	Opposition Period Ends	11/30/2008
Applicant	IBIDMOTORS 106 Allen Road Basking Ridge, NJ 07920 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 035. First Use: 2004/02/11 First Use In Commerce: 2004/02/11 All goods and services in the class are opposed, namely: computerized on-line retail store services in the fields of automotive collectibles, memorabilia, and apparel; organization of internet auctions
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	2229515	Application Date	03/06/1997
Registration Date	03/02/1999	Foreign Priority Date	NONE
Word Mark	UBID		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 016. First use: First Use: 1998/05/00 First Use In Commerce: 1998/05/00 [ catalogs for computer-related products, namely, hardware, software, peripherals, accessories, supplies, books and instructional materials ] Class 035. First use: First Use: 1998/05/00 First Use In Commerce: 1998/05/00 disseminating advertising for others and promoting the goods and services of others through the distribution of printed publications and via on-line telecommunications networks; telephone shop-at-home services, mail-order catalog services, [ retail store services ] and electronic retailing services via global computer network, all in the field of computer-related products, namely, hardware, software, peripherals, accessories, supplies, books and instructional materials

U.S. Registration No.	2519050	Application Date	02/08/1999
Registration Date	12/18/2001	Foreign Priority Date	NONE
Word Mark	UBID		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1998/05/00 First Use In Commerce: 1998/05/00 Disseminating advertising matter for others via electronic communications networks and promoting the goods and services of others through banner advertisements and through the electronic promotion of and auctioning of the goods and services of others online via the global computer network; electronic retailing services by auction and other means, namely, online retail store and auction services in the fields of computer-related, electronic, home appliance, home improvement, automotive, sports and recreational products, offered via the global computer network		

U.S. Registration No.	2991806	Application Date	12/30/2003
Registration Date	09/06/2005	Foreign Priority Date	NONE
Word Mark	UBID.COM		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2003/11/30 First Use In Commerce: 2003/11/30 on-line trading services in which the seller posts products to be auctioned and bidding is done via the Internet; on-line retail store services featuring consumer		

	electronics, computer products and multimedia entertainment products		
U.S. Registration No.	3466440	Application Date	10/25/2007
Registration Date	07/15/2008	Foreign Priority Date	NONE
Word Mark	UBID.COM		
Design Mark			
Description of Mark	The color red appears in the wording as the letter "U" as well as on the dot; the color blue appears in the wording as the letters "BID" and "COM".		
Goods/Services	Class 035. First use: First Use: 1997/01/01 First Use In Commerce: 1997/01/01 Online trading services in which the seller posts products to be auctioned and bidding is done via the internet; online retail store services featuring consumer electronics, computer-related products, home appliances, home improvement, automotive, sports and recreational, multimedia entertainment, toys, jewelry, fragrances, skin care, cosmetics, purses, hand bags, wallets, sunglasses, hats, tools, art, furniture, storage, organization, pet supplies, crafts, food and wine, gardening and planting supplies, and lawn and garden decor		

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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Lee J. Eulgen/
Name	Lee J. Eulgen
Date	12/01/2008

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

In the Matter of Application )  
Serial No.: 76/671,087 )  
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Published in the Official Gazette )  
On June 3, 2008 )  
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uBid, Inc., )  
 )  
 )  
Opposer, )  
v. )  
 )  
IBidMotors Corporation New Jersey, )  
 )  
Applicant. )

**NOTICE OF OPPOSITION**

This Notice of Opposition is submitted in the matter of Application Serial No. 76/671,087, by which IBidMotors Corporation New Jersey (“ibid”) seeks to register the mark IBIDMOTORS based upon its use of that mark in connection with, among other things, the organization of internet auctions in International Class 35. The subject application was published for opposition in the Official Gazette on June 3, 2008. uBid, Inc. (“uBid”), a Delaware corporation having a place of business at 8725 West Higgins Road, Chicago, Illinois 60631, believes that it would be damaged by the registration and therefore opposes the same.

The grounds for Opposition herein are as follows:

1. For over ten years, uBid and its predecessor companies have been in the online retail and auction business, operating one of the world’s foremost online marketplaces, uBid.com. During that time, uBid and its predecessors have operated successfully under the UBID mark and trade name.

2. Long before the acts of Applicant alleged herein, uBid and its predecessors have provided a variety of services under and in connection with the marks UBID, UBID.COM and a family of other “u” marks such as UBUYITNOW (collectively referred to as the “UBID Marks”), including online trading services and online retail store and auction services.

3. Among the successful programs offered by uBid under its UBID Marks is its Certified Merchant Program, which offers seller-side access to the uBid marketplace to third-party merchants and distributors that desire to reach uBid’s extensive customer base and that successfully pass uBid’s qualification process aimed at maintaining uBid’s status as the online marketplace that consumers can trust. Approved uBid Certified Merchants are able to use the uBid platform to offer their products hand in hand with uBid’s own inventory and benefit from uBid’s years of experience in running its online marketplace.

4. uBid and its predecessors have devoted significant resources, time and effort to marketing and providing the services offered by uBid under the UBID Marks. As a result of its commercial success and promotional efforts, uBid has built up and now owns considerable recognition and goodwill in the UBID Marks, which are now renowned trademarks widely recognized as signifying uBid and its services.

5. To further protect its UBID Marks, uBid maintains federal trademark Registration Nos. 2,229,515, 2,519,050, 2,991,806, 3,048,683 and 3,065,399 for use in connection with online trading services and online retail store and auction services. As a result of the brand recognition, consumer trust and goodwill that uBid has engendered in its UBID Marks by virtue of its successful management and promotion of its uBid.com online marketplace and its services related thereto, the UBID Marks, and uBid’s registrations therefor, are now among uBid’s most valuable assets.

6. On January 8, 2007, long after uBid began its use of its UBID Marks, Applicant filed an application to register the mark IBIDMOTORS based upon its use of that mark in connection with, among other things, “computerized on-line retail store services in the fields of automotive collectibles, memorabilia [sic], and apparel; organization of internet auctions” in International Class 35.

7. The mark that Applicant seeks to register is likely to cause confusion or mistake, or to deceive purchasers, in that purchasers would be likely to believe Applicant’s services are uBid’s services, or are in some way legitimately connected with, sponsored by or approved by uBid in violation of 15 U.S.C. § 1052(d). Additionally, uBid believes that Applicant’s registration and use of its mark would dilute uBid’s federally-registered UBID Marks in violation of 15 U.S.C. § 1125(c). Applicant’s registration of its mark would, therefore, result in damage to uBid, and on that basis, uBid opposes registration of Applicant’s mark.

WHEREFORE, uBid requests that the registration sought by Applicant be refused and that this Notice of Opposition be sustained.

uBid requests that the requisite filing fee of \$300.00 and any other associated fees be charged to the deposit account of Neal, Gerber & Eisenberg LLP, Account No. 502261.

Please address all communications to Lee J. Eulgen and Gregory J. Leighton, Neal, Gerber & Eisenberg LLP, 2 North LaSalle Street, Suite 2200, Chicago, Illinois, 60602.

Respectfully submitted,

Date: December 1, 2008

By: Lee J. Eulgen  
One of the Attorneys for Opposer, uBid, Inc.

Lee J. Eulgen  
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Neal, Gerber & Eisenberg LLP  
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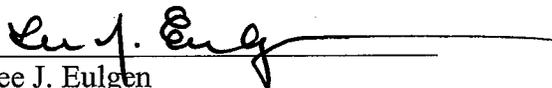
**CERTIFICATE OF SERVICE**

I, Lee J. Eulgen, an attorney, state that I will cause a copy of the foregoing Notice of Opposition to be served upon:

Royal W. Craig  
Ober/Kaler  
120 East Baltimore Street  
Baltimore, MD 21202-1643

IbidMotors Corporation New Jersey  
106 Allen Road  
Basking Ridge, NJ 07920

via First Class U.S. Mail, postage prepaid, on the 1<sup>st</sup> day of December, 2008.

  
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Lee J. Eulgen