

ESTTA Tracking number: **ESTTA284965**

Filing date: **05/20/2009**

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	Union Radio Network of Florida LLC		
Entity	limited liability company	Citizenship	Florida
Address	Suite 250, 2525 Ponce de Leon Boulevard Coral Gables, FL 33134 UNITED STATES		

Attorney information	Stephen J. Jeffries Holland & Knight LLP 2099 Pennsylvania Avenue, NW, Suite 100 Washington, DC 20006 UNITED STATES stephen.jeffries@hklaw.com Phone:202-419-2404
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Applicant Information

Application No	77023850	Publication date	04/21/2009
Opposition Filing Date	05/20/2009	Opposition Period Ends	05/21/2009
International Registration No.	NONE	International Registration Date	NONE
Applicant	SOCIEDAD DE SERVICIOS RADIOFONICOS UNION RADIO, S.L. Gran Via, 32 Madrid, 28013 SPAIN		

Goods/Services Affected by Opposition

<p>Class 038. All goods and services in the class are opposed, namely: Broadcasting services, namely, radio broadcasting, satellite radio and television broadcasting, webcasting services and electronic data transmission to wireless communications devices, handheld computers, personal digital assistants and cell phones; communications via fiber-optic networks, communications services, namely, transmitting streamed sound and audio-visual recordings via the internet, transmission of messages over electronic media, electronic data transmission, communication services, namely, electronic transmission of data and documents among computer users; communication by computer terminals through worldwide computer networks; electronic message transmission services, telephone communication services, radio and television broadcasting services, telecommunications services, namely, personal communication services, transfer of data by telecommunications, telecommunication access services, providing electronic telecommunication connections</p>
<p>Class 041. All goods and services in the class are opposed, namely: Entertainment in the nature of ongoing television programs in field of news and variety; arranging and conducting cultural programs, namely, art exhibitions, dance performances, symphony and orchestra performances, and live theatre and concerts; entertainment, namely, production of operas; educational and entertainment services,</p>

n amely, providing educational speakers

Grounds for Opposition

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)

Marks Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	UNION RADIO		
Goods/Services	"radio broadcasting" in International Class 38; "entertainment services, namely, providing a radio program in the field of music, politics, comedy, drama, sports, traffic, weather via a global computer network; radio entertainment production; radio entertainment services, namely radio programs featuring performances by a musical performers, comedians, talk show hosts, personalities, commentators" in International Class 41		

U.S. Application No.	77009802	Application Date	09/28/2006
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	UNION RADIO		
Design Mark			
Description of Mark	The mark consists of an orange shell design above the words "union radio" in black. The word "union" is on top of the word "radio."		
Goods/Services	Class 038. First use: First Use: 1967/00/00 First Use In Commerce: 1999/00/00 Radio broadcasting Class 041. First use: First Use: 1967/00/00 First Use In Commerce: 1999/00/00 Entertainment services, namely, providing a radio program in the field of music, politics, comedy, drama, sports, traffic, weather via a global computer network; Radio entertainment production; Radio entertainment services, namely radio programs featuring performances by a musical performers, comedians, talk show hosts, personalities, commentators		

Attachments	ssr noo_May_20_2009_09_59_25_763.pdf (7 pages)(2736350 bytes) 77009802#TMSN.jpeg (1 page)(bytes)
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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	/Stephen J. Jeffries/
Name	Stephen J. Jeffries
Date	05/20/2009

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

Union Radio Network of Florida LLC,	:	
	:	
Opposer,	:	
	:	
v.	:	Opposition No. _____
	:	Application Serial No. 77/023,850
Sociedad de Servicios Radiofonicos	:	
Union Radio, S.L.,	:	
	:	
Applicant.	:	

NOTICE OF OPPOSITION

In the matter of application Serial No. 77/023,850 (hereinafter, "Applicant's Application"), for the mark:



(hereinafter "Applicant's Mark"), for services identified as "broadcasting services, namely, radio broadcasting, satellite radio and television broadcasting, webcasting services and electronic data transmission to wireless communications devices, handheld computers, personal digital assistants and cell phones; communications via fiber-optic networks, communications services, namely, transmitting streamed sound and audio-visual recordings via the internet, transmission of messages over electronic media, electronic data transmission, communication services, namely, electronic transmission of data and documents among computer users; communication by computer terminals through worldwide computer networks; electronic message transmission services, telephone communication services, radio and television broadcasting services, telecommunications services, namely, personal communication services, transfer of data by telecommunications, telecommunication access services, providing electronic telecommunication connections" in International Class 38 and "entertainment in the nature of ongoing television

programs in field of news and variety; arranging and conducting cultural programs, namely, art exhibitions, dance performances, symphony and orchestra performances, and live theatre and concerts; entertainment, namely, production of operas; educational and entertainment services, namely, providing educational speakers" in International Class 41 (hereinafter "Applicant's Services"), filed on October 18, 2006 (with August 4, 2006 priority date) by Sociedad de Servicios Radiofonicos Union Radio, S.L. (hereinafter "Applicant"), and published in the Official Gazette of April 21, 2009; Union Radio Network of Florida LLC, a limited liability company organized and existing under the laws of Florida, having a principal place of business at Suite 250, 2525 Ponce de Leon Boulevard, Coral Gables, Florida 33134 (hereinafter "Opposer"), believes it will be damaged by the registration of the mark in the application and hereby opposes the registration of the mark.

As grounds for this opposition Opposer declares as follows:

COUNT I: LIKELIHOOD OF CONFUSION

Point 1. Opposer, by and through a related company and predecessor in title, first used the service mark **UNION RADIO** (hereinafter, "Opposer's Mark") in commerce in connection with, *inter alia*, "radio broadcasting" in International Class 38 and "entertainment services, namely, providing a radio program in the field of music, politics, comedy, drama, sports, traffic, weather via a global computer network; radio entertainment production; radio entertainment services, namely radio programs featuring performances by a musical performers, comedians, talk show hosts, personalities, commentators" in International Class 41 (hereinafter, "Opposer's Services") at least as early as 1999, and Opposer's Mark is currently in such use by Opposer.

Point 2. Opposer filed an application to register Opposer's Mark, in the design form depicted below,



for Opposer's Services in the United States Patent and Trademark Office on September 28, 2006, said application being designated Application Serial No. 77/009,802 (hereinafter, "Opposer's Application").

Point 3. The United States Patent and Trademark Office has stated that, in the event that Applicant's Application registers, Opposer's Application will be refused registration under 15 U.S.C. Section 1052(d) on grounds that the mark subject to Opposer's Application, as used in connection with Opposer's Services, so resembles Applicant's Mark as to be likely to cause confusion.

Point 4. Opposer used Opposer's Mark in commerce in connection with Opposer's Services prior to the date upon which Applicant filed Applicant's Application in the United States Patent and Trademark Office.

Point 5. Opposer used Opposer's Mark in commerce in connection with Opposer's Services prior to the date, if any, upon which Applicant first used Applicant's Mark in commerce in connection with Applicant's Services.

Point 6. On information and belief, Opposer's rights in and to Opposer's Mark are superior to Applicant's rights in Applicant's Mark by virtue of Opposer's prior use in commerce of Opposer's Mark.

Point 7. Applicant's Mark is similar to Opposer's Mark in terms of sound, appearance, meaning and overall commercial impression.

Point 8. Applicant's Services are closely related to Opposer's Services, and the conditions surrounding their marketing are such that they are likely to be encountered by the same purchasers under circumstances that are likely to give rise to the mistaken belief that the respective services of Applicant and Opposer come from a common source.

Point 9. In view of Opposer's prior use in commerce of Opposer's Mark, the similarity between Applicant's Mark and Opposer's Mark, and the proximity between Applicant's Services and Opposer's Services, the registration of Applicant's Mark for Applicant's Services will injure Opposer by causing a likelihood of purchaser confusion, mistake or deception as to the source or sponsorship of the respective services of Applicant and Opposer, to Opposer's

damage, and in violation of the provisions of Trademark Act Section 2(d) of the Trademark Act of 1946. 15 U.S.C. Section 1052(d).

COUNT II: FRAUD

Point 10. Opposer repeats and realleges paragraph numbers 1 through 9, above, as if fully set forth herein.

Point 11. Applicant's Application includes the following declaration:

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Point 12. Augusto Delkader Teig (hereinafter "Teig") signed the declaration set forth in paragraph 11, above, on October 18, 2006.

Point 13. On October 18, 2006, Teig was Applicant's CEO.

Point 14. On October 18, 2006, Teig was aware of Opposer's prior use in commerce of Opposer's Mark in connection with Opposer's Services.

Point 15. On October 18, 2006, Teig was aware that Applicant was not entitled to use Applicant's Mark in commerce in connection with Applicant's Services in view of Opposer's prior use in commerce of Opposer's Mark in connection with Opposer's Services.

Point 16. On October 18, 2006, Teig was aware that the use of Applicant's Mark in commerce in connection with Applicant's Services would cause purchaser confusion, mistake or deception as to the source or sponsorship of the respective services of Applicant and Opposer.

Point 17. The declaration filed with Applicant's Application includes the knowing, false, material representation that Teig believed that Applicant was entitled to use Applicant's Mark in commerce.

Point 18. The declaration filed with Applicant's Application includes the knowing false, material representation that to the best of Teig's knowledge and belief no other person, firm, corporation, or association had the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive.

Point 19. The knowing, false, material representations identified in paragraphs 17 and 18 above were made with the willful intention to induce the United States Patent and Trademark Office to grant a registration for Applicant's Mark in reliance thereupon.

Point 20. The United States Patent and Trademark Office reasonably relied upon the knowing, false, material representations identified in paragraphs 17 and 18 above by approving Applicant's Application for publication for opposition.

Point 21. On information and belief, the acts of Registrant described in Points 10 through 20, above, constitute fraud upon the United States Patent and Trademark Office, to Opposer's damage.

WHEREOF, Opposer prays that this Notice of Opposition be sustained and registration of application Serial No. 77/023,850 be refused.

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the foregoing **NOTICE OF OPPOSITION** was sent by first class mail, postage pre-paid, to:

Sean S. Swidler, Esq.
IpHorgan Ltd.
Suite 240
1130 Lake Cook Rd.
Buffalo Grove IL 60089

on this 20th day of May, 2009.

A handwritten signature in black ink, appearing to read "S. Swidler", is written over a horizontal line.