

ESTTA Tracking number: **ESTTA330288**

Filing date: **02/03/2010**

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	Sharp Kabushiki Kaisha, a/t/a Sharp Corporation
Granted to Date of previous extension	02/03/2010
Address	22-22 Nagaike-cho, Abeno-ku Osako, 545-8522 JAPAN

Attorney information	Robert W. Adams Nixon & Vanderhye, P.C. 901 North Glebe Rd., 11th Floor Arlington, VA 22203-1808 UNITED STATES fbe@nixonvan.com Phone:703-816-4022
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### Applicant Information

Application No	77745259	Publication date	10/06/2009
Opposition Filing Date	02/03/2010	Opposition Period Ends	02/03/2010
Applicant	Posit Science Corporation 225 Bush Street, 7th floor San Francisco, CA 94104 UNITED STATES		

### Goods/Services Affected by Opposition

Class 009. All goods and services in the class are opposed, namely: computer software for use in maintaining or improving cognitive performance and/or brain plasticity and manuals provided together as a unit
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### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
The mark is merely descriptive	Trademark Act section 2(e)(1)

### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2765106	Application Date	08/24/2001
Registration Date	09/16/2003	Foreign Priority Date	NONE
Word Mark	SHARP		

Design Mark	<b>SHARP</b>		
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2000/04/00 First Use In Commerce: 2000/04/00 computer software for managing documents		

U.S. Registration No.	3490700	Application Date	05/26/2006
Registration Date	08/19/2008	Foreign Priority Date	NONE

Word Mark	OSA SHARP OPEN SYSTEMS ARCHITECTURE		
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Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2006/05/31 First Use In Commerce: 2006/05/31 Computer software for use in programming photo-copying machines, printers, facsimile machines and scanners		

U.S. Registration No.	2756747	Application Date	10/17/2000
Registration Date	08/26/2003	Foreign Priority Date	NONE

Word Mark	SHARPDESK		
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Design Mark	<b>SHARPDESK</b>		
Description of Mark	NONE		

Goods/Services	Class 009. First use: First Use: 2000/04/00 First Use In Commerce: 2000/04/00 computer software for managing documents		
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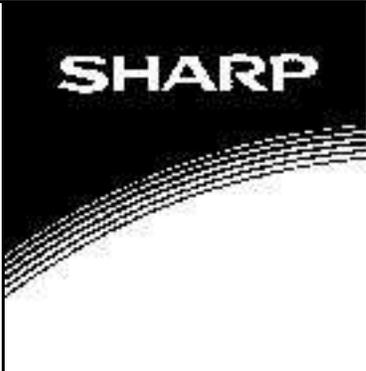
U.S. Registration No.	3482580	Application Date	11/10/2005
Registration Date	08/05/2008	Foreign Priority Date	NONE

Word Mark	SHARP OSA
Design Mark	
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2006/05/31 First Use In Commerce: 2006/05/31 Software for operating copying machines, printers, facsimile machines and scanners

U.S. Registration No.	3114549	Application Date	01/24/2002
Registration Date	07/11/2006	Foreign Priority Date	NONE

Word Mark	BE SHARP
Design Mark	
Description of Mark	NONE
Goods/Services	Class 037. First use: First Use: 2006/02/00 First Use In Commerce: 2006/02/00 Maintenance and repair services for electrical and electronic goods, namely, vacuum cleaners and accessories therefor, copiers, printers, computers and computer peripheral devices, cash registers, calculators, television sets, video cassette recorders, video cassette players, television sets combined with video cassette recorders; video cameras, projectors, compact disc players, MD (Mini Disc) players, electronic organizers, computer software, projectors, DVD players, LCD monitors; Point of Sales products, home theater audio systems, camcorders and accessories therefor, facsimile machines, microwave ovens, and air conditioners and accessories therefor

U.S. Registration No.	3564815	Application Date	12/28/2006
Registration Date	01/20/2009	Foreign Priority Date	09/29/2006
Word Mark	SHARP		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 001. First use:  Developers for copying machines; developers for facsimile machines; photographic supplies, namely, blueprint paper, photographic paper, photographic sensitizers, photographic dry plates, photographic developers, flash powder, photographic fixers, unexposed photographic films</p> <p>Class 002. First use:  Ink in the nature of toners; ink in the nature of toners for photocopiers; ink in the nature of toners for facsimile machines; ink in the nature of toners for computer printers; toner cartridges; filled toner cartridges for photocopiers; filled toner cartridges for facsimile machines; filled toner cartridges for computer printers; pigments; filled ink cartridges; filled ink cartridges for photocopiers; filled ink cartridges for facsimile machines; filled ink cartridges for computer printers; printing ink</p> <p>Class 007. First use:  Ultrasonic machines for washing parts of semiconductors, namely, printed circuit boards, lead frame, relay contacts, experimental apparatus and implements and testing apparatus and implements; dishwashers; washing machines for clothes; vacuum cleaners; electric food processors; garbage disposals; ultrasonic washing machines for washing motors, surgical instruments, coiled metal plates and sheets, metals, electric wire glasses, lenses for eyewear, parts of cameras, bearings, blades, springs, valves, tools for printing and experimental instruments for safety and purity testing with respect to food, drugs or chemicals, as well as parts for said ultrasonic washing machines, namely, ultrasonic vibrators</p> <p>Class 009. First use:  Electronic cash registers; photographic machines and apparatus, namely, cameras and video camcorders; cinematographic machines and apparatus, namely, cameras and video camcorders; optical apparatus and instruments, namely, optical electric sensors for graphics and optical fibers; image verification sensor, used in the inspection process, namely, image sensor cameras; image positioning controllers, namely, image sensors; [ alphanumeric character verification apparatus used in the inspection process, namely, image sensor cameras; image positioning controllers, namely, image sensors; ] alphanumeric character verification apparatus used in the inspection process, namely, inspection apparatus in the nature of optical inspection apparatus for industrial use; power distribution or control machines and apparatus, namely, electrical power distribution units; alternating current adapters; switching power supplies; inverters used in the residential photo voltaic system; electricity inverters; rotary converters; electric phase modifiers; electrical batteries and cells; solar batteries; solar modules consisting of solar cells; combined modules for photo voltaic power generation, consisting of thin-film solar cells and light-emitting diodes; electric or magnetic meters and testers, namely, electric and magnetic meters; electric wire; electric cable, coaxial cables; fiber optic cables; junction sleeves for electric cable; electric flat irons, electrically heated hair-curlers;</p>

electric buzzers; portable telephones; portable telephones incorporating tuners for television broadcasting reception; portable telephones incorporating tuners for digital terrestrial television broadcasting reception; personal digital assistants incorporating portable telephones; telephones; low noise block down converters for satellite broadcasting reception; tuners for television broadcasting reception; tuners for digital terrestrial television broadcasting reception; tuners for digital cable television broadcasting reception; tuners for terrestrial television broadcasting reception; television sets; television receivers; liquid crystal display television sets; liquid crystal display television receivers; optical disc recorders and disc players; digital video disk recorders and players; digital versatile disk recorders and players; mini disk recorders and players; compact disk recorders and players; videotape recorders and players; digital audio recorders and players; amplifiers; loudspeakers; component-type stereo comprising mini disk recorders and players, compact disk recorders and players, loudspeakers, tuner, and an amplifier; sound recording apparatus; facsimile machines; video entry phones; intercoms; display modules, namely, organic [ electrocutions ] \* ELECTROLUMINESCENCE \* display modules; image sensors for camera modules; image sensors for camera modules for digital camera; image sensor for camera modules for camera phones; photo couplers; devices for infrared-ray communication, namely, infrared data communication devices in the nature of wireless access point (WAP) devices, personal data assistants (PDAs), cellular phone and remote controllers; camcorders; sound reproduction apparatus, namely, cassette tape recorders and players; electronic signboards consisting of light-emitting diodes; sound recording apparatus; navigation apparatus for vehicles in the nature of on board computers; [ walked ] \* WALKIE \* -talkies; transceivers; computers; notebook computers; laptop computers; desktop computers; electronic desk calculators; pocket calculators; electronic calculators; camera modules for camcorders; camera modules for portable telephones; camera modules for digital still cameras; computer monitors; liquid crystal display monitors; liquid crystal displays; liquid crystal display panels; computer servers; personal computer servers; projectors, namely, rear projection televisions; liquid crystal display projectors; rear photographic projectors; personal digital assistants; hand-held electronic dictionaries; electronic dictionaries recorded on magnetic media; computer software for controlling photocopying machines; computer software for controlling facsimile machines; computer software for controlling scanning machines; computer software for controlling electronic copying machines in which a printer function, a scanner function, and a facsimile function are entirely or partially provided; computer software for translation; computer software for creating animation; computer software for browsing or editing video, images and sound; computer software for editing sound recorded in mini disks; computer software for saving documents in the electronic filing system; computer group ware for scheduling, managing documents, recording address and electronic mailing; laser pointers; printers for use with computers; bar-code printers; point-of-sales terminals; programmable controllers, namely, programmable logic controllers, electrical controllers; integrated circuits; large scale integrated circuits; flash memory chips and flash memory devices in the nature of storage devices, namely, flash drives; laser diodes; semiconductor lasers; electronic copying machines; ink-jet copying machines; electronic copying machines in which a printer function, a scanner function, and facsimile function are entirely or partially provided; ink-jet copying machine in which a printer function, a scanner function, and a facsimile function are entirely or partially provided; facsimile machines in which a copying function, a printer function, and a scanner function are entirely or partially provided; consumer video game cartridges; electronic circuit boards and recorded programs [ tor ] \* FOR \* hand-held games with liquid crystal displays recorded on compact disk with read-only-memories; electronic circuit boards and automatic performance computer programs for electronic musical instruments recorded on compact disk with read-only memories recorded; downloadable electronic publications in the nature of books, magazines, novels, photo books and comics in the fields of humanities and education, namely, [

	<p>logo logy ] * LOGOLOGY *, zoology, botany, [ necrology ] * INSECTOLOGY *, history, language, computers, medical science, literary arts, music and entertainment namely, brain exercising/training and traveling</p> <p>Class 011. First use:  Air-conditioning apparatus for commercial use; industrial air purifiers; microwave ovens for cooking; solar water heaters; lamps consisting of light-emitting diodes; lamps incorporating solar cells; [ sweet ] * STREET * lamps; street lamps incorporating solar cells; electric refrigerators; electric freezers; cooking appliance consisting of a cook top having radiant electric heaters, a microwave oven and an electric oven; electrically heated carpets; electric blankets for household purposes; hot plates for household purposes; induction cooking heaters; [ electronic ] * ELECTRIC * cooking pans having a function of electronic hot plates; electromagnetic induction cookers for household purposes; electric toaster ovens for household purposes; electric kettles for household purposes; electric rice-cookers for household purposes; humidifiers for household purposes; household tap-water filters; water purifiers for household purposes; air conditioners; air purifiers for household purposes; dehumidifiers for household purposes; ion conditioners for household purposes for purifying air by emitting ion; dehumidifiers for commercial use; drinking water coolers; electric bathroom heating and drying apparatus for household purposes, namely, electric heating fans, electric heating cables and electric laundry dryers; electric cloth drying machines for household purposes; electric fan heaters; kerosene heaters; electric heaters; toilets stool units with washing water squirter; kerosene fan heaters; electrical cooking ovens utilizing super heated steam and electric cooking ovens with a function of a microwave oven utilizing super heated steam; electrical cooking range utilizing super heated steam and electric cooking ovens with a function of microwave oven utilizing super heated steam</p> <p>Class 016. First use:  Inking ribbons for facsimile machines; cassette type inking ribbons for facsimile machines; imaging film type inking ribbons for facsimile machines; inking ribbons for copying machines; cassette type inking ribbons for copying machines; inking ribbons for computer printers; cassette type inking ribbons for computer printers; inking ribbons; cassette type inking ribbons; paper for facsimile machines; thermal paper for facsimile machines; copier paper; paper and cardboard</p> <p>Class 019. First use:  Building glass, namely, glass panels for building construction purpose incorporating light-emitting diodes and solar cells; building glass, namely, glass panels for building construction purpose</p>
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U.S. Registration No.	1405542	Application Date	10/12/1983
Registration Date	08/19/1986	Foreign Priority Date	NONE
Word Mark	SHARP		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: ELECTRICAL AND ELECTRONIC GOODS, NAMELY, COPIERS; PRINTERS; COMPUTERS; CASH REGISTERS; CALCULATORS; RADIOS; TELEVISION SETS; SOLAR CELLS; VIDEO CASSETTE RECORDERS; VIDEO CASSETTE PLAYERS; VIDEO CAMERAS; [ COMBINED TELEVISION, RADIO AND/OR STEREO SOUND PLAYERS AND RECORDERS; CLOSED CIRCUIT TELEVISION RECORDERS AND PLAYERS; ] AUDIO SOUND AMPLIFIERS, TUNERS, TAPE AND CASSETTE DECKS, DISC PLAYERS, TURNTABLES		

	AND SPEAKERS; AUDIO CASSETTE TAPE RECORDERS; COMBINED RADIO AND AUDIO CASSETTE TAPE RECORDERS AND PLAYERS; [ CAR RADIOS, TUNERS, AMPLIFIERS, SPEAKERS AND AUDIO CASSETTE DECKS; ] VACUUM CLEANERS FOR DOMESTIC AND COMMERCIAL USE; AND ELECTRONIC TRANSLATORS, AND PARTS THEREFOR
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U.S. Registration No.	3619714	Application Date	02/06/2008
Registration Date	05/12/2009	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	The mark is presented in a design of a head and brain.		
Goods/Services	Class 009. First use: First Use: 2008/04/00 First Use In Commerce: 2008/04/00 Electronic calculators		

U.S. Registration No.	1725154	Application Date	11/06/1990
Registration Date	10/20/1992	Foreign Priority Date	NONE
Word Mark	SHARP		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1988/09/20 First Use In Commerce: 1988/09/20 personal, portable electronic organizers for organizing information, including dates, addresses, appointments, telephone numbers and memos, and having time keeping and calculator functions and being capable of performing additional functions upon insertion of integrated circuit cards having data stored therein; integrated circuit cards, sold separately or together with the organizers, to enhance and expand the functions of the personal electronic organizers to include and accomplish additional features; namely, foreign language translations, time and expense record keeping, telephone director listings, fax communications, modem communication, and personal computer linkage; and various peripheral devices for such organizers; namely, printers, audio and/or video cassette recorders, data transfer cables and personal computer interfaces		

U.S. Registration No.	1606267	Application Date	11/13/1989
Registration Date	07/17/1990	Foreign Priority Date	NONE
Word Mark	SHARPVISION		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 1989/10/00 First Use In Commerce: 1989/10/00 LCD PROJECTOR

U.S. Registration No.	1093113	Application Date	06/12/1975
Registration Date	06/13/1978	Foreign Priority Date	NONE
Word Mark	SHARP		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1931/01/17 First Use In Commerce: 1931/01/17 [ DRY BATTERIES; STEREO-TYPE RADIO RECEIVERS WITH RECORD PLAYERS; ] SOUND AMPLIFIERS; [ PHONOGRAPH RECORD PLAYERS; ] TAPE RECORDERS AND PLAYERS [ AND ACCESSORIES THEREFOR-NAMELY, AC ADAPTERS, EARPHONES, MICROPHONES, TAPES FOR RECORDING AND REPRODUCING SOUND, AND DRY BATTERIES; HEAD PHONES; ] RADIO RECEIVERS [ AND ACCESSORIES THEREFOR-NAMELY, EARPHONES AND DRY BATTERIES; CAR RADIO RECEIVERS; TRANSCEIVERS, AND ACCESSORIES THEREFOR-NAMELY, MICROPHONES, DRY BATTERIES AND ANTENNAS ] ; TELEVISION RECEIVERS; [ CLOSED CIRCUIT TELEVISION SYSTEMS; BILLING MACHINES-NAMELY, ELECTRONIC COMPUTERS AND TYPEWRITERS FOR MAINTAINING ACCOUNTS AND ISSUING INVOICES; ] ELECTROSTATIC COPIERS; SOLAR BATTERIES [ ; AND ELECTRIC VACUUM CLEANERS FOR DOMESTIC USE ]		

U.S. Registration No.	1985630	Application Date	07/31/1995
Registration Date	07/09/1996	Foreign Priority Date	NONE
Word Mark	SHARP		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1985/01/01 First Use In Commerce: 1985/01/01 facsimile machines		

U.S. Registration No.	1859359	Application Date	05/12/1993
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Registration Date	10/25/1994	Foreign Priority Date	NONE
Word Mark	SHARP		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 001. First use: First Use: 1978/04/01 First Use In Commerce: 1978/04/01 photocopier chemicals; namely, developers for copying apparatus and machines Class 002. First use: First Use: 1978/04/01 First Use In Commerce: 1978/04/01 photocopier toners for copying apparatus and machines Class 009. First use: First Use: 1978/04/01 First Use In Commerce: 1978/04/01 drums for copying apparatus and machines		

U.S. Registration No.	1526673	Application Date	07/14/1988
Registration Date	02/28/1989	Foreign Priority Date	NONE
Word Mark	SHARP		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1987/02/17 First Use In Commerce: 1987/02/17 APPARATUS FOR THE SCREEN PROJECTION OF IMAGES		

U.S. Registration No.	1517107	Application Date	01/20/1988
Registration Date	12/20/1988	Foreign Priority Date	NONE
Word Mark	SHARP CORPORATION		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 010. First use: First Use: 1986/09/25 First Use In Commerce: 1986/09/25 BLOOD PRESSURE MONITORS		

U.S. Registration No.	1470546	Application Date	04/23/1987
Registration Date	12/29/1987	Foreign Priority Date	NONE
Word Mark	SHARP		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1983/04/15 First Use In Commerce: 1983/04/15 TELEPHONES		

U.S. Registration No.	1120410	Application Date	11/29/1977
Registration Date	06/19/1979	Foreign Priority	NONE

		Date	
Word Mark	SHARP		
Design Mark	<b>SHARP</b>		
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1976/08/25 First Use In Commerce: 1976/08/25 ELECTRONIC CALCULATORS COMBINED WITH A WATCH; ELECTRONIC CASH REGISTERS; TAPE DECKS COMBINED WITH A CLOCK Class 011. First use: First Use: 1976/11/10 First Use In Commerce: 1976/11/10 MICROWAVE OVENS COMBINED WITH A CLOCK		

U.S. Registration No.	1059852	Application Date	06/12/1975
Registration Date	02/22/1977	Foreign Priority Date	NONE
Word Mark	SHARP		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 011. First use: First Use: 1959/03/12 First Use In Commerce: 1959/03/12 [ REFRIGERATORS, ELECTRIC FANS, KEROSENE HEATERS, ELECTRIC HEATERS, ] MICROWAVE OVENS [ , ELECTRIC ROASTERS, TOASTERS, ELECTRIC JUICING MACHINES, ELECTRIC BLENDERS FOR USE IN FOOD PREPARATION, ELECTRIC RICE COOKERS, GAS COOKING STOVES, ELECTRIC HAIR CURLING MACHINES, ELECTRIC FLAT IRONS, AND ELECTRIC LIGHTING APPARATUS ]		

U.S. Registration No.	877692	Application Date	07/10/1967
Registration Date	09/30/1969	Foreign Priority Date	NONE
Word Mark	SHARP		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U021 (International Class 007, 009, 011, 012, 015). First use: First Use: 1963/10/01 First Use In Commerce: 1963/10/01 ELECTRONIC OVENS; [ ELECTRICAL RICE COOKERS; SILICON SOLAR CELLS; ] CAR RADIOS; [ AND ELECTRIC FANS ]		

U.S. Registration No.	842768	Application Date	10/24/1966
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Registration Date	01/23/1968	Foreign Priority Date	NONE
Word Mark	SHARP		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U021 (International Class 009). First use: First Use: 1956/01/00 First Use In Commerce: 1956/01/00 CLOCK RADIOS		

U.S. Registration No.	2887128	Application Date	06/12/2002
Registration Date	09/21/2004	Foreign Priority Date	NONE
Word Mark	SHARP		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1970/01/01 First Use In Commerce: 2002/12/01 Residential photovoltaic power generating system consisting of solar cell batteries, electrical connectors, switchboard apparatus, converters, and inverters; solar cell batteries, photovoltaic cell batteries, inverters, converters, switchboard apparatus, and electrical connectors		

U.S. Registration No.	2350486	Application Date	05/13/1997
Registration Date	05/16/2000	Foreign Priority Date	NONE
Word Mark	SHARP		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 011. First use: First Use: 1999/11/01 First Use In Commerce: 1999/11/01 electric rice cooker		

U.S. Registration No.	2207058	Application Date	09/25/1997
Registration Date	12/01/1998	Foreign Priority	NONE

		Date	
Word Mark	SHARP		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 011. First use: First Use: 1963/01/01 First Use In Commerce: 1996/08/31 air conditioners		

U.S. Registration No.	2297620	Application Date	04/29/1998
Registration Date	12/07/1999	Foreign Priority Date	NONE
Word Mark	SHARP		
Design Mark	<b>SHARP</b>		
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1992/00/00 First Use In Commerce: 1992/00/00 RENTAL OF OFFICE EQUIPMENT Class 036. First use: First Use: 1992/00/00 First Use In Commerce: 1992/00/00 LENDING SERVICES FOR BUSINESSES		

Attachments	76305241#TMSN.gif ( 1 page )( bytes ) 78980331#TMSN.jpeg ( 1 page )( bytes ) 76148721#TMSN.gif ( 1 page )( bytes ) 78980333#TMSN.jpeg ( 1 page )( bytes ) 76362358#TMSN.gif ( 1 page )( bytes ) 79040427#TMSN.jpeg ( 1 page )( bytes ) 76686594#TMSN.gif ( 1 page )( bytes ) 73837893#TMSN.gif ( 1 page )( bytes ) 73150379#TMSN.gif ( 1 page )( bytes ) 76425756#TMSN.gif ( 1 page )( bytes ) 75291450#TMSN.gif ( 1 page )( bytes ) 75476690#TMSN.gif ( 1 page )( bytes ) DRIVESHARP-NOTOP.tif ( 7 pages )(288768 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	/rwa/
Name	Robert W. Adams
Date	02/03/2010

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

In the Matter of Application Serial No. 77/745,259 Published in the <i>Official Trademark Gazette</i> on October 6, 2009	
SHARP KABUSHIKI KAISHA, a/t/a SHARP CORPORATION,  Opposer,  v.  POSIT SCIENCE CORPORATION  Applicant.	Opposition No. _____
<b>NOTICE OF OPPOSITION</b>	

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

In the matter of an application for registration of the mark DRIVESHARP, Serial No. 77/745,259, filed May 27, 2009, for "computer software for use in maintaining or improving cognitive performance and/or brain plasticity and manuals provided together as a unit," in International Class 9 by Posit Science Corporation (hereafter "Applicant"), which was published in the Official Gazette dated October 6, 2009, Sharp Kabushiki Kaisha, a/t/a Sharp Corporation, a corporation of Japan and having a principal place of business located at 22-22 Nagaike-cho, Abeno-ku, Osaka 545-8522, Japan (hereafter "Opposer"), believes that it will be damaged by the registration of the mark shown in the above-identified application and hereby opposes same under the provisions of Section 13 of the Trademark Act of July 5, 1945 (15 U.S.C. §1063).

As grounds of opposition, Opposer alleges that:

Opposer: Sharp Kabushiki Kaisha, a/t/a Sharp Corporation  
Applicant: Posit Science Corporation  
Mark: DRIVESHARP  
Serial No.: 77/745,259

1. Opposer is the owner of the entire right, title and interest to the mark SHARP as well as a "family" of related SHARP marks including, inter alia, SHARP CARD, SHARP CORPORATION, SHARPVISION & Design and BE SHARP as used in connection with the sale of an extremely wide variety of electrical, electronic and audio-video products and related services. Since its initial use many years ago, Opposer has continuously sold such products and offered such services under the mark SHARP and the "family" of related SHARP marks in virtually all channels of trade (including retail and online channels of trade) in the United States.

2. By virtue of its long, exclusive and continuous usage of the SHARP mark and the "family" of SHARP marks, Opposer has acquired and is the sole owner of substantial common law trademark and service mark rights with respect to those goods, as well as related goods. Furthermore, due to the extensive nature of the sale and advertisement of these SHARP services and products, Opposer's SHARP mark and its related SHARP family of marks have become famous within the United States and throughout the world to both actual and potential customers. In other words, the SHARP mark is an internationally famous mark that is well known not only in the United States but also all over the world with respect to electrical, electronic and audio-video products and related services for use by businesses and individuals. A significant indicia of the international fame of the SHARP marks is the fact that sales of SHARP brand products ranked 17th in the broad field of electronics and electrical equipment based upon worldwide sales (as ranked by Fortune magazine). Likewise, the SHARP mark has been legally recognized as "famous" in various countries throughout the world.

Opposer: Sharp Kabushiki Kaisha, a/t/a Sharp Corporation  
Applicant: Posit Science Corporation  
Mark: DRIVESHARP  
Serial No.: 77/745,259

3. In addition to its substantial common law rights, Opposer is the exclusive owner, inter alia, of the following federal registrations directed to the SHARP family of marks:

- 1) Registration No. 2,765,106 for the mark SHARP, issued September 16, 2003, as used with “computer software for managing documents.”
- 2) Registration No. 3,490,700 for the mark OSA SHARP OPEN SYSTEMS ARCHITECTURE & Design, issued August 19, 2008, as used with “computer software for use in programming photo-copying machines, printers, facsimile machines and scanners.”
- 3) Registration No. 2,756,747 for the mark SHARPDESK, issued August 26, 2003, as used with “computer software for managing documents.”
- 4) Registration No. 3,482,580 for the mark SHARP OSA, issued August 5, 2008, as used with “software for operating copying machines, printers, facsimile machines and scanners.”
- 5) Registration No. 3,114,549 for the mark BE SHARP issued July 11, 2006 as used with “maintenance and repair services for, inter alia, computers and computer peripheral devices, and calculators.”
- 6) Registration No. 3,564,815 for the mark SHARP & Design issued January 20, 2009, “as used with electronic cash registers, navigation apparatus for vehicles in the nature of on board computers, notebook computers, computers, laptop computers, desktop computers, electronic desk calculators, pocket calculators, calculators, computer servers, personal computer servers, and computer software for a wide variety of applications.”
- 7) Registration No. 1,405,542 for the mark SHARP, issued August 19, 1986, as used, for example, with “computers and calculators.”
- 8) Registration No. 3,619,714 for the mark MISCELLANEOUS DESIGN (of a Head and Brain), issued May 12, 2009, as used with “electronic calculators.”
- 9) Registration No. 1,725,154 for the mark SHARP issued October 20, 1992, as used, for example, with “electronic organizers having calculator functions.”

Opposer: Sharp Kabushiki Kaisha, a/t/a Sharp Corporation  
Applicant: Posit Science Corporation  
Mark: DRIVESHARP  
Serial No.: 77/745,259

- 10) Registration No. 1,606,267 for the mark SHARPVISION & Design issued July 17, 1990.
- 11) Registration No. 1,093,113 for the mark SHARP, issued June 13, 1978.
- 12) Registration No. 1,985,630 for the mark SHARP issued July 9, 1996.
- 13) Registration No. 1,859,359 for the mark SHARP issued October 25, 1994.
- 14) Registration No. 1,526,673 for the mark SHARP issued February 28, 1989.
- 15) Registration No. 1,517,107 for the mark SHARP CORPORATION issued December 20, 1988.
- 16) Registration No. 1,470,546 for the mark SHARP issued December 29, 1987.
- 17) Registration No. 1,120,410 for the mark SHARP issued June 19, 1979.
- 18) Registration No. 1,059,852 for the mark SHARP issued February 22, 1977.
- 19) Registration No. 877,692 for the mark SHARP issued September 30, 1969.
- 20) Registration No. 842,768 for the mark SHARP issued January 23, 1968.
- 21) Registration No. 2,887,128 for the mark SHARP issued September 21, 2004.
- 22) Registration No. 2,350,486 for the mark SHARP issued May 16, 2000.
- 23) Registration No. 2,207,058 for the mark SHARP issued December 1, 1998.
- 24) Registration No. 2,297,620 for the mark SHARP issued December 7, 1999.

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Moreover, Opposer is the owner of pending trademark applications directed to the SHARP mark and/or the SHARP "family" of marks.

4. Upon information and belief, Applicant knew or should have known of Opposer's long prior use and registration of its SHARP mark and "family" of SHARP marks covering computers and computer software as well as a wide variety of electrical, electronic and audio-video products and related services.

5. Upon information and belief, the goods that are proposed to be provided by Applicant under the mark DRIVESHARP and the goods sold by Opposer under the SHARP mark and the SHARP "family" of marks are closely "related" since, inter alia, they are identical or very similar and/or they are purchased by the same customers. Indeed, Applicant's "computer software for use in maintaining or improving cognitive performance and/or brain plasticity and manuals provided together as a unit," cover products related to those sold by Opposer under the SHARP mark and the SHARP "family" of marks. For this reason, the same types of persons who purchase and/or use Opposer's products and services are also likely to purchase and/or use Applicants' products and services.

6. The mark DRIVESHARP which Applicant now seeks to register for "computer software for use in maintaining or improving cognitive performance and/or brain plasticity and manuals provided together as a unit," is confusingly similar to Opposer's famous SHARP mark and similar to the SHARP "family" of marks for computers, computer software and calculators containing computer software for

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mathematical equations/cognitive functions and managing documents in International Class 9. As a result, the registration and use of the DRIVESHARP mark by Applicant will result in trademark infringement.

7. The first portion of Applicant's mark is the term "DRIVE" which has a strong descriptive meaning with respect to computers and computer software. Thus, that portion of the mark should be given a much lesser weight when evaluating the issue of likelihood of confusion. In other words, merely tacking a descriptive term as a prefix to a "famous" mark does not avoid likelihood of confusion.

8. Significantly, the second portion of Applicant's proposed compound word mark is "Sharp" which is identical to Opposer's famous mark. Accordingly, Applicant's mark is likely to result in both a likelihood of confusion and dilution.

9. In view of the foregoing, the registration of the mark DRIVESHARP by Applicant is likely to injure and/or dilute the strength of Opposer's aforesaid trademarks and its related goodwill.

10. In addition, the registration of DRIVESHARP for "computer software for use in maintaining or improving cognitive performance and/or brain plasticity and manuals provided together as a unit," in International Class 9 is likely to cause the purchasing public to erroneously assume that Applicant's goods are related to, sponsored by or otherwise connection with Opposer, or vice versa.

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WHEREFORE, Opposer requests that this opposition be sustained in all respects and, further, that the application of Applicant be refused registration.

Dated: February 3, 2010.

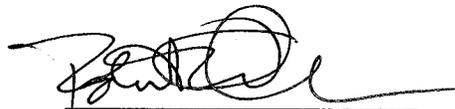
Respectfully submitted,

SHARP KABUSHIKI KAISHA, a/t/a  
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Certificate of Transmittal: I hereby certify that this correspondence is being electronically transmitted in PDF format to the Trademark Trial and Appeal Board through the Electronic System for Trademark Trials and Appeals (ESTTA) on the date indicated below:

Date: February 3, 2010

  
Robert W. Adams