

ESTTA Tracking number: **ESTTA351507**

Filing date: **06/07/2010**

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	Apple, Inc.
Granted to Date of previous extension	06/06/2010
Address	1 Infinite Loop Cupertino, CA 95014 UNITED STATES

Attorney information	Marie C. Seibel, Esq. Townsend and Townsend and Crew Two Embarcadero Center, 8th Floor San Francisco, CA 94111 UNITED STATES m2s@townsend.com, amw@townsend.com, v1t@townsend.com, mcm@townsend.com Phone:415-576-0200
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Applicant Information

Application No	77380708	Publication date	12/08/2009
Opposition Filing Date	06/07/2010	Opposition Period Ends	06/06/2010
Applicant	THINKORSWIM HOLDINGS INC. 600 WEST CHICAGO AVENUE, SUITE 100 CHICAGO, IL 60654 UNITED STATES		

Goods/Services Affected by Opposition

Class 036. All goods and services in the class are opposed, namely: Securities account trading services for others made available online via a web-based software platform
Class 038. All goods and services in the class are opposed, namely: Provision of access to electronic sites, namely, to a securities account trading services site made available online via a web-based software platform

Grounds for Opposition

Dilution	Trademark Act section 43(c)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2781793	Application Date	07/24/2000
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Registration Date	11/11/2003	Foreign Priority Date	NONE
Word Mark	IPOD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1998/03/01 First Use In Commerce: 2000/01/15 public Internet kiosk enclosure containing computer hardware		

U.S. Registration No.	2835698	Application Date	10/18/2001
Registration Date	04/27/2004	Foreign Priority Date	08/31/2001
Word Mark	IPOD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2001/10/23 First Use In Commerce: 2001/10/23 portable and handheld digital electronic devices for recording, organizing, transmitting, manipulating, and reviewing audio files; computer software for use in organizing, transmitting, manipulating, and reviewing audio files on portable and handheld digital electronic devices		

U.S. Registration No.	3089360	Application Date	10/18/2001
Registration Date	05/09/2006	Foreign Priority Date	08/31/2001
Word Mark	IPOD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2001/10/23 First Use In Commerce: 2001/10/23 Portable and handheld digital electronic devices for recording, organizing, transmitting, manipulating, and reviewing text, data, and audio files; computer software for use in organizing, transmitting, manipulating, and reviewing text, data, and audio files on portable and handheld digital electronic devices		

U.S. Registration No.	3341191	Application Date	06/18/2005
Registration Date	11/20/2007	Foreign Priority Date	NONE

Word Mark	IPOD
Design Mark	<h1>IPOD</h1>
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2001/10/23 First Use In Commerce: 2001/10/23 full line of electronic and mechanical parts and fittings for portable and handheld digital electronic devices for recording, organizing, transmitting, manipulating, and reviewing text, data, audio and video files; electronic docking stations; stands specially designed for holding portable and handheld digital electronic devices; battery chargers; battery packs; electrical connectors, wires, cables, and adaptors; wired and wireless remote controls for portable and handheld digital electronic devices; headphones and earphones; stereo amplifier and speaker base stations; automobile stereo adaptors; audio recorders; radio receivers; radio transmitters; video viewers, namely video monitors for portable and handheld digital electronic devices; and computer software for portable and handheld digital electronic devices for recording, organizing, transmitting, manipulating, and reviewing text, data, audio, image, and video files; computer application software for recording and organizing calendars and schedules, to-do lists, and contact information; computer game software; and, computer software for clock and alarm clock functionality; carrying cases, all for use with portable and handheld digital electronic devices for recording, organizing, transmitting, manipulating, and reviewing text, data, audio, image, and video files

U.S. Registration No.	3741470	Application Date	10/03/2006
Registration Date	01/26/2010	Foreign Priority Date	NONE
Word Mark	IPOD		
Design Mark	<h1>iPod</h1>		
Description of Mark	NONE		
Goods/Services	Class 009. First use: (Based on 44(d) Priority Application) (Based on 44(e)) Portable and handheld		

digital electronic devices for recording, organizing, transmitting, receiving, manipulating, playing and reviewing text, data, image, audio and video files; computer software for use in organizing, transmitting, receiving, manipulating, playing and reviewing text, data, image, audio, and video files on portable and handheld digital electronic devices; a full line of electronic and mechanical parts and fittings for portable and handheld digital electronic devices for recording, organizing, transmitting, receiving, manipulating, playing and reviewing text, data, image, audio and video files; electronic docking stations; stands specially designed for holding portable and handheld digital electronic devices; battery chargers; battery packs; electrical connectors, wires, cables, and adaptors; wired and wireless remote controls for portable and handheld digital electronic devices; headphones and earphones; stereo amplifier and speaker base stations; automobile stereo adapters; audio recorders; radio receivers; radio transmitters; image scanners; video viewers, namely, video monitors for portable and handheld digital electronic devices; electronic memory card readers; a full line of computer software for portable and handheld digital electronic devices for recording, organizing, transmitting, receiving, manipulating, playing and reviewing text, data, audio, image, and video files; computer application software for recording and organizing calendars and schedules, to-do lists, and contact information; computer game software; computer software for clock and alarm clock functionality; carrying cases, sacks, and bags, all for use with portable and handheld digital electronic devices; a full line of holders, straps, armbands, and clips for portable and handheld digital electronics; computers, computer peripherals, hand held computers, computer terminals, personal digital assistants, electronic organizers, electronic notepads, apparatus for recording, transmission and reproduction of text, data, image, audio, and video; blank magnetic data carriers; microprocessors, memory boards, computer and video monitors, liquid crystal displays, keyboards, electrical cables, modems, printers, digital disk drives; cameras; computer software and prerecorded computer programs for personal information management, database management software, electronic mail and messaging software; paging software; database synchronization software, computer programs for accessing, browsing and searching online databases; computer software and firmware for operating system programs; data synchronization programs; computer software application development tool programs; adapters, computer card adapters, cable and electric connectors and computer hard drives; blank random access electronic memory, read only electronic memory; solid state electronic memory; user manuals in electronically readable, machine readable or computer readable form for use with, and sold as a unit with, all the aforementioned goods; downloadable electronic publications in the nature of books, magazines, pamphlets, brochures, newsletters, journals and magazines in the fields of sporting and cultural events, computer hardware and software applications, K-12 education and university-level subjects, and a wide range of topics of general interest

Class 016. First use:

(Based on 44(d) Priority Application) (Based on 44(e)) Printed materials and publications, namely, books, magazines, newsletters, brochures, booklets, pamphlets, manuals, journals, leaflets, greeting cards, and catalogues all relating to computer software, computer hardware, consumer electronics, digital technology, telecommunications, on-line retailing, entertainment, music, movies and video, and multimedia apparatus and instruments; pens and pencils, clipboards, posters, memo pads, binders

Class 028. First use:

(Based on 44(d) Priority Application) (Based on 44(e)) Hand-held unit for playing electronic games

Class 035. First use:

(Based on 44(d) Priority Application) (Based on 44(e)) Retail store services and retail store services provided via communications networks featuring computers,

computer software, computer peripherals and consumer electronics, and pre-recorded music, audio-visual and music-related products; product demonstrations provided in-store and via communications networks; providing information and consultation in connection with all of the foregoing

Class 038. First use:

(Based on 44(d) Priority Application) (Based on 44(e)) Telecommunication access services; communication by computer; transmission of data and of information by electronic means, broadcasting or transmission of radio and television programs; provision of telecommunications connections to computer databases and the Internet; electronic transmission of streamed and downloadable audio and video files via computer and other communications networks; web casting services; delivery of messages by electronic transmission; provision of telecommunications connections to electronic communications networks, for transmission or reception of audio, video or multimedia content; streaming of video content, streaming and subscription audio broadcasting of spoken word, music, concerts, and radio programs, broadcasting prerecorded videos featuring music and entertainment, television programs, motion pictures, news, sports, games, cultural events, and entertainment-related programs of all kinds, via computer and other communications networks; providing on-line bulletin boards for the transmission of messages among computer users concerning entertainment in the nature of music, concerts, videos, radio, television, film, news, sports, games and cultural events; communication services, namely, providing users access to communication networks for the transfer of music, video and audio recordings; provision of information, consultancy and advisory services for all the aforesaid services

Class 039. First use:

(Based on 44(d) Priority Application) (Based on 44(e)) Computerized data storage and retrieval services for digital text, data, image, audio, and video works; providing information and consultation in connection therewith

Class 041. First use:

(Based on 44(d) Priority Application) (Based on 44(e)) Educational services in the nature of classes and training services offered in-person and over computer networks in the fields of K-12 education, university-level subjects, topics of general interest, and computer hardware and software applications; entertainment services in the nature of providing on-line, non-downloadable musical, video, audio-video, and textual materials, namely, books, plays, pamphlets, brochures, newsletters, journals, and magazines, on the subjects of sporting and cultural activities and a wide range of topics of general interest via computer networks; entertainment services, namely, providing a website and database featuring music, musical performances and concerts, videos, films and film clips, book reviews, games, sports information and other related multimedia material; providing on-line non-downloadable publications for browsing over computer networks, namely, books, pamphlets, brochures, newsletters, journals, and magazines, on the subjects of computer hardware and software applications and a wide range of topics of general interest; editing of audio-tapes; editing of video-tapes; editing of written text; editing of photographic images; videotape editing; digital imaging services; providing information, advice and consultation services relating to all the aforesaid

Class 042. First use:

(Based on 44(d) Priority Application) (Based on 44(e)) Design and development of computer hardware and software; computer hardware and software consulting services; multimedia and audio-visual software consulting services; computer programming; technical support and consultation services for developing computer systems, databases and applications; information relating to computer hardware or software provided on-line from a global computer network or the Internet; creating and maintaining web-sites for others; providing

	<p>search engines for obtaining data via communications networks; providing temporary use of on-line non-downloadable software to enable users to program audio, video, text and other multimedia content, including music, concerts, videos, radio, television, news, sports, games, cultural events, and entertainment-related programs; providing on-line facilities, via a global computer network, to enable users to program audio, video, text and other multimedia content, including music, concerts, videos, radio, television, news, sports, games, cultural events, and entertainment-related programs; providing search engines for obtaining data on a global computer network; computer services, namely, creating indexes of information, sites and other resources available on global computer networks for others; providing customized on-line web pages featuring user-defined information for the purpose of identifying, locating, grouping, distributing, and managing data and links to third-party computer servers, computer processors and computer users; customized searching, browsing, organizing and retrieving services, namely, providing specific information, sites, and other resources available on global computer networks according to user preferences as requested by customers via the global computer networks; providing information, advisory and consultancy services relating to all the aforesaid</p>
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U.S. Application No.	78459101	Application Date	07/29/2004
Registration Date	NONE	Foreign Priority Date	01/30/2004
Word Mark	POD		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: Portable and handheld digital electronic devices for recording, organizing, transmitting, manipulating, and reviewing audio files, and peripherals for use therewith; computer software for use in organizing, transmitting, manipulating, and reviewing audio files on portable and handheld digital electronic devices; none of the above goods being digital signal processing hardware and software used for audio signal manipulation for real or virtual musical instruments</p>		

Attachments	<p>78018061#TMSN.gif (1 page)(bytes) 78653661#TMSN.jpeg (1 page)(bytes) 77013000#TMSN.jpeg (1 page)(bytes) 78459101#TMSN.jpeg (1 page)(bytes) 2010-06-07 Notice of Opposition for THINKPOD.pdf (13 pages)(586910 bytes)</p>
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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	/MCS/
Name	Marie C. Seibel, Esq.
Date	06/07/2010

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

In re Application No. 77/380,708

Filed: January 25, 2008

Published: December 8, 2009, in the *Official Gazette*

For: **THINKPOD**

APPLE INC.,

Opposer,

vs.

INVESTTOOLS INC.

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

P.O. Box 1451

Alexandria, Virginia 22313-1451

Apple Inc. (“Opposer”), a California corporation, located and doing business at 1 Infinite Loop, Cupertino, California 95014, believes that it will be damaged by the registration of the mark **THINKPOD** shown in Application Serial No. 77/380,708 owned by Investtools Inc. (Applicant), a corporation with a mailing address of 13947 S. Minuteman Drive, Draper, Utah 84020, published in the *Official Gazette* of December 8, 2009, and hereby opposes registration thereof.

As grounds for opposition, Opposer alleges:

1. Opposer is the owner of Registration No. 2,781,793, for **IPOD** for “public Internet kiosk enclosure containing computer hardware.” The registration for this mark issued

on November 11, 2003, based on use of the mark in commerce since March 1, 1998. Both of these dates are well prior to Applicant's January 25, 2008 filing date for the **THINKPOD** mark.

2. Opposer is the owner of Registration No. 2,835,698 for **IPOD** for "portable and handheld digital electronic devices for recording, organizing, transmitting, manipulating, and reviewing audio files; computer software for use in organizing, transmitting, manipulating, and reviewing audio files on portable and handheld digital electronic devices" in International Class 9. Opposer's application for said registration was filed on October 18, 2001 (well before Applicant's January 25, 2008 filing date of the **THINKPOD** mark. Opposer's registration has a Convention priority date of August 31, 2001 under § 44(d) of the Lanham Act, 15 U.S.C. § 1126(d). Opposer has used the mark **IPOD** on and in connection with the sale of the aforementioned goods since at least as early as October 2001.

3. Opposer is also the owner of Registration No. 3,089,360 for **IPOD** for "portable and handheld digital electronic devices for recording, organizing, transmitting, manipulating, and reviewing text, data, and audio files; computer software for use in organizing, transmitting, manipulating, and reviewing text, data, and audio files on portable and handheld digital electronic devices" in International Class 9. Opposer's application for said registration was filed on October 18, 2001 (well before Applicant's January 25, 2008 filing date of the **THINKPOD** mark). Opposer's registration has a Convention priority date of August 31, 2001. Opposer has used the mark **IPOD** on and in connection with the sale of the aforementioned goods since at least as early as October 2001.

4. Opposer is also the owner of Registration No. 3,341,191 for **IPOD** for a full line of electronic and mechanical parts and fittings for portable and handheld digital electronic devices for recording, organizing, transmitting, manipulating, and reviewing text, data, audio and video files; electronic docking stations; stands specially designed

for holding portable and handheld digital electronic devices; battery chargers; battery packs; electrical connectors, wires, cables, and adaptors; wired and wireless remote controls for portable and handheld digital electronic devices; headphones and earphones; stereo amplifier and speaker base stations; automobile stereo adaptors; audio recorders; radio receivers; radio transmitters; video viewers, namely video monitors for portable and handheld digital electronic devices; and computer software for portable and handheld digital electronic devices for recording, organizing, transmitting, manipulating, and reviewing text, data, audio, image, and video files; computer application software for recording and organizing calendars and schedules, to-do lists, and contact information; computer game software; and, computer software for clock and alarm clock functionality; carrying cases, all for use with portable and handheld digital electronic devices for recording, organizing, transmitting, manipulating, and reviewing text, data, audio, image, and video files

in International Class 9. Opposer's application for said registration was filed on June 18, 2005 (well before Applicant's January 25, 2008 filing date of the **THINKPOD** mark). Opposer has used the mark **IPOD** on and in connection with the sale of the aforementioned goods since at least as early as October 2001.

5. Opposer is also the owner of U.S. Trademark Application Serial No. 77/013,000 for the mark **iPod**, filed October 3, 2006, with a convention priority filing date of April 3, 2006 (well before Applicant's January 25, 2008 filing date of the **THINKPOD** mark), *inter alia*,

Portable and handheld digital electronic devices for recording, organizing, transmitting, receiving, manipulating, playing and reviewing text, data, image, audio and video files; computer software for use in organizing, transmitting, receiving, manipulating, playing and reviewing text, data, image, audio, and video files on portable and handheld digital electronic devices; a full line of electronic and mechanical parts and fittings for portable and handheld digital electronic devices for recording, organizing, transmitting, receiving, manipulating, playing and reviewing text, data, image, audio and video files; electronic docking stations; stands specially designed for holding portable and handheld digital electronic devices; battery chargers; battery packs; electrical

connectors, wires, cables, and adaptors; wired and wireless remote controls for portable and handheld digital electronic devices; headphones and earphones; stereo amplifier and speaker base stations; automobile stereo adaptors; audio recorders; radio receivers; radio transmitters; image scanners; video viewers, namely, video monitors for portable and handheld digital electronic devices; electronic memory card readers; a full line of computer software for portable and handheld digital electronic devices for recording, organizing, transmitting, receiving, manipulating, playing and reviewing text, data, audio, image, and video files; computer application software for recording and organizing calendars and schedules, to-do lists, and contact information; computer game software; computer software for clock and alarm clock functionality; carrying cases, sacks, and bags, all for use with portable and handheld digital electronic devices; a full line of holders, straps, armbands, and clips for portable and handheld digital electronics. computers, computer peripherals, hand held computers, computer terminals, personal digital assistants, electronic organizers, electronic notepads, apparatus for recording, transmission and reproduction of text, data, image, audio, and video; blank magnetic data carriers; microprocessors, memory boards, computer and video monitors, liquid crystal displays, keyboards, electrical cables, modems, printers, digital disk drives; cameras; computer software and prerecorded computer programs for personal information management, database management software, electronic mail and messaging software; paging software; database synchronization software, computer programs for accessing, browsing and searching online databases; computer software and firmware for operating system programs; data synchronization programs; computer software application development tool programs; adapters, computer card adapters, cable and electric connectors and computer hard drives; blank random access electronic memory, read only electronic memory; solid state electronic memory; user manuals in electronically readable, machine readable or computer readable form for use with, and sold as a unit with, all the aforementioned goods; downloadable electronic publications in the nature of books, magazines, pamphlets, brochures, newsletters, journals and magazines in the fields of sporting and cultural events, computer hardware and software applications, K-12 education and university-level subjects, and a wide range of topics of general interest

in International Class 9;

Retail store services and retail store services provided via communications networks featuring computers, computer software, computer peripherals and consumer electronics, and pre-recorded music, audio-visual and music-related products; product demonstrations provided in-store and via communications networks; providing information and consultation in connection with all of the foregoing

in International Class 35; and

Telecommunication access services; communication by computer; transmission of data and of information by electronic means, broadcasting or transmission of radio and television programs; provision of telecommunications connections to computer databases and the Internet; electronic transmission of streamed and downloadable audio and video files via computer and other communications networks; web casting services; delivery of messages by electronic transmission; provision of telecommunications connections to electronic communications networks, for transmission or reception of audio, video or multimedia content; streaming of video content, streaming and subscription audio broadcasting of spoken word, music, concerts, and radio programs, broadcasting prerecorded videos featuring music and entertainment, television programs, motion pictures, news, sports, games, cultural events, and entertainment-related programs of all kinds, via computer and other communications networks; providing on-line bulletin boards for the transmission of messages among computer users concerning entertainment in the nature of music, concerts, videos, radio, television, film, news, sports, games and cultural events; communication services, namely, providing users access to communication networks for the transfer of music, video and audio recordings; provision of information, consultancy and advisory services for all the aforesaid services

.in International Class 38.

6. Opposer is also the owner of U.S. Trademark Application Serial No. 78/459,101 for the mark **POD**, filed July 29, 2004, with a convention priority filing date of January 30, 2004, (before Applicant's January 25, 2008 filing date of the **THINKPOD** mark) for "portable and handheld digital electronic devices for recording, organizing, transmitting, manipulating, and reviewing audio files, and peripherals for use therewith; computer software for use in organizing,

transmitting, manipulating, and reviewing audio files on portable and handheld digital electronic devices,” in International Class 9.

7. Consumers have adopted and have used in the marketplace the term “POD” as an abbreviation for Opposer’s **IPOD** mark to refer to Opposer’s **IPOD** products.

8. The marks referred to hereinabove will be hereafter collectively referred to as “Opposer’s Marks.”

9. By virtue of Opposer’s extensive use and promotion of Opposer’s Marks, Opposer has established valuable goodwill in the marks, and the public has come to associate the **IPOD** and **POD** marks with Opposer. As such, the public has come to know **IPOD** and **POD** as an indication of products and services that originate from Opposer.

10. As a result of Opposer’s extensive advertising, sales, and marketing, Opposer’s **IPOD** mark is famous and well known to purchasers.

11. Applicant filed U.S. Trademark Application Serial No. 77/380,708 (the “Application”), which is the subject of this Opposition, on January 25, 2008, based on its purported intent to use the mark **THINKPOD**, in connection with “securities account trading services for others made available online via a web-based software platform” in International Class 36; and “provision of access to electronic sites, namely, to a securities account trading services site made available online via a web-based software platform” in International Class 38.

12. Opposer’s **IPOD** mark was famous at the time Applicant filed the Application.

13. On information and belief, Applicant has not yet commenced use of the **THINKPOD** mark in commerce.

14. Applicant’s **THINKPOD** mark is extremely similar to Opposer’s Marks, the most prominent element of Applicant’s Mark, “**POD**,” being identical to Opposer’s prior-filed **POD**

mark and the most prominent element of Opposer's **IPOD** mark.

15. On information and belief, Applicant selected the POD component of the mark to refer to the **IPOD** device, and consumers will likely associate the mark with Apple and its goods and services.

16. Applicant's goods and services, as described in the Application, are closely related to the goods and services identified in Opposer's registrations and applications for Opposer's Marks and with which Opposer uses Opposer's Marks.

17. On information and belief, Applicant's services may be accessed through handheld digital devices, such as Opposer's **IPOD** and **IPHONE** devices.

18. As a result of the similarity between Opposer's Marks and Applicant's **THINKPOD** mark and the highly related nature of the goods and services associated with each party's respective mark, Applicant's mark is likely to cause confusion, mistake or deception in the trade and among purchasers as to the source, origin or sponsorship of the parties' respective goods and services.

19. Registration of the **THINKPOD** mark in the Application and use of Applicant's **THINKPOD** mark are likely to dilute Opposer's famous **IPOD** mark.

20. Registration of Applicant's mark shown in the opposed Application will result in damage to Opposer under the provisions of § 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), and § 43(c) of the Lanham Act, 15 U.S.C. § 1125(c), pursuant to the allegations stated above.

21. If the Application is permitted to register, the registration would presumptively entitle Applicant to *prima facie* exclusive ownership and rights to the **THINKPOD** mark. Such registration would cause confusion among consumers as to the separate and distinct sources of Applicant's goods and Opposer's goods and services and the relationship of Opposer to

Applicant, thereby damaging Opposer's goodwill in Opposer's Marks, diluting the value thereof, and resulting in irreparable harm to Opposer's business and reputation, all to the detriment of Opposer who has expended considerable sums and effort in promoting Opposer's Marks.

WHEREFORE, Opposer prays that this Opposition be sustained and that registration of U.S. Trademark Application Serial No. 77/380,708 be denied.

Please charge any necessary fee regarding this Opposition to the Deposit Account of Townsend and Townsend and Crew LLP, 20-1430, and credit any overpayment to such deposit account.

Please direct all notices, pleadings and process regarding this matter to:

Margaret M. McHugh, Esq.
Marie C. Seibel, Esq.
TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834
Telephone: (415) 576-0200
Facsimile: (415) 576-0300
Email: mcm@townsend.com, m2s@townsend.com

Respectfully submitted,

TOWNSEND *and* TOWNSEND *and* CREW LLP

Dated: June 7, 2010

By


Margaret C. McHugh
Marie C. Seibel
Attorneys for Opposer

CERTIFICATE OF SERVICE

On June 7, 2010, I served the foregoing **NOTICE OF OPPOSITION** on the parties in said action by depositing a true copy thereof with the United States Postal Service as first class mail, postage prepaid, at San Francisco, California, enclosed in a sealed envelope addressed as follows:

Melissa Vallone
BARNES & THORNBURG LLP
One North Wacker Drive
Suite 4400
Chicago, IL 60606-2809

Dated: June 7, 2010

By: /Antonia M. Wong/
Antonia M. Wong

MCS/amw
62700212 v1

Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36 and 38

Reg. No. 2,781,793

United States Patent and Trademark Office

Registered Nov. 11, 2003

**TRADEMARK
PRINCIPAL REGISTER**

IPOD

GRASSO, JOSEPH N (UNITED STATES INDIVI-
DUAL)
22 PARSONS COURT
MAHWAH, NJ 07430

FIRST USE 3-1-1998; IN COMMERCE 1-15-2000.

SER. NO. 78-018,061, FILED 7-24-2000.

FOR: PUBLIC INTERNET KIOSK ENCLOSURE
CONTAINING COMPUTER HARDWARE, IN
CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

ARETHA MASTERSON, EXAMINING ATTORNEY

Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36 and 38

Reg. No. 2,835,698

United States Patent and Trademark Office

Registered Apr. 27, 2004

Corrected

OG Date Sep. 20, 2005

**TRADEMARK
PRINCIPAL REGISTER**

IPOD

APPLE COMPUTER, INC. (CALIFORNIA
CORPORATION)
1 INFINITE LOOP
CUPERTINO, CA 95014
PRIORITY CLAIMED UNDER SEC.
44(D) ON SWITZERLAND APPLICATION
NO. 08612/2001, FILED 8-31-2001.

FOR: PORTABLE AND HANDHELD
DIGITAL ELECTRONIC DEVICES FOR
RECORDING, ORGANIZING, TRANS-

MITTING, MANIPULATING, AND RE-
VIEWING AUDIO FILES; COMPUTER
SOFTWARE FOR USE IN ORGANIZING,
TRANSMITTING, MANIPULATING, AND
REVIEWING AUDIO FILES ON PORTA-
BLE AND HANDHELD DIGITAL ELEC-
TRONIC DEVICES, IN CLASS 9 (U.S.
CLS. 21, 23, 26, 36 AND 38).

FIRST USE 10-23-2001; IN COMMERCE
10-23-2001.

SER. NO. 75-982,871, FILED 10-18-2001.

*In testimony whereof I have hereunto set my hand
and caused the seal of The Patent and Trademark
Office to be affixed on Sep. 20, 2005.*

DIRECTOR OF THE U.S. PATENT AND TRADEMARK OFFICE

Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36 and 38

Reg. No. 3,089,360

United States Patent and Trademark Office

Registered May 9, 2006

**TRADEMARK
PRINCIPAL REGISTER**

IPOD

APPLE COMPUTER, INC. (CALIFORNIA CORPORATION)
1 INFINITE LOOP
CUPERTINO, CA 95014

FOR: PORTABLE AND HANDHELD DIGITAL ELECTRONIC DEVICES FOR RECORDING, ORGANIZING, TRANSMITTING, MANIPULATING, AND REVIEWING TEXT, DATA, AND AUDIO FILES; COMPUTER SOFTWARE FOR USE IN ORGANIZING, TRANSMITTING, MANIPULATING, AND REVIEWING TEXT, DATA, AND AUDIO FILES ON PORTABLE AND HANDHELD DIGITAL ELECTRO-

NIC DEVICES, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 10-23-2001; IN COMMERCE 10-23-2001.

PRIORITY CLAIMED UNDER SEC. 44(D) ON SWITZERLAND APPLICATION NO. 086122001, FILED 8-31-2001.

SER. NO. 78-089,144, FILED 10-18-2001.

DEZMONA MIZELLE, EXAMINING ATTORNEY

Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36, and 38

Reg. No. 3,341,191

United States Patent and Trademark Office

Registered Nov. 20, 2007

TRADEMARK
PRINCIPAL REGISTER

IPOD

APPLE INC. (CALIFORNIA CORPORATION)
1 INFINITE LOOP
CUPERTINO, CA 95014

FOR: FULL LINE OF ELECTRONIC AND MECHANICAL PARTS AND FITTINGS FOR PORTABLE AND HANDHELD DIGITAL ELECTRONIC DEVICES FOR RECORDING, ORGANIZING, TRANSMITTING, MANIPULATING, AND REVIEWING TEXT, DATA, AUDIO AND VIDEO FILES; ELECTRONIC DOCKING STATIONS; STANDS SPECIALLY DESIGNED FOR HOLDING PORTABLE AND HANDHELD DIGITAL ELECTRONIC DEVICES; BATTERY CHARGERS; BATTERY PACKS; ELECTRICAL CONNECTORS, WIRES, CABLES, AND ADAPTORS; WIRED AND WIRELESS REMOTE CONTROLS FOR PORTABLE AND HANDHELD DIGITAL ELECTRONIC DEVICES; HEADPHONES AND EARPHONES; STEREO AMPLIFIER AND SPEAKER BASE STATIONS; AUTOMOBILE STEREO ADAPTERS; AUDIO RECORDERS; RADIO RECEIVERS; RADIO TRANSMITTERS; VIDEO VIEWERS, NAMELY VIDEO MONITORS FOR PORTABLE AND HANDHELD DIGITAL ELECTRONIC DEVICES; AND COMPUTER SOFTWARE FOR PORTABLE AND HANDHELD DIGITAL ELECTRONIC DEVICES FOR RECORDING, ORGANIZING, TRANSMITTING,

MANIPULATING, AND REVIEWING TEXT, DATA, AUDIO, IMAGE, AND VIDEO FILES; COMPUTER APPLICATION SOFTWARE FOR RECORDING AND ORGANIZING CALENDARS AND SCHEDULES, TO-DO LISTS, AND CONTACT INFORMATION; COMPUTER GAME SOFTWARE; AND, COMPUTER SOFTWARE FOR CLOCK AND ALARM CLOCK FUNCTIONALITY; CARRYING CASES, ALL FOR USE WITH PORTABLE AND HANDHELD DIGITAL ELECTRONIC DEVICES FOR RECORDING, ORGANIZING, TRANSMITTING, MANIPULATING, AND REVIEWING TEXT, DATA, AUDIO, IMAGE, AND VIDEO FILES, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 10-23-2001; IN COMMERCE 10-23-2001.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 2,781,793 AND 2,835,698.

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CAROLINE WOOD, EXAMINING ATTORNEY