

ESTTA Tracking number: **ESTTA361599**

Filing date: **08/04/2010**

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 | The Trustees of the Watermark Unit Trust trading as Watermark Patent and Trade Mark Attorneys | | |
| Entity | trust | Citizenship | Australia |
| Address | GPO Box 5093 Melbourne, Victoria, 3001 AUSTRALIA | | |

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| Attorney information | I. Stephen Samuels Samuels & Hiebert LLC Two International Place, 23rd Floor Boston, MA 02110-4104 UNITED STATES iss@samuelsTM.com, hiebert@samuelsTM.com Phone:617-426-9181 ext 107 |
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Applicant Information

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|------------------------|--|------------------------|------------|
| Application No | 77968466 | Publication date | 07/20/2010 |
| Opposition Filing Date | 08/04/2010 | Opposition Period Ends | 08/19/2010 |
| Applicant | Matt Mushet, Esq. 6332 Royal Grove Drive Huntington Beach, CA 92648 UNITED STATES | | |

Goods/Services Affected by Opposition

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| Class 045. First Use: 2010/03/12 First Use In Commerce: 2010/03/17 All goods and services in the class are opposed, namely: Legal services, namely, intellectual property consultation, patent attorney services and assistance in the prosecution, litigation and licensing of intellectual property |
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Grounds for Opposition

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| Priority and likelihood of confusion | Trademark Act section 2(d) |
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Mark Cited by Opposer as Basis for Opposition

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| U.S. Application No. | 85069340 | Application Date | 06/23/2010 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | WATERMARK | | |

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|---------------------|---|
| Design Mark |  |
| Description of Mark | NONE |
| Goods/Services | <p>Class 035. First use: First Use: 1989/00/00 First Use In Commerce: 1989/00/00 Business consultancy and business advisory services relating to technology and innovation management, intellectual property and intellectual asset management; provision of business information; business investigations</p> <p>Class 036. First use: First Use: 1989/00/00 First Use In Commerce: 1989/00/00 Financial consulting and advisory services relating to technology and innovation management, intellectual property and intellectual asset management</p> <p>Class 038. First use: First Use: 2006/00/00 First Use In Commerce: 2006/00/00 Providing access to databases; Providing access to data and documents stored electronically in central files for remote consultation; Electronic delivery of documents pertaining to intellectual property; Providing multiple user access by means of the Internet to proprietary collections of information in the field of law and intellectual property</p> <p>Class 041. First use: First Use: 2005/00/00 First Use In Commerce: 2005/00/00 Providing online publications in the nature of articles in the field of intellectual property</p> <p>Class 045. First use: First Use: 1989/00/00 First Use In Commerce: 1989/00/00 Legal consultancy and legal advisory services relating to technology and innovation management, intellectual property and intellectual asset management; patent and trade mark attorney services; legal services; legal services, namely intellectual property litigation, intellectual property enforcement and negotiation of intellectual property license agreements; online intellectual property information retrieval, search and surveillance services; intellectual property and asset investigations; consultancy and advice in relation to establishment of intellectual property rights and intellectual asset management</p> |

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| Attachments | 85069340#TMSN.jpeg (1 page)(bytes) Notice of Opposition - Mushet.pdf (3 pages)(36860 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 | /Timothy H. Hiebert/ |
| Name | Timothy H. Hiebert |
| Date | 08/04/2010 |

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

THE TRUSTEES OF THE WATERMARK UNIT
TRUST TRADING AS WATERMARK PATENT
AND TRADE MARK ATTORNEYS

Opposer

v.

MATT MUSHET

Applicant

Mark: WATERMARK

Ser. No. 77968466

Filed March 25, 2010

NOTICE OF OPPOSITION

The Trustees of the Watermark Unit Trust trading as Watermark Patent and Trade Mark Attorneys, an Australian trust having an address at GPO Box 5093, Melbourne, Victoria 3001, Australia ("Opposer"), believes that it will be damaged by registration of the mark shown in the above-identified application, and hereby opposes the same.

1. Opposer has been using WATERMARK ("Opposer's Mark") in the United States since the following dates in connection with the following services ("Opposer's Services"):

(a) Since at least as early as 1989 for business consultancy and business advisory services relating to technology and innovation management, intellectual property and intellectual asset management; provision of business information; business investigations;

(b) Since at least as early as 1989 for financial consulting and advisory services relating to technology and innovation management, intellectual property and intellectual asset management;

(c) Since at least as early as 2006 for providing access to databases; providing access to data and documents stored electronically in central files for remote consultation; electronic delivery of documents pertaining to intellectual property; providing multiple user access by means of the internet to proprietary collections of information in the field of law and intellectual property;

(d) Since at least as early as 2005 for providing online publications in the nature of articles in the field of intellectual property; and

(e) Since at least as early as 1989 for legal consultancy and legal advisory services relating to technology and innovation management, intellectual property and intellectual asset management; patent and trade mark attorney services; legal services; legal services, namely intellectual property litigation, intellectual property enforcement and negotiation of intellectual property license agreements; online intellectual property information retrieval, search and surveillance services; intellectual property and asset investigations; consultancy and advice in relation to establishment of intellectual property rights and intellectual asset management.

2. Applicant's application Serial No. 77968466 for WATERMARK ("Applicant's Mark") covers legal services, namely, intellectual property consultation, patent attorney services and assistance in the prosecution, litigation and licensing of intellectual property ("Applicant's Services"), and claims use of the mark since March 12, 2010 and in commerce since March 17, 2010.

3. Opposer is the owner of pending application Serial No. 85069340 for Opposer's Mark covering Opposer's Services, filed on June 23, 2010. The Examiner in charge of that application is likely to identify Applicant's prior application Serial No. 77968466 as a potential basis for refusal under Section 2(d).

4. If Applicant is granted the registration herein opposed, Applicant would obtain thereby at least a prima facie exclusive right to the use of Applicant's Mark for Applicant's Services. Such a registration would be a source of damage and injury to Opposer and would wrongfully hinder Opposer's use and registration of Opposer's Mark.

5. Applicant's Mark, when used for Applicant's Services, is likely to cause confusion with Opposer's Mark for Opposer's Services. Therefore, and because Opposer is the prior user of Opposer's Mark, Applicant is not entitled to the registration or the exclusive use of Applicant's Mark for Applicant's Services.

WHEREFORE, Opposer prays that application Serial No. 77968466 be rejected, and that registration of the mark shown therein sought for the services therein specified be denied.

Respectfully submitted,

Date: August 4, 2010

/I. Stephen Samuels/

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