

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

In the matter of Application Serial No. 77/679,307
Published for Opposition in the OFFICIAL GAZETTE of July 27, 2010

Our Reference: 37356-00045

MEGATRAX PRODUCTION MUSIC, INC.

Opposer

Opposition No.:

:
:
:

v.

MEGAMEDIA, LTD.

Applicant

NOTICE OF OPPOSITION

Megatrax Production Music, Inc. (“Opposer”), a California corporation, having its principal place of business in North Hollywood, California, believes it would be damaged by registration of the mark MEGAVIDEO as shown in Application Serial No. 77/679,307 filed by Megamedia, Ltd. (“Applicant”) and hereby opposes same.

As grounds for this opposition it is alleged:

1. On or before February 26, 2009, Applicant filed an application with the United States Patent & Trademark Office to register the mark MEGAVIDEO for services in International Classes 38, 41 and 42. The services in International Class 41 which are covered in the application are “entertainment services, namely providing a web site featuring videos on a

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wide variety of topics and subjects; entertainment services, namely providing a web site featuring user-generated videos on a wide variety of topics and subjects”.

2. Opposer has been using the mark MEGATRAX for publications, namely, pre-recorded compact discs featuring music and CD-ROMs featuring music and catalogs of music; maintaining a library of recorded music; record production services; music publishing services, producing audio recordings of music and sound effects; publications for cultural and educational purpose of musical works; music editing services for others and ownership recording studio services for others, and composition of music for others since April 12, 1993.

3. Opposer has been using the mark MEGATRAX on the above-referenced goods and services since at least as early as April 12, 1993. As such, Opposer has for many years been engaged in the manufacture and sale of pre-recorded compact discs featuring music and CD-ROMs featuring music and catalogs of music in International Class 9, the services of maintaining a library of recorded music; record production services; music publishing services, producing audio recordings of music and sound effects; publications for cultural and educational purpose of musical works; music editing services for others and ownership recording studio services for others in International Class 41; and composition of music for others in International Class 42 since April 12, 1993 as set forth in paragraph 2 of this Notice of Opposition.

4. Opposer is the owner of the following United States trademark registrations for MEGATRAX and MEGATRAX (stylized): Registration No. 286607 for pre-recorded compact discs featuring music and CD-ROMs featuring music and catalogs of music in International Class 9; and maintaining a library of recorded music; record production services; music publishing services, producing audio recordings of music and sound effects; publications for

cultural and educational purpose of musical works; music editing services for others, composition of music of others and ownership recording studio services for others in International Class 41; Registration No. 1931471 for music libraries; record production; music publishing services, namely producing audio recordings of music and sound effects in International Class 41; and licensing of intellectual property, namely proprietary recorded music and sound effects; composition of music for others in International Class 42; and Registration No. 1898704 for pre-recorded compact discs featuring music, and CD-ROMs featuring music and catalogs of music in International Class 9; maintaining a library of recorded music; record production services in International Class 41; and composition of music for others in International Class 42.

5. Since prior to Applicant's filing of the application for the mark MEGAVIDEO and/or any alleged use of the mark, Opposer has made substantial and continuous use of the MEGATRAX mark in interstate commerce on and in connection with the advertising, promotion, and sale of its goods and services, as set forth above.

6. By virtue of the aforesaid advertising, promotions and sales, Opposer's MEGATRAX trademarks have come to represent valuable goodwill owned by Opposer.

7. The goods and services in connection with which Opposer uses its MEGATRAX mark and the Class 41 services for which Applicant seeks to register the MEGAVIDEO mark are closely related and they are sold through the same channels of trade and to the same class of purchasers.

8. Furthermore, Opposer's mark MEGATRAX and Applicant's mark MEGAVIDEO are highly similar.

9. Use by Applicant of the mark MEGAVIDEO for the identified Class 41 services would be likely to cause confusion, mistake or deception with Opposer's aforesaid MEGATRAX trademarks and result in the belief that Applicant or its services are in some manner legitimately connected with, sponsored by, or approved by Opposer.

10. Any use Applicant has made or may make of the mark MEGAVIDEO for the identified Class 41 services is and will be without Opposer's consent or permission.

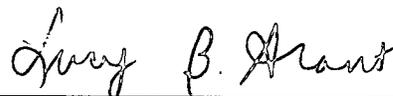
WHEREFORE registration by Applicant of the aforesaid trademark for the aforesaid goods will be damaging to Opposer and Opposer, therefore, requests that the Opposition be sustained.

Opposer submits herewith the requisite \$300.00 filing fee to oppose the services in Class 41 only. Please charge any additional fees or credit overpayment to Deposit Account No. 13-3735.

Please address all correspondence to Lucy B. Arant, Esq., Mitchell, Silberberg & Knupp, LLP, 11377 West Olympic Boulevard, Suite 603, Los Angeles, California 90064.

This Request is being submitted in triplicate as required by 37.C.F.R. § 2.102(d).

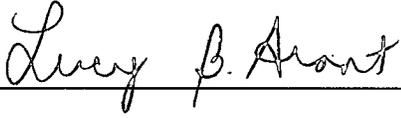
Respectfully submitted,



Lucy B. Arant, Esq.
Mitchell, Silberberg & Knupp, LLP
11377 W. Olympic Boulevard
Los Angeles, CA 90064
310-312-3253
Attorneys for Opposer

Date of Deposit: September 27, 2010

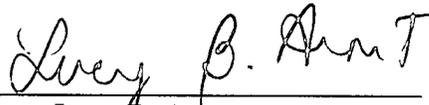
I hereby certify that this paper or fee is being deposited with the United States Postal Service on the date indicated above and is addressed to: Assistant Commissioner for Trademarks, Box TTAB Fee, P.O. Box 1451, Alexandria, Virginia 22313-1451.

A handwritten signature in cursive script that reads "Lucy B. Arant". The signature is written in black ink and is positioned above a horizontal line.

(Signature)-

CERTIFICATE OF SERVICE

The undersigned, an Attorney, hereby certifies that a copy of the foregoing NOTICE OF OPPOSITION was served upon the attorney of record by depositing a copy of the same with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to Philip R. Zender, Esq., Squire, Sanders & Dempsey LLP, 275 Battery Street, Suite 2600, San Francisco, California 94111, on this 27th day of September, 2010.



Lucy B. Arant
Attorney for Opposer

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the county of Los Angeles, State of California. I am over the age of 18
4 and not a party to the within action. My business address is Mitchell Silberberg & Knupp LLP,
11377 West Olympic Boulevard, Los Angeles, California 90064-1683.

5 On September 27, 2010, I served a copy of the foregoing document(s) described as
6 **NOTICE OF OPPOSITION** on the interested parties in this action at their last known address as
set forth below by taking the action described below:

7 Philip R. Zender, Esq.
8 Squire, Sanders & Dempsey LLP
275 Battery Street, Suite 2600
9 San Francisco, CA 94111
10 Attorney for Applicant Megamedia, Ltd.

The President
Megamedia Ltd.
Room A, 7/F, China Overseas Building
139 Hennessy Road
Wanchai
Hong Kong
Applicant

11
12 **BY MAIL:** I placed the above-mentioned document(s) in sealed envelope(s) addressed as set
13 forth above, and deposited each envelope in the mail at Los Angeles, California. Each
envelope was mailed with postage thereon fully prepaid.

14 **BY OVERNIGHT MAIL:** I placed the above-mentioned document(s) in sealed envelope(s)
15 designated by the carrier, with delivery fees provided for, and addressed as set forth above, and
deposited the above-described document(s) with in the ordinary course of business, by
16 depositing the document(s) in a facility regularly maintained by the carrier or delivering the
document(s) to an authorized driver for the carrier.

17 **BY PERSONAL DELIVERY:** I placed the above-mentioned document(s) in sealed
18 envelope(s), and caused personal delivery by of the document(s) listed above to
the person(s) at the address(es) set forth above.

19 **BY PLACING FOR COLLECTION AND MAILING:** I placed the above-mentioned
20 document(s) in sealed envelope(s) addressed as set forth above, and placed the envelope(s) for
collection and mailing following ordinary business practices. I am readily familiar with the
21 firm's practice for collection and processing of correspondence for mailing with the United
States Postal Service. Under that practice it would be deposited with the U.S. Postal Service
22 on that same day with postage thereon fully prepaid at 11377 West Olympic Boulevard, Los
Angeles, California 90064-1683 in the ordinary course of business.

23 **BY ELECTRONIC MAIL:** I served the above-mentioned document electronically at ___:
24 __.m. on the parties listed at the email addresses above and, to the best of my knowledge, the
transmission was complete and without error in that I did not receive an electronic notification
25 to the contrary.

26 **BY FAX:** On _____, at _____ am/pm, from facsimile number (310) _____,
before placing the above-described document(s) in sealed envelope(s) addressed as set forth
27 above, I sent a copy of the above-described document(s) to each of the individuals set forth
above at the facsimile numbers listed above. The transmission was reported as complete and
without error. The transmission report was properly issued by the transmitting facsimile
28 machine, and a copy of that report is attached hereto.

1 I declare under penalty of perjury under the laws of the State of California that the above is
2 true and correct.

3 Executed on September 27, 2010, at Los Angeles, California.

4 
5 _____
6 Lucy B. Arant

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