

ESTTA Tracking number: **ESTTA442890**

Filing date: **11/23/2011**

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	3M Company
Granted to Date of previous extension	11/23/2011
Address	2501 Hudson Road St. Paul, MN 55144 UNITED STATES

Attorney information	Scott W. Johnston Merchant & Gould P.C. P.O. Box 2910 Minneapolis, MN 55402-0919 UNITED STATES sjohnston@merchantgould.com, slindemeier@merchantgould.com Phone:612-332-5300
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**Applicant Information**

Application No	85121717	Publication date	07/26/2011
Opposition Filing Date	11/23/2011	Opposition Period Ends	11/23/2011
Applicant	Woei-Kang Shieh 4F., No. 19, Alley 1, Lane 1 Yong-An S. Rd., Sec. I, Luzhou Taipei, TAIWAN		

**Goods/Services Affected by Opposition**

Class 010. All goods and services in the class are opposed, namely: Stethoscopes, sphygmotensimeters, thermometers for medical purposes, medical diagnostic apparatus, analytical apparatus for medical purposes, blood pressure measuring apparatus, and vibromassage apparatus
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**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	3253234	Application Date	02/02/2006
Registration Date	06/19/2007	Foreign Priority Date	NONE

Word Mark	MASTER CARDIOLOGY
Design Mark	<b>MASTER CARDIOLOGY</b>
Description of Mark	NONE
Goods/Services	Class 010. First use: First Use: 1987/06/00 First Use In Commerce: 1987/06/00 Stethoscopes

U.S. Registration No.	3728352	Application Date	06/09/2009
Registration Date	12/22/2009	Foreign Priority Date	NONE

Word Mark	MASTER CLASSIC II
Design Mark	<b>MASTER CLASSIC II</b>
Description of Mark	NONE
Goods/Services	Class 010. First use: First Use: 1995/08/00 First Use In Commerce: 1995/08/00 Stethoscopes

Attachments	78805182#TMSN.jpeg ( 1 page )( bytes ) 77755288#TMSN.jpeg ( 1 page )( bytes ) 2011 11 23 Notice of Opposition 85121717.PDF ( 13 pages )(398420 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	/SWJ/
Name	Scott W. Johnston

Date	11/23/2011
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

3M Company,	)	Opposition No. _____
	)	
Opposer,	)	Mark: <b>MASTERPIECE</b>
	)	
v.	)	Serial No.: 85/121,717
	)	
Woei-Kang Shieh,	)	Filing Date: September 2, 2010
	)	
Applicant.	)	Published: July 26, 2011
	)	

**NOTICE OF OPPOSITION**

3M Company (hereinafter "Opposer"), a Delaware corporation located at 3M Center, 2501 Hudson Road, St. Paul, Minnesota 55144, believes that it will be damaged by the registration of the mark MASTERPIECE shown in trademark application Serial No. 85/121,717, filed September 2, 2010, by Woei-Kang Shieh (hereinafter "Applicant"), and hereby opposes the same. The grounds for opposition are as follows:

1. By the application herein opposed, Applicant is seeking to obtain under the provisions of the Trademark Act of 1946 as amended, registration on the Principal Register of the trademark MASTERPIECE for "stethoscopes, sphygmotensimeters, thermometers for medical purposes, medical diagnostic apparatus, analytical apparatus for medical purposes, blood pressure measuring apparatus, and vibromassage apparatus," in International Class 10.

2. Applicant's mark published for opposition on July 26, 2011. Opposer filed and the Board approved an extension of time to oppose Applicant's mark until November 23, 2011. This Notice of Opposition is timely filed.

3. Since at least as early as 1987, Opposer has been using the trademark MASTER CARDIOLOGY to identify and promote its stethoscopes.

4. Since at least as early as 1995, Opposer has been using the trademark MASTER CLASSIC II to identify and promote its stethoscopes.

5. Opposer owns the following registrations for its MASTER CARDIOLOGY and MASTER CLASSIC II marks:

Mark	Reg. No./ Reg. Date	Filing Date	Use Date	Goods
MASTER CARDIOLOGY	3,253,234 June 19, 2007	Feb. 2, 2006	June 1987	Stethoscopes.
MASTER CLASSIC II	3,728,352 Dec. 22, 2009	June 9, 2009	Aug. 1995	Stethoscopes.

Current printouts of information from the electronic database records of the USPTO showing the current status and title of the registrations are attached hereto as Exhibit A.

6. The registrations listed in the above table have not been canceled, are valid, and are now in full force and effect.

7. Opposer has advertised and promoted its MASTER CARDIOLOGY and MASTER CLASSIC II marks extensively. Opposer has also made substantial sales of products under said marks. As a result of such use and promotion, Opposer's MASTER CARDIOLOGY and MASTER CLASSIC II marks have developed and represents valuable goodwill inuring to the benefit of Opposer. In addition, Opposer's MASTER CARDIOLOGY and MASTER CLASSIC II marks are famous, and became famous before Applicant filed the application at issue in this opposition.

8. There is no issue of priority concerning application Serial No. 85/121,717 since Opposer used and registered its MASTER CARDIOLOGY and MASTER CLASSIC II marks prior to Applicant's September 2, 2010 filing date. Opposer's Registration No. 3,253,234 registered June 19, 2007, over three (3) years before Applicant's filing date of his application. In addition, Opposer's use of the MASTER CARDIOLOGY mark commenced over twenty-three

(23) years before Applicant's filing date. Opposer's Registration No. 3,728,352 registered December 22, 2009, nearly one (1) year before Applicant's filing date of his application. In addition, Opposer's use of the MASTER CLASSIC II mark commenced fifteen (15) years before Applicant's filing date. Opposer therefore has priority over Applicant with respect to the marks at issue.

9. Upon information and belief, Applicant had not used Applicant's mark in commerce prior to Applicant's September 2, 2010 filing date.

10. In addition, upon information and belief, Applicant has not used Applicant's mark in commerce. Upon information and belief, Applicant's only use in the United States has been of the hyphenated form of the mark, namely, MASTER-PIECE.

11. Upon information and belief, Applicant had knowledge of the fact that Opposer used the terms MASTER CARDIOLOGY and MASTER CLASSIC II as trademarks before he adopted the MASTERPIECE mark.

12. Applicant's MASTERPIECE mark is confusingly similar to Opposer's MASTER CARDIOLOGY and MASTER CLASSIC II marks as the marks are similar in sight, sound and commercial impression.

13. Applicant's alleged goods are identical to the goods marketed and sold by Opposer in connection with its MASTER CARDIOLOGY and MASTER CLASSIC II marks, for which Opposer owns registrations.

14. Upon information and belief, Opposer's and Applicant's products are sold in the same channels of trade to the same consumers or class of consumers.

15. Due to the similarity between the parties' marks, and that the goods of the respective parties are identical, customers and potential customers are likely to believe that

Applicant's goods originate from Opposer, resulting in a likelihood of confusion in the marketplace, and damage to Opposer.

16. The use and registration by Applicant of the mark MASTERPIECE for Applicant's goods is likely to cause confusion or to cause mistake or deception in the trade, and among purchasers and potential purchasers, with Opposer's previously used MASTER CARDIOLOGY and MASTER CLASSIC II marks, again resulting in damage to Opposer.

17. Because the goods are identical, and that the marks are confusingly similar, use and registration of the term MASTERPIECE by Applicant is likely to cause confusion, mistake, or deception that Applicant's goods are those of Opposer, or are otherwise endorsed, sponsored, or approved by Opposer for use with Opposer's products causing further damage to Opposer.

18. Use and registration of Applicant's mark is likely to dilute the distinctiveness of Opposer's MASTER CARDIOLOGY and MASTER CLASSIC II marks.

19. Registration of the mark shown in application Serial No. 85/121,717 will result in damage to Opposer under the provisions of Section 2 of the U.S. Trademark Act, 15 U.S.C. Section 1052, pursuant to the allegations stated above.

WHEREFORE, Opposer asks that its opposition to this application be sustained and that registration of the term MASTERPIECE for the goods set forth therein be refused.

Please direct all correspondence to:

Scott W. Johnston  
MERCHANT & GOULD P.C.  
P.O. Box 2910  
Minneapolis, MN 55402-0910

Opposer herein appoints John A. Clifford, Reg. No. 30,247; Gregory C. Golla; Andrew S. Ehard; Scott W. Johnston, Reg. No. 39,721; Heather J. Kliebenstein; Danielle I. Mattessich; Scott M. Oslick; Christopher J. Schulte; William D. Schultz, and all other attorneys of the firm of

Merchant & Gould P.C., its attorneys to transact all business in the U.S. Patent and Trademark  
Office relating to this matter with full power of substitution.

Respectfully submitted,

3M COMPANY  
By its Attorneys,

Date: 11-23-11



Scott W. Johnston  
MERCHANT & GOULD P.C.  
80 South Eighth Street, Suite 3200  
Minneapolis, Minnesota 55402-2215  
(612) 332-5300

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing NOTICE OF OPPOSITION was served upon the following attorney of record for Applicant by First Class Mail, postage pre-paid, this 23rd day of November, 2011:

Steven M. Rabin  
Scott Alprin  
Rabin & Berdo, P.C.  
1101 14th Street NW, Suite 500  
Washington, D.C. 20005-5633

  
\_\_\_\_\_  
Scott W. Johnston

**EXHIBIT A**

**Thank you for your request. Here are the latest results from the TARR web server.**

**This page was generated by the TARR system on 2011-11-23 10:55:31 ET**

**Serial Number:** 78805182 Assignment Information      Trademark Document Retrieval

**Registration Number:** 3253234

**Mark**

# MASTER CARDIOLOGY

**(words only):** MASTER CARDIOLOGY

**Standard Character claim:** Yes

**Current Status:** Registered. The registration date is used to determine when post-registration maintenance documents are due.

**Date of Status:** 2007-06-19

**Filing Date:** 2006-02-02

**Transformed into a National Application:** No

**Registration Date:** 2007-06-19

**Register:** Principal

**Law Office Assigned:** LAW OFFICE 113

**If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov**

**Current Location:** 650 -Publication And Issue Section

**Date In Location:** 2007-06-19

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## LAST APPLICANT(S)/OWNER(S) OF RECORD

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1. 3M Company

**Address:**

3M Company  
220-9E-01 2501 Hudson Road

St, Paul, MN 55144  
United States  
**Legal Entity Type:** Corporation  
**State or Country of Incorporation:** Delaware  
**Phone Number:** (651) 736-6989  
**Fax Number:** (651) 736-3783

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**GOODS AND/OR SERVICES**

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**International Class:** 010  
**Class Status:** Active  
Stethoscopes  
**Basis:** 1(a)  
**First Use Date:** 1987-06-00  
**First Use in Commerce Date:** 1987-06-00

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**ADDITIONAL INFORMATION**

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**Disclaimer:** "cardiology"

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**MADRID PROTOCOL INFORMATION**

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(NOT AVAILABLE)

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**PROSECUTION HISTORY**

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**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

2007-06-19 - Registered - Principal Register  
2007-04-03 - Published for opposition  
2007-03-14 - Notice of publication  
2007-02-12 - Law Office Publication Review Completed  
2007-02-11 - Approved for Pub - Principal Register (Initial exam)  
2007-01-19 - Teas/Email Correspondence Entered  
2007-01-19 - Communication received from applicant  
2007-01-19 - Assigned To LIE  
2006-12-21 - TEAS Response to Office Action Received  
2006-06-22 - Non-final action e-mailed  
2006-06-22 - Non-Final Action Written

2006-06-18 - Assigned To Examiner

2006-02-08 - New Application Entered In Tram

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**ATTORNEY/CORRESPONDENT INFORMATION**

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**Attorney of Record**

James F. Voegeli

**Correspondent**

JAMES F. VOEGELI

3M INNOVATIVE PROPERTIES COMPANY

2501 HUDSON ROAD 220-E9-01

SAINT PAUL, MN 55144-0001

Phone Number: (651) 736-6989

Fax Number: (651) 736-3783

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**Thank you for your request. Here are the latest results from the TARR web server.**

**This page was generated by the TARR system on 2011-11-23 10:55:45 ET**

**Serial Number:** 77755288 Assignment Information      Trademark Document Retrieval

**Registration Number:** 3728352

**Mark**

# MASTER CLASSIC II

**(words only):** MASTER CLASSIC II

**Standard Character claim:** Yes

**Current Status:** Registered. The registration date is used to determine when post-registration maintenance documents are due.

**Date of Status:** 2009-12-22

**Filing Date:** 2009-06-09

**Filed as TEAS Plus Application:** Yes

**Currently TEAS Plus Application:** Yes

**Transformed into a National Application:** No

**Registration Date:** 2009-12-22

**Register:** Principal

**Law Office Assigned:** LAW OFFICE 101

**If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov**

**Current Location:** 650 -Publication And Issue Section

**Date In Location:** 2009-12-22

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**LAST APPLICANT(S)/OWNER(S) OF RECORD**

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## 1. 3M Company

**Address:**

3M Company  
220-9E-01 3M Center, 2501 Hudson Road  
St. Paul, MN 55144  
United States

**Legal Entity Type:** Corporation**State or Country of Incorporation:** Delaware**Phone Number:** (651) 736-6989**Fax Number:** (651) 736-3783

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**GOODS AND/OR SERVICES**

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**International Class:** 010**Class Status:** Active

Stethoscopes

**Basis:** 1(a)**First Use Date:** 1995-08-00**First Use in Commerce Date:** 1995-08-00

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**ADDITIONAL INFORMATION**

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**Disclaimer:** "CLASSIC"**Prior Registration Number(s):**

3253234

3619324

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**MADRID PROTOCOL INFORMATION**

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(NOT AVAILABLE)

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**PROSECUTION HISTORY**

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**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

2009-12-22 - Registered - Principal Register

2009-10-06 - Notice Of Actual Publication E-Mailed

2009-10-06 - Published for opposition

2009-09-03 - Law Office Publication Review Completed

2009-09-03 - Assigned To LIE

2009-08-28 - Approved for Pub - Principal Register (Initial exam)

2009-08-22 - Assigned To Examiner

2009-06-13 - Notice Of Pseudo Mark Mailed

2009-06-12 - New Application Office Supplied Data Entered In Tram

2009-06-12 - New Application Entered In Tram

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**ATTORNEY/CORRESPONDENT INFORMATION**

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**Attorney of Record**

James F. Voegeli

**Correspondent**

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3M INNOVATIVE PROPERTIES COMPANY  
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SAINT PAUL, MN 55144-0001  
Phone Number: (651) 736-6989  
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