

ESTTA Tracking number: **ESTTA472484**

Filing date: **05/15/2012**

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	Beats Electronics, LLC
Granted to Date of previous extension	05/16/2012
Address	1601 Cloverfield Blvd Suite 5000N Santa Monica, CA 90404 UNITED STATES

Correspondence information	Michael G. Kelber Neal, Gerber & Eisenberg LLP Two North LaSalle Street, Suite 1700 Chicago, IL 60602 UNITED STATES mhall@ngelaw.com, mkelber@ngelaw.com, kspicer@ngelaw.com Phone:312.269.8000
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Applicant Information

Application No	85398258	Publication date	01/17/2012
Opposition Filing Date	05/15/2012	Opposition Period Ends	05/16/2012
Applicant	Luvbeats, LLC 75 Bank St. Apt. 5M New York, NY 10014 UNITED STATES		

Goods/Services Affected by Opposition

Class 038. All goods and services in the class are opposed, namely: Delivery of messages by electronic transmission; Delivery of personalized greeting cards to others via electronic mail; Message sending and receiving services; Message sending via a website; Transmission of messages over electronic media
Class 041. All goods and services in the class are opposed, namely: Provision of information relating to music

Grounds for Opposition

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

U.S. Application No.	77896218	Application Date	12/17/2009
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Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	IBEATS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use:</p> <p>Audio and video equipment, namely, digital audio players, digital video players, media players, portable media players, DVD players, portable DVD players, CD players, portable CD players, media players for automobiles, DVD players for automobiles, CD players for automobiles, digital audio players, digital video players, digital audio players for automobiles; digital video players for automobiles; MP3 players; MP4 players; protective carrying cases for portable music players; cell phones; personal digital assistants (PDA); smartphones; headsets for mobile telephones; audio speakers; car audio speakers; loudspeakers; loudspeaker cabinets; horns for loudspeakers; racks for loudspeakers; electric actuators; stands specially adapted for stereos and audio speakers, namely, floor stands and table tops for loudspeakers; surround sound systems; audio equipment, namely, amplifiers, subwoofers, surround sound systems; pre-amplifiers; amplifiers; sound amplifiers; audio amplifiers; racks for amplifiers; high-fidelity stereo systems comprised of amplifiers, loudspeakers, receivers and tuners; signal processors, namely, signal separating distributing, generating and converting circuits all for audio signals, video signals or audio-video signals; electroacoustic transducers; audio mixers; electronic audio mixers; sound mixers; sound mixers with integrated amplifiers; acoustic conduits; acoustic couplers; acoustic coupling devices; acoustic membranes; acoustic meters; acoustic separation units; apparatus for wireless transmission of acoustic information; wave reflectors for acoustic speakers, lighting apparatus, and air flow devices; electronic effects pedals for use with musical instruments; musical juke boxes; musical instrument adaptors; musical instrument amplifiers; musical instrument connectors; metronomes; time clocks being time recording devices; teleprinters; scales; micrometers, signal bells, sound locating instruments, namely, sound alarms, sound level meters; projection screens; automatic switchboards; automatic turnstiles; stereo players and equipment, namely, stereo tuners, stereo amplifiers; stereo receivers; personal stereos; record players and equipment, namely, needles for record players, electrical phonograph record turntable cartridges, phonographic record cleaning kits comprised primarily of replacement stylus needles and also including cleaning solution and brushes; audio and video components, namely, limiters and compressors, boxes specially adapted for housing audio equipment, software to control and improve audio equipment sound quality; video equipment, namely, video receivers, combination video players and recorders, digital video recorders, distribution amplifiers for video signals; video equipment components, namely, component video cables, electronic scalers for video signals, electronic interconnecters for video signals; microphones; electronic cables, namely, audio and video electric cables and cable connectors; power cables and cable connectors; sound and video recording apparatus; home</p>		

theater equipment and components, namely, televisions, sound systems and sound elements for televisions and radios comprised of surround sound systems, sound systems comprising remote controls, amplifiers, loudspeakers and components therefor; audio speakers for home theater systems; cellular phones, portable electronic devices and related accessories, namely, portable media players, portable DVD players, portable CD players, portable digital audio players, portable digital video players; portable MP3 players; portable MP4 players; portable telephones and accessories, namely, cases for cellular telephones, decorative charms for cellular telephones, fitted plastic films known as skins for covering and providing a scratch proof barrier or protection for portable telephones; compact disc players; eyewear and sunglasses; headphones; computers; laptop computers; components for computers for enhancing their audio and video sound properties, namely, video boards and sound boards; computer hardware; computer software and downloadable computer software for use in recording, organizing, transmitting, manipulating, reviewing text, data, audio files and video files, music mixing software for use on cell phones and computers; computer accessories, namely, USB sticks, USB hubs, keyboards, computer monitors, computer mouse, audio speakers for computers; electronic devices, namely, televisions, radios, MP3 players, MP4 players, video disc player, digital video player and audio players, namely, televisions, radios, MP3 players, MP4 players, video disc players and digital video players, all with sound elements; personal headphones for use with sound transmitting systems; digital equipment, namely, digital audio players, digital video players, digital audio players for automobiles, speakers for computers; audio recordings featuring music; computer software for processing digital music files; digital photo frames for displaying digital pictures, video clips and music; downloadable music via the Internet and wireless devices; downloadable MP3 or MP4 files, MP3 or MP4 recordings and downloadable pod casts featuring music, audio books and news broadcasts; video recordings featuring music; music-composition software; visual recordings and audio visual recordings featuring music; downloadable visual recordings featuring music and musical based entertainment; downloadable cellular phone ring tones

Class 025. First use:

Clothing, namely, blouses, dresses, bottoms, coats, foul weather gear, gloves, hosiery, jackets, jeans, lingerie, mittens, neckties, neckwear, nightwear, pajamas, pants, pullovers, rainwear, robes, scarves, shirts, shorts, skirts, skorts, socks, sweatshirts, sweaters, swimwear, T-shirts, track suits, undergarments, vests, polo shirts, sweat pants, jerseys, belts; footwear; headgear, namely, caps, hats, visors, skull caps, beanies

Class 038. First use:

Providing online bulletin boards for transmission of messages among users in the fields of media, music, video, film, book and television; streaming of video material via a global computer network; streaming of audio material via a global computer network

Class 041. First use:

Night Club services; dance club services; provision of live entertainment and pre-recorded music, namely, live musical performances by musical bands and DJs; entertainment services, namely, non-downloadable ringtones, pre-recorded music, video and graphics presented to mobile communications devices via a global computer network and wireless network; music studios, namely, sound recording studios; publishing services in the nature of music publishing; musical entertainment in the nature of live visual and audio performances by musical groups and DJs; organization of exhibitions for musical entertainment, namely, exhibitions concerning music; providing online music services, namely, providing non-downloadable prerecorded music via global computer network; entertainment services, namely, providing a web site featuring musical performances, musical videos, related film clips, photographs, and other multimedia entertainment materials, providing on-line reviews of music

	performances, concerts, music albums and recordings and musical artists, providing nondownloadable prerecorded music, information in the field of music, and commentary and articles about music, all on-line via a global computer network; providing podcasts in the field of music, providing webcasts in the field of music and other multimedia entertainment materials
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U.S. Application No.	77786522	Application Date	07/21/2009
Registration Date	NONE	Foreign Priority Date	06/17/2009

Word Mark	BEATS
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Description of Mark	NONE
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Goods/Services	<p>Class 009. First use: First Use: 2008/07/01 First Use In Commerce: 2008/07/01 (Based on Use in Commerce) headphones; (Based on Intent to Use) audio and video equipment, namely, digital audio players, digital video players, media players, portable media players, DVD players, portable DVD players, CD players, portable CD players, media players for automobiles, DVD players for automobiles, CD players for automobiles, digital audio players, digital video players, portable digital audio players, portable digital video players; digital audio players for automobiles; digital video players for automobiles; MP3 players; MP4 players; protective carrying cases for portable music players; cell phones; personal digital assistants (PDA); smart phones; headsets for mobile phones; audio speakers; car audio speakers; loudspeakers; loudspeaker cabinets; horns for loudspeakers; racks for loudspeakers; electric actuators; stands specially adapted for stereos and audio speakers, namely, floor stands and table tops for loudspeakers; surround sound systems; audio equipment, namely, amplifiers, subwoofers, surround sound systems; pre-amplifiers; amplifiers; sound amplifiers; audio amplifiers; racks for amplifiers; high-fidelity stereo systems comprised of amplifiers, loudspeakers, receivers and tuners; signal processors, namely, signal separating, distributing, generating and converting circuits all for audio signals, video signals or audio-video signals; electro acoustic transducers; audio mixers; electronic audio mixers; sound mixers; sound mixers with integrated amplifiers; acoustic conduits; acoustic couplers; acoustic coupling devices; acoustic membranes; acoustic meters; acoustic separation units; apparatus for wireless transmission of acoustic information; wave reflectors for acoustic speakers, lighting apparatus, and air flow devices; electrical pickups for use with musical instruments; musical juke boxes; musical instrument adaptors; musical instrument amplifiers; musical instrument connectors; metronomes; time clocks being time recording devices; teleprinters; scales; micrometers; signal bells, sound locating instruments, namely, sound alarms, sound level meters; projection screens; automatic switchboards; automatic turnstiles; stereo receivers; stereo tuners; stereo amplifiers; audio equipment components, namely, limiters and compressors, boxes specially adapted for housing audio equipment, software to control and improve audio equipment sound quality;</p>
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video equipment, namely, video receivers, combination video players and recorders, digital video recorders, distribution amplifiers for video signals; video equipment components, namely, component video cables, electronic scalers for video signals, electronic interconnectors for video signals; microphones; electronic cables, namely, audio and video electric cables and cable connectors; power cables and cable connectors; sound and video recording apparatus; portable telephones and accessories, namely, cases for cellular telephones, decorative charms for cellular telephones, Fitted plastic films known as skins for covering and providing a scratch proof barrier or protection for portable telephones; compact disc players; record players and equipment, namely, needles for record players, electrical phonograph record turntable cartridges, phonographic record cleaning kits comprised primarily of replacement stylus needles and also including cleaning solution and brushes; stereo players and equipment, namely, stereo tuners, stereo amplifiers, personal stereos; eyewear and sunglasses; computers; laptop computers; components for computers for enhancing their audio and video sound properties; computer software, namely, software for processing digital music files and software for browsing or editing video, images and sound; computer software, namely, software application for locating and identifying local music venues and live musical or dj performances; audio application software for computers; computer accessories, namely, USB sticks, USB hubs, keyboards, computer monitors, computer mouse, and audio speakers for computers; electronic devices, namely, televisions, radios, MP3 players, MP4 players, video players and audio players, all with sound elements; sound systems and sound elements for televisions and radios comprised of surround sound systems, sound systems comprising remote controls, amplifiers, loudspeakers and components therefor, personal headphones for use with sound transmitting systems; audio equipment, namely, media players, portable media players, DVD players, portable DVD players, CD players, portable CD players, media players for automobiles, DVD players for automobiles, CD players for automobiles, digital audio players, portable digital audio players, digital audio players for automobiles; audio speakers for home theater systems; audio speakers for computers; audio recordings featuring music; computer software for processing digital music files; digital photo frames for displaying digital pictures, video clips and music; downloadable music via the Internet and wireless devices; downloadable MP3 or MP4 files, MP3 or MP4 recordings and downloadable pod casts featuring music, audio books and news broadcasts; video recordings featuring music; music-composition software; visual recordings and audio visual recordings featuring music; downloadable visual recordings featuring music and musical based entertainment; downloadable cellular phone ringtones; Apparatus for recording, transmission or reproduction of sound or images

Class 025. First use:

(Based on Intent to Use) Clothing, namely, blouses, dresses, bottoms, coats, foul weather gear, gloves, hosiery, jackets, jeans, lingerie, mittens, neckties, neckwear, nightwear, pajamas, pants, pullovers, rainwear, robes, scarves, shirts, shorts, skirts, skorts, socks, sweatshirts, sweaters, swimwear, T-shirts, track suits, undergarments, vests, polo shirts, sweat pants, jerseys, belts; footwear; headgear, namely, caps, hats, visors, skullcaps, beanies

Class 038. First use:

(Based on Intent to Use) Providing online electronic bulletin boards for transmission of messages among computer users concerning media, music, video, film, book and television; streaming of video content via a global computer network; streaming of audio content via a global computer network

Class 041. First use:

(Based on Intent to Use) Nightclub services; dance club services; provision of live entertainment and recorded entertainment, namely, live musical performances by musical bands and DJs; entertainment services, namely, non-downloadable ringtones, pre-recorded music, video and graphics presented to

	mobile communications devices via a global computer network and wireless network; music studios, namely, sound recording studios; publishing services in the nature of music publishing; musical entertainment in the nature of live visual and audio performances by musical groups and DJs; exhibitions, namely, exhibitions concerning music; providing online music services, namely, providing non-downloadable prerecorded music via global computer network; entertainment services, namely, providing a web site featuring musical performances, musical videos, related film clips, photographs, and other multimedia entertainment materials, providing on-line reviews of music performances, concerts, music albums and recordings and musical artists, providing non downloadable prerecorded music, information in the field of music, and commentary and articles about music, all on-line via a global computer network; providing podcasts in the field of music, providing webcasts in the field of music and other multimedia entertainment materials
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U.S. Application No.	77786492	Application Date	07/21/2009
Registration Date	NONE	Foreign Priority Date	06/17/2009

Word Mark	BEATS BY DR. DRE
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Description of Mark	NONE
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Goods/Services	<p>Class 009. First use:</p> <p>audio and video equipment, namely, digital audio players, digital video players, media players, portable media players, DVD players, portable DVD players, CD players, portable CD players, media players for automobiles, DVD players for automobiles, CD players for automobiles, digital audio players, digital video players, portable digital audio players, portable digital video players; digital audio players for automobiles; digital video players for automobiles; MP3 players; MP4 players; protective carrying cases for portable music players; cell phones; personal digital assistants (PDA); smart phones; headsets for mobile phones; audio speakers; car audio speakers; loudspeakers; loudspeaker cabinets; horns for loudspeakers; racks for loudspeakers; electric actuators; stands specially adapted for stereos and audio speakers, namely, floor stands and table tops for loudspeakers; surround sound systems; audio equipment, namely, amplifiers, subwoofers, surround sound systems; pre-amplifiers; amplifiers; sound amplifiers; audio amplifiers; racks for amplifiers; high-fidelity stereo systems comprised of amplifiers, loudspeakers, receivers and tuners; signal processors, namely, signal separating, distributing, generating and converting circuits all for audio signals, video signals or audio-video signals; electro acoustic transducers; audio mixers; electronic audio mixers; sound mixers; sound mixers with integrated amplifiers; acoustic conduits; acoustic couplers; acoustic coupling devices; acoustic membranes; acoustic meters; acoustic separation units; apparatus for wireless transmission of acoustic information; wave reflectors for acoustic speakers, lighting apparatus, and air flow devices; electrical pickups for</p>
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use with musical instruments; musical juke boxes; musical instrument adaptors; musical instrument amplifiers; musical instrument connectors; metronomes; time clocks being time recording devices; teleprinters; scales; micrometers; signal bells, sound locating instruments, namely, sound alarms, sound level meters; projection screens; automatic switchboards; automatic turnstiles; stereo receivers; stereo tuners; stereo amplifiers; audio equipment components, namely, limiters and compressors, boxes specially adapted for housing audio equipment, software to control and improve audio equipment sound quality; video equipment, namely, video receivers, combination video players and recorders, digital video recorders, distribution amplifiers for video signals; video equipment components, namely, component video cables, electronic scalars for video signals, electronic interconnectors for video signals; microphones; electronic cables, namely, audio and video electric cables and cable connectors; power cables and cable connectors; sound and video recording apparatus; portable telephones and accessories, namely, cases for cellular telephones, decorative charms for cellular telephones, Fitted plastic films known as skins for covering and providing a scratch proof barrier or protection for portable telephones; compact disc players; record players and equipment, namely, needles for record players, electrical phonograph record turntable cartridges, phonographic record cleaning kits comprised primarily of replacement stylus needles and also including cleaning solution and brushes; stereo players and equipment, namely, stereo tuners, stereo amplifiers, personal stereos; eyewear and sunglasses; headphones; computers; laptop computers; components for computers for enhancing their audio and video sound properties; computer software, namely software for processing digital music files and software for browsing or editing video, images and sound; computer software, namely software application for locating and identifying local music venues and live musical or dj performances; audio application software for computers; computer accessories, namely USB sticks, USB hubs, keyboards, computer monitors, computer mouse, and audio speakers for computers; electronic devices, namely, televisions, radios, MP3 players, MP4 players, video players and audio players, all with sound elements; sound systems and sound elements for televisions and radios comprised of surround sound systems, sound systems comprising remote controls, amplifiers, loudspeakers and components therefor, personal headphones for use with sound transmitting systems; audio equipment, namely, media players, portable media players, DVD players, portable DVD players, CD players, portable CD players, media players for automobiles, DVD players for automobiles, CD players for automobiles, digital audio players, portable digital audio players, digital audio players for automobiles; audio speakers for home theater systems; audio speakers for computers; audio recordings featuring music; computer software for processing digital music files; digital photo frames for displaying digital pictures, video clips and music; downloadable music via the Internet and wireless devices; downloadable MP3 or MP4 files, MP3 or MP4 recordings and downloadable pod casts featuring music, audio books and news broadcasts; video recordings featuring music; music-composition software; visual recordings and audio visual recordings featuring music; downloadable visual recordings featuring music and musical based entertainment; downloadable cellular phone ringtones; Apparatus for recording, transmission or reproduction of sound or images

Class 025. First use:

Clothing, namely, blouses, dresses, bottoms, coats, foul weather gear, gloves, hosiery, jackets, jeans, lingerie, mittens, neckties, neckwear, nightwear, pajamas, pants, pullovers, rainwear, robes, scarves, shirts, shorts, skirts, skorts, socks, sweatshirts, sweaters, swimwear, T-shirts, track suits, undergarments, vests, polo shirts, sweat pants, jerseys, belts; footwear; headgear, namely, caps, hats, visors, skullcaps, beanies

Class 038. First use:

Providing online electronic bulletin boards for transmission of messages among computer users concerning media, music, video, film, book and television;

	<p>streaming of video content via a global computer network; streaming of audio content via a global computer network</p> <p>Class 041. First use:</p> <p>Nightclub services; dance club services; provision of live entertainment and recorded entertainment, namely, live musical performances by musical bands and DJs; entertainment services, namely, non-downloadable ringtones, pre-recorded music, video and graphics presented to mobile communications devices via a global computer network and wireless network; music studios, namely, sound recording studios; publishing services in the nature of music publishing; musical entertainment in the nature of live visual and audio performances by musical groups and DJs; exhibitions, namely, exhibitions concerning music; providing online music services, namely, providing non-downloadable prerecorded music via global computer network; entertainment services, namely, providing a web site featuring musical performances, musical videos, related film clips, photographs, and other multimedia entertainment materials, providing on-line reviews of music performances, concerts, music albums and recordings and musical artists, providing nondownloadable prerecorded music, information in the field of music, and commentary and articles about music, all on-line via a global computer network; providing podcasts in the field of music, providing webcasts in the field of music and other multimedia entertainment materials</p>
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U.S. Application No.	77837774	Application Date	09/29/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	CLUB BEATS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use:</p> <p>Audio and video equipment, namely, media players, DVD players, CD players, media players for automobiles, DVD players for automobiles, CD players for automobiles, audio speakers; car audio speakers; loudspeakers; racks for loudspeakers; stands specially adapted for stereos and audio speakers, namely, floor stands and table tops for loudspeakers; surround sound systems; amplifiers, subwoofers; pre-amplifiers; amplifiers; sound amplifiers; audio amplifiers; racks for amplifiers; high-fidelity stereo systems comprised of amplifiers, loudspeakers, receivers and tuners; signal processors, namely, signal separating, distributing, generating and converting circuits all for audio signals, video signals or audio-video signals; electro acoustic transducers; audio mixers; electronic audio mixers; sound mixers; sound mixers with integrated amplifiers; acoustic conduits; acoustic couplers; acoustic coupling devices; acoustic membranes; acoustic meters; acoustic separation units; apparatus for wireless transmission of acoustic information; electrical pickups for use with musical instruments; musical juke boxes; musical instrument adaptors; musical</p>		

instrument amplifiers; musical instrument connectors; metronomes; time clocks being time recording devices; projection screens; automatic switchboards; automatic turnstiles; stereo receivers; stereo tuners; stereo amplifiers; record players and equipment, namely, needles for record players, electrical phonograph record turntable cartridges, phonographic record cleaning kits comprised primarily of replacement stylus needles and also including cleaning solution and brushes; stereo players and equipment, namely, stereo tuners, stereo amplifiers; audio and video components, namely, limiters and compressors, boxes specially adapted for housing audio equipment, software to control and improve audio equipment sound quality; video equipment, namely, video receivers, combination video players and recorders, digital video recorders, distribution amplifiers for video signals. video equipment components, namely, component video cables, electronic scalars for video signals, electronic interconnecters for video signals; microphones; electronic cables, namely, audio and video electric cables and cable connectors; power cables and cable connectors; sound and video recording apparatus; home theater equipment and components, namely, televisions, sound systems and sound elements for televisions and radios comprised of surround sound systems, sound systems comprising remote controls, amplifiers, loudspeakers and components therefor; audio speakers for home theater systems; cellular phones, portable electronic devices and related accessories, namely, portable media players, portable DVD players, portable CD players, portable digital audio players, portable digital video players; portable MP3 players; portable MP4 players; protective carrying cases for portable music players; cell phones; personal digital assistants (PDA); smart phones; headsets for mobile phones; portable telephones and accessories, namely, cases for cellular telephones, decorative charms for cellular telephones, fitted plastic films known as skins for covering and providing a scratch proof barrier or protection for portable telephones; compact disc players; personal stereos; televisions, radios, MP3 players, MP4 players, video players and audio players, all with sound elements; personal headphones for use with sound transmitting systems; personal computers, digital equipment, namely, digital audio players, digital video players, digital audio players for automobiles; digital video players for automobiles; computer hardware, computer peripherals, namely, USB sticks, USB hubs, keyboards, computer monitors, computer mouse, audio speakers for computers, computer software and downloadable computer software for use in recording, organizing, transmitting, manipulating, reviewing text, data, audio files and video files, music mixing software for use on cellphones and computers

Class 025. First use:

Clothing, namely, blouses, dresses, bottoms, coats, foul weather gear, gloves, hosiery, jackets, jeans, lingerie, mittens, neckties, neckwear, nightwear, pajamas, pants, pullovers, rainwear, robes, scarves, shirts, shorts, skirts, skorts, socks, sweatshirts, sweaters, swimwear, T-shirts, track suits, undergarments, vests, polo shirts, sweat pants, jerseys, belts; footwear; headgear, namely, caps, hats, visors, skullcaps, beanies

Class 035. First use:

Retail store services and online retail store services in the field of consumer electronics, clothing, footwear and headgear

Class 038. First use:

Providing online bulletin boards in the fields of media, music, video, film, book and television for the transmission of messages among users; streaming of video content via a global computer network; streaming of audio content via a global computer network

Class 041. First use:

Provision of live entertainment, namely, live musical performances by musical bands and DJs; providing non-downloadable pre-recorded entertainment, namely, live musical performances by musical bands and DJs; live musical

	performances by musical bands and DJs; entertainment services, namely, non-downloadable ringtones, pre-recorded music, video and graphics to mobile communications devices via a global computer network and wireless network; music studios, including sound recording studios; publishing services in the nature of music publishing; musical entertainment in the nature of live visual and audio performances by musical groups and DJs; conducting entertainment exhibitions concerning music; providing online music services, namely, providing non-downloadable pre-recorded music via global computer network; entertainment services, namely, providing a website featuring musical performances, musical videos, related film clips, photographs, and other multimedia materials in the fields of music and entertainment, providing online reviews in the fields of music and entertainment, entertainment services, namely, providing pre-recorded music, information in the field of music, and commentary and articles about music, all online via a global computer network, providing pod casts in the field of music, providing web casts in the field of music and other multimedia materials, featuring music and entertainment
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U.S. Application No.	85087126	Application Date	07/17/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	MYBEATS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 041. First use:</p> <p>Non-downloadable ringtones, pre-recorded music, video and graphics to mobile communications devices via a global computer network and wireless network; music studios, namely, sound recording studios; publishing services in the nature of music publishing; musical entertainment in the nature of live visual and audio performances by musical groups and DJs; exhibitions concerning music; entertainment services, namely, providing a website featuring non-downloadable musical performances, musical videos, related film clips, photographs, and other multimedia materials in the field of music and entertainment; providing online reviews of music in the fields of music and entertainment; providing non-downloadable pre-recorded music, information in the field of music, and commentary and articles about music, all online via a global computer network; providing podcasts in the field of music, providing webcasts in the field of music and other multimedia materials in the field of music and entertainment</p>		

U.S. Registration No.	3921110	Application Date	06/11/2009
Registration Date	02/15/2011	Foreign Priority Date	NONE
Word Mark	HEARTBEATS		

Design Mark	HEARTBEATS
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2009/09/16 First Use In Commerce: 2009/09/16 personal headphones for use with sound transmitting systems; headphones

U.S. Registration No.	3862142	Application Date	06/03/2008
Registration Date	10/12/2010	Foreign Priority Date	NONE
Word Mark	BEATS		
Design Mark	BEATS		
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2008/07/01 First Use In Commerce: 2008/07/01 headphones		

U.S. Registration No.	4035777	Application Date	06/03/2008
Registration Date	10/04/2011	Foreign Priority Date	NONE
Word Mark	BEATS		

Design Mark	<h1>BEATS</h1>
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2010/09/07 First Use In Commerce: 2010/09/07 Audio speakers; loudspeakers

Attachments	77896218#TMSN.jpeg (1 page)(bytes) 77786522#TMSN.jpeg (1 page)(bytes) 77786492#TMSN.jpeg (1 page)(bytes) 77837774#TMSN.jpeg (1 page)(bytes) 85087126#TMSN.jpeg (1 page)(bytes) LuvBeatsNoticeofOpposition.pdf (6 pages)(16971 bytes) 77980836#TMSN.jpeg (1 page)(bytes) 77980257#TMSN.jpeg (1 page)(bytes) 77982434#TMSN.jpeg (1 page)(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	/Michael G. Kelber/
Name	Michael G. Kelber
Date	05/15/2012

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

In the Matter of:
Application Serial No. 85/398,258
Published in the *Official Gazette*
August 15, 2011

BEATS ELECTRONICS, LLC,)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
LUVBEATS, LLC)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Beats Electronics, LLC (“Opposer”), a limited liability company organized under the laws of Delaware doing business at 1601 Cloverfield Blvd., Suite 5000N, Santa Monica, California 90404, believes that it will be damaged by the registration of the mark LUVBEATS in International Classes 38 and 41 as shown in Application Serial No. 85/398,258, filed by Applicant, Luvbeats, LLC (“Applicant”) and hereby opposes the same and requests that registration to Applicant be refused.

As grounds for its opposition, Opposer alleges that:

1. Applicant seeks to register the mark LUVBEATS in International Class 38 for use in connection with “delivery of messages by electronic transmission; delivery of personalized greeting cards to others via electronic mail; message sending and receiving services; message sending via a website; transmission of messages over electronic media”, and in International Class 41 for use in connection with the “provision of information relating to music of music”

(hereinafter the “LUVBEATS Mark”). The Application is an intent-to-use based application filed under 15 U.S.C. § 1051(1)(b).

2. Opposer has obtained the necessary extensions of time in which to file this Notice of Opposition. Accordingly, this Notice of Opposition is being timely submitted.

3. Opposer is the owner of a valid and subsisting U.S. Registration No. 3,921,110 for the mark HEARTBEATS for “personal headphones for use with sound transmitting systems; headphones;” U.S. Registration No. 3,862,142 for the mark BEATS for “headphones,” and U.S. Registration No. 4,035,777 for the mark BEATS for “audio speakers; loudspeakers.”

4. Opposer is the owner of the applications listed below, which were all filed prior to Applicant’s August 15, 2011 filing date for the LUVBEATS Mark, and all cover services that are either identical or closely related to Applicant’s services.

Mark	Application Serial No.	Filing Date	Representative Goods and Services
IBEATS	77/896,218	December 22, 2009	IC 41 – Provision of live entertainment and recorded entertainment, namely, live musical performances by musical bands and DJs; music studios, namely, sound recording studios; publishing services in the nature of music publishing; entertainment services, namely, providing a website featuring musical performances, musical videos, related film clips, photographs, information in the field of music, and commentary and articles about music.
BEATS	77/786,522	July 21, 2009	IC 41 – Provision of live entertainment and recorded entertainment, namely, live musical performances by musical bands and DJs; music studios, namely, sound recording studios; publishing

			services in the nature of music publishing; entertainment services, namely, providing a website featuring musical performances, musical videos, related film clips, photographs, information in the field of music, and commentary and articles about music.
BEATS BY DR. DRE	77/786,492	July 21, 2009	IC 41 – Provision of live entertainment and recorded entertainment, namely, live musical performances by musical bands and DJs; music studios, namely, sound recording studios; publishing services in the nature of music publishing; entertainment services, namely, providing a website featuring musical performances, musical videos, related film clips, photographs, information in the field of music, and commentary and articles about music.
CLUB BEATS	77/837,774	September 29, 2009	IC 41 – Provision of live entertainment and recorded entertainment, namely, live musical performances by musical bands and DJs; music studios, namely, sound recording studios; publishing services in the nature of music publishing; entertainment services, namely, providing a website featuring musical performances, musical videos, related film clips, photographs, information in the field of music, and commentary and articles about music.
MYBEATS	85/087,126	July 17, 2010	IC 41 – Providing online reviews of music in the fields of music and entertainment, providing podcasts in the field music, providing webcasts in the field of music and other multimedia materials in the field of music and entertainment.

5. Applicant's advertising and use of the LUVBEATS Mark will inevitably reach the same consumers that Opposer targets with the use of its BEATS marks.

6. Consumers, upon seeing the LUVBEATS Mark used in connection with Applicant's services, are likely to mistakenly believe that such mark, and the services provided in connection with it, originated or are connected with, sponsored by, associated with, or licensed or approved by Opposer. Thus, the registration and use by Applicant of the LUVBEATS Mark in connection with the recited services is likely to cause confusion, mistake, or deception in violation of 15 U.S.C. § 1052(d).

7. In light of Opposer's widespread advertising, promotion and use of its BEATS marks, Applicant's selection of a term confusingly similar to Opposer's pre-existing family of BEATS marks suggests that Applicant intends to trade off the goodwill and recognition associated with Opposer's BEATS family of marks.

8. If a registration is issued to Applicant for the LUVBEATS Mark, the confusion with Opposer's BEATS marks would result in damage and injury to Opposer and to the public.

WHEREFORE, Beats Electronics, LLC requests that the registration sought by Applicant be refused and that this Notice of Opposition be sustained.

Beats Electronics, LLC requests that the requisite filing fee of \$300.00 be charged to the deposit account of Neal, Gerber & Eisenberg LLP, Account No. 502261.

Respectfully submitted,

Dated: May 15, 2012

By: /Michael G. Kelber/
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CERTIFICATE OF TRANSMISSION

I, Kristi J. Spicer, hereby certify that the foregoing *Notice of Opposition* is being electronically transmitted via the Electronic System for Trademark Trials and Appeals (“ESTTA”) at <http://estta.uspto.gov/> on the date noted below:

Date: May 15, 2012

By: /Kristi J. Spicer/
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CERTIFICATE OF SERVICE

I, Kristi J. Spicer, an attorney, state that I served a true and correct copy of Opposer’s *Notice of Opposition* upon Applicant’s counsel:

Marilyn Feuer
SHELDRIK & CO., PLLC
250 Park Avenue
Seventh Floor
New York, NY 10177-0799

via First Class U.S. Mail on this 15th day of May, 2012.

/Kristi J. Spicer/
Kristi J. Spicer