

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

TTAB

In re Application 85/419,466
Filed: Sept. 9, 2011
Mark: Design Only
Applicant: Vovi Friendship
Association
Class: 25
Published: Feb. 28, 2012

Vo-Vi Multimedia Communication)
Opposer)

vs)

Vovi Friendship Association)
Applicant)

) Opposition No. _____

06/28/2012 SWILSON1 00000002 85419466

01 FC:6402

300.00 OP

NOTICE OF OPPOSITION

Vo-Vi Multimedia Communication, a California Public Benefit Corporation with a business address at 98 Flintwell Way, San Jose, CA 95138 (hereinafter "Opposer"), believes it will be damaged by registration of the design mark of Application No. 85/419,466 and hereby opposes registration.

The grounds for opposition are as follows:



06-27-2012

1. Opposer, Vo-Vi Multimedia Communication, is a California Public Benefit Corporation with a business address at 98 Flintwell Way, San Jose, CA 95138.
2. Opposer owns the following U.S. Trademark registration: Registration No. 4,073,297 for a circles design mark for use in connection with " audio and video recordings featuring conferences, seminars, lectures, classes, information sessions, teaching techniques and instructions, and concerts, all in the field of spirituality and meditation in class 9; printed publications, namely booklets, magazines, newsletters, newspapers, periodicals, posters, pamphlets, transcriptions of lectures, and printed teaching materials, all in the field of spirituality and meditation in class 16; instruction in the field of spirituality and meditation in class 41; and providing a website featuring educational information in the field of spirituality and meditation in class 45.
3. A copy of Registration No. 4,073,297 printed from the Patent Office TARR electronic database showing status and title is attached.
4. Opposer's registration is valid and subsisting on the Principal Register and is *prima facie* evidence of the validity of the registered mark, of the registration of the mark, of Opposer's ownership and exclusive right to use the mark in commerce in connection with the goods and services specified in the registration,

and the registration provides constructive notice of Opposer's ownership in accordance with Sections 7(b) and 22 of the Federal Trademark Act as amended.

5. Opposer and its predecessor for many years have used and Opposer is using the mark of Registration No. 4,073,297 in commerce in connection with the products and services identified in Opposer's Registration No. 4,073,297.

6. Opposer's predecessor for many years used the mark shown in Registration No. 4,073,297 in the United States on or in connection with shirts and patches distributed to others and Opposer intends to resume such use.

7. On September 9, 2011, VoVi Friendship Association filed Application Serial No. 85/419,466 seeking to register a design mark in color in International Class 25 for use in connection with polo shirts based on use since February 1, 1999 in accordance with Section 1(a) of the Federal Trademark Act and the application was published for opposition on February 28, 2012.

8. Any present use by Applicant of the mark of Application Serial No. 85/419,466 for polo shirts is without Opposer's authorization or agreement.

9. Applicant's claim of ownership of the mark of Application Serial No. 85/419,466 for polo shirts is without agreement of Opposer or its predecessor.

10. Upon information and belief, Applicant has not used the mark shown in the drawing of Application Serial No. 85/419,466 in connection with polo shirts, the

mark in the drawing being materially different in color and appearance from the mark pictured in the specimen of use in the application.

11. Applicant's mark of Application Serial No. 85/419,466 is essentially identical to Opposer's mark in Opposers's Registration No. 4,073,297, except that Applicant's mark is in color while Registrant's mark is in black and white not limited to specific colors. Registrant displays its mark in connection with its goods and services in substantially the same colors and design as Applicant's mark shown in the drawing of Application Serial No. 85/419,466. Applicant's mark and Opposer's mark are virtually identical and create the same overall commercial impression.

12. Upon information and belief, Applicant carries on business in the field of spirituality and meditation, the same field as Registrant.

13. Applicant's polo shirts are closely related to Opposer's products and services associated with Opposer's mark.

14. Applicant's polo shirts and Opposer's products and services associated with Opposer's mark are likely to be provided to the same persons, purchasers and users or are likely to be provided to the same or overlapping classes of purchasers and users.

15. In view of similarity between Applicant's mark and Opposer's mark and considering the closely related nature of the services and goods associated with the marks, purchasers and users, as well as others, are likely to believe mistakenly that Applicant's polo shirts are produced, sponsored, endorsed or approved by Opposer, or are in some other way affiliated, connected, or associated with Opposer, to Opposer's detriment and damage.

16. In view of similarity between Applicant's mark and Opposer's mark and considering the closely related nature of the services and goods associated with the marks, purchasers and users, as well as others, are likely to believe mistakenly that Applicant's polo shirts and Opposer's products and services have the same source or sponsorship, to Opposer's detriment and damage.

17. Registration of Applicant's mark should be refused because the mark so closely resembles Opposer's circles design mark as to be likely when applied to Applicant's polo shirts to cause confusion, to cause mistake or to deceive within the meaning of Section 2(d) of the Federal Trademark Act as amended, thus damaging Opposer, Opposer's goodwill, and its prior and exclusive rights in its circles design mark.

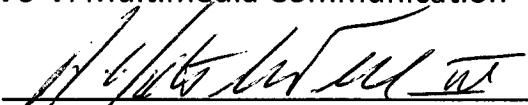
WHEREFORE, Opposer requests that the opposition be sustained and registration of Applicant's mark be denied.

The required filing fee for this Notice of Opposition is submitted herewith.

Vo-Vi Multimedia Communication

Signed on June 27, 2012

By:


A. Yates Dowell, III
Dowell & Dowell, P.C.

Suite 220

103 Oronoco St.

Alexandria, Virginia 22314

(703) 739-9888

(703) 739-9889 (fax)

Attorney for Opposer

Certificate of Service

The undersigned attorney for Opposer hereby certifies that a true and correct copy of the foregoing Notice of Opposition was served on June 27, 2012 by first class mail sent to the following correspondence address of record for Applicant:

Phu Do Nguyen
Do Phu & Anh Tuan, PLC
10517 Garden Grove Blvd.
Garden Grove, CA 92843-1128.


A. Yates Dowell, III

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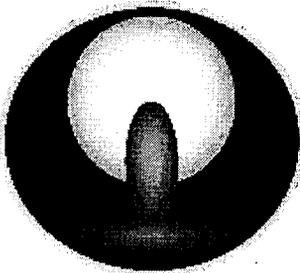
Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2012-06-27 11:26:13 ET

Serial Number: 85258349 Assignment Information Trademark Document Retrieval

Registration Number: 4073297

Mark



Standard Character claim: No

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

Date of Status: 2011-12-20

Filing Date: 2011-03-04

Transformed into a National Application: No

Registration Date: 2011-12-20

Register: Principal

Law Office Assigned: LAW OFFICE 103

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: 2011-12-20

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

1. Vo-Vi Multimedia Communication

Address:

Vo-Vi Multimedia Communication
98 Flintwell Way
San Jose, CA 951381615
United States

Legal Entity Type: public benefit corporation
State or Country Where Organized: California

GOODS AND/OR SERVICES

International Class: 009

Class Status: Active

audio and video recordings featuring conferences, seminars, lectures, classes, information sessions, teaching techniques and instructions, and concerts, all in the field of spirituality and meditation

Basis: 1(a)

First Use Date: 1997-00-00

First Use in Commerce Date: 1997-00-00

International Class: 016

Class Status: Active

printed publications, namely booklets, magazines, newsletters, newspapers, periodicals, posters, pamphlets, transcriptions of lectures, and printed teaching materials, all in the field of spirituality and meditation

Basis: 1(a)

First Use Date: 1997-00-00

First Use in Commerce Date: 1997-00-00

International Class: 041

Class Status: Active

instruction in the field of spirituality and meditation

Basis: 1(a)

First Use Date: 1998-07-07

First Use in Commerce Date: 1998-07-07

International Class: 045

Class Status: Active

providing a website featuring educational information in the field of spirituality and meditation

Basis: 1(a)

First Use Date: 1998-07-07

First Use in Commerce Date: 1998-07-07

ADDITIONAL INFORMATION

Color(s) Claimed: Color is not claimed as a feature of the mark.

Description of Mark: The mark consists of a large rimmed circle on which are superimposed two smaller interconnected ellipses and a circle, all the foregoing shaded.

Design Search Code(s):**26.01.20** - Circles within a circle**26.01.21** - Circles that are totally or partially shaded.**26.03.13** - Ovals, exactly two (not concentric); Two ovals**26.03.16** - Ovals touching or intersecting

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

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

2011-12-20 - Registered - Principal Register

2011-10-04 - Official Gazette Publication Confirmation E-Mailed

2011-10-04 - Official Gazette Publication Confirmation E-Mailed

2011-10-04 - Published for opposition

2011-08-27 - Approved for Pub - Principal Register (Initial exam)

2011-08-25 - Teas/Email Correspondence Entered

2011-08-25 - Communication received from applicant

2011-08-25 - TEAS Response to Office Action Received

2011-08-12 - Notification Of Non-Final Action E-Mailed

2011-08-12 - Non-final action e-mailed

2011-08-12 - Non-Final Action Written

2011-07-20 - Previous Allowance Count Withdrawn

2011-07-01 - Withdrawn From Pub - Og Review Query

2011-06-13 - Approved for Pub - Principal Register (Initial exam)

2011-06-05 - Assigned To Examiner

2011-03-10 - Notice Of Design Search Code Mailed

2011-03-09 - New Application Office Supplied Data Entered In Tram

2011-03-08 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

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Correspondent

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DESCRIPTION OF ARTICLES OR SERVICES TO BE FURNISHED

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NOTICE OF OPPOSITION

Mark: Design

U.S. App. No. 85/419,466

Applicant: Vovi Friendship Assoc.

CHECK NO. 23301 FOR \$300.00 IS ATTACHED TO COVER THE GOVERNMENT FILING FEE FOR A NOTICE OF OPPOSITION. IF OUR FIRM'S CHECK PAYING THE FILING FEE IS MISSING, THIS WILL AUTHORIZE THE U.S. PATENT AND TRADEMARK OFFICE TO DEDUCT THE FILING FEE FROM OUR DEPOSIT ACCOUNT.

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A. Yates Dowell, III
A. Yates Dowell, III, Esq. (Reg. No. 28,070)

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