

ESTTA Tracking number: **ESTTA481330**

Filing date: **07/02/2012**

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	ATLANTIC RECORDING CORPORATION
Granted to Date of previous extension	07/01/2012
Address	75 Rockefeller Plaza New York, NY 10019 UNITED STATES

Attorney information	Andrew Gerber Kilpatrick Townsend & Stockton LLP 1114 Avenue of the Americas New York, NY 10036 UNITED STATES agerber@ktslaw.com, jvogel@ktslaw.com, agarcia@ktslaw.com, gnahit@ktslaw.com, ipefiling@ktslaw.com, ahsiao@ktslaw.com, jtomlinson@ktslaw.com Phone:212 775 8700
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**Applicant Information**

Application No	85043325	Publication date	01/03/2012
Opposition Filing Date	07/02/2012	Opposition Period Ends	07/01/2012
Applicant	NDOORS Corporation Garak-dong 8th Floor, 79-3 Daedong Building Songpa-gu, Seoul, KOREA, REPUBLIC OF		

**Goods/Services Affected by Opposition**

Class 009. All goods and services in the class are opposed, namely: Cases for mobile phones; exposed cinematographic film; video disks and video tapes with recorded animated cartoons; electronic apparatus, namely, optical disc drives, optical disk readers; laptop computers; CD-ROM writers; CD-ROM drives; personal digital assistants/PDAs; electronic media carrying music; computer peripherals, namely, mouse pads, keyboards, joy sticks, mice
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**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. Registration No.	3727091	Application Date	02/07/2008
Registration Date	12/22/2009	Foreign Priority	NONE

		Date	
Word Mark	ATLANTIC		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 1949/00/00 First Use In Commerce: 1949/00/00 Musical sound recordings; downloadable musical sound recordings; downloadable ring tones via the internet and wireless devices; downloadable multimedia files containing artwork, text, audio, video and Internet web links relating to music and artists; downloadable electronic publications in the nature of newsletters in the field of music and musical artists</p> <p>Class 035. First use: First Use: 2003/00/00 First Use In Commerce: 2003/00/00 Online retail store services featuring musical sound recordings, downloadable musical sound recordings and downloadable ring tones</p> <p>Class 041. First use: First Use: 2003/00/00 First Use In Commerce: 2003/00/00 Entertainment services, namely, providing non-downloadable prerecorded music and videos featuring music and entertainment concerning music, musicians, and comedy on-line via a global computer network; entertainment services, namely, providing non-downloadable graphics presented to wireless mobile communication devices via a global computer network and wireless networks; providing online information in the field of music and musical artists via the internet; providing a web site featuring musical sound recordings, musical videos, photographs, artwork, and other multimedia materials; providing non-downloadable multimedia files containing artwork, text, audio, video and Internet web links relating to music and artists; mobile media and entertainment services in the nature of content preparation; providing newsletters in the field of music and musical artists via e-mail; production and distribution of digital online programs featuring audio and visual content and music and musical based entertainment; providing on-line publications in the nature of newsletters in the field of music and musical artists; providing links to web sites of others featuring music and musical artists</p>		
U.S. Registration No.	1116322	Application Date	12/27/1976
Registration Date	04/10/1979	Foreign Priority Date	NONE
Word Mark	A ATLANTIC		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 1949/00/00 First Use In Commerce: 1949/00/00 PHONOGRAPH RECORDS [AND SOUND TAPES]

U.S. Registration No.	1535113	Application Date	08/23/1988
Registration Date	04/18/1989	Foreign Priority Date	NONE
Word Mark	ATLANTIC		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1949/12/31 First Use In Commerce: 1949/12/31 PRE-RECORDED RECORDS AND PRE-RECORDED[ AUDIO ]AND AUDIO VISUAL TAPES, [CASSETTES] AND DISCS FOR ENTERTAINMENT PURPOSES		

Attachments	77391088#TMSN.jpeg ( 1 page )( bytes ) 73110680#TMSN.gif ( 1 page )( bytes ) NDoors Opp.pdf ( 13 pages )(116557 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	/AG/
Name	Andrew Gerber
Date	07/02/2012

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

In the Matter of Serial No. 85/043,325  
Mark: ATLANTICA  
Filing Date: May 20, 2010  
Publication Date: January 3, 2012  
Our Reference No.: 830788

<p>ATLANTIC RECORDING CORP.,</p> <p style="text-align:center">Opposer,</p> <p style="text-align:center">v.</p> <p>NDOORS CORP.</p> <p style="text-align:center">Applicant.</p>	<p>Opposition No. _____</p>
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**NOTICE OF OPPOSITION**

Opposer is Atlantic Recording Corporation, a Delaware corporation with an address at 75 Rockefeller Plaza, New York, NY 10019 (“Opposer”). Opposer believes that it will be damaged by the registration of the mark ATLANTICA in Application Serial No. 85/043,325 (the “Application”) and hereby opposes the same pursuant to 15 U.S.C. § 1063.

As grounds for its opposition, Opposer alleges as follows:

1. Opposer and its predecessors in interest have been using the ATLANTIC word mark and various ATLANTIC design marks (collectively, the ATLANTIC Marks) for more than 60 years in connection with musical sound recordings and music-related goods and services in the United States and abroad. Opposer has been using the ATLANTIC Marks continuously in connection with music-related and entertainment-related goods and services for decades.

2. Opposer has expended substantial time, money, and effort in promoting the goods offered under the ATLANTIC Marks, generating sales in the millions of dollars. Based on

Opposer's extensive use and promotion of the ATLANTIC Marks, the ATLANTIC Marks have acquired a highly favorable reputation and inestimable goodwill, and have come to be immediately identified with Opposer.

3. In addition to its common law rights, Opposer is the owner of the following U.S. trademark registrations for the ATLANTIC Marks in various forms:

Mark	Reg. No.	Goods/Services	Filing Date	Reg. Date
	3,727,091	<p>IC 009: Musical sound recordings; downloadable musical sound recordings; downloadable ring tones via the internet and wireless devices; downloadable multimedia files containing artwork, text, audio, video and Internet web links relating to music and artists; downloadable electronic publications in the nature of newsletters in the field of music and musical artists.</p> <p>IC 035: Online retail store services featuring musical sound recordings, downloadable musical sound recordings and downloadable ring tones.</p> <p>IC 041: Entertainment services, namely, providing non-downloadable prerecorded music and videos featuring music and entertainment concerning music, musicians, and comedy on-line via a global computer network; entertainment services, namely, providing non-downloadable graphics presented to wireless mobile communication devices via a global computer network and wireless networks; providing online information in the field of</p>	February 7, 2008	Dec. 22, 2009

		music and musical artists via the internet; providing a web site featuring musical sound recordings, musical videos, photographs, artwork, and other multimedia materials; providing non-downloadable multimedia files containing artwork, text, audio, video and Internet web links relating to music and artists; mobile media and entertainment services in the nature of content preparation; providing newsletters in the field of music and musical artists via e-mail; production and distribution of digital online programs featuring audio and visual content and music and musical based entertainment; providing on-line publications in the nature of newsletters in the field of music and musical artists; providing links to web sites of others featuring music and musical artists.		
	1,116,322	IC 009: PHONOGRAPH RECORDS [AND SOUND TAPES]	Dec. 27, 1976	April 10, 1979
<b>ATLANTIC</b>	1,535,113	IC 009: PRE-RECORDED RECORDS AND PRE-RECORDED[ AUDIO ]AND AUDIO VISUAL TAPES, [CASSETTES] AND DISCS FOR ENTERTAINMENT PURPOSES	August 23, 1988	April 18, 1989

The above-identified registrations are valid and in full force and effect, and thereby constitute *prima facie* evidence of Opposer's exclusive right to use the ATLANTIC Marks in commerce in connection with the goods and services specified in the registrations. Registration Nos. 1,116,322 and 1,535,113 are also incontestable under 15 U.S.C. Section 1065. True and correct

copies of the U.S. Patent and Trademark database printouts for the foregoing registrations are attached as Exhibit A hereto.

4. In addition to the goods and services listed above, Opposer has used the ATLANTIC Marks in connection with other music-related goods, including websites, artwork, digital media storage, and clothing.

5. Notwithstanding Opposer’s prior rights in the ATLANTIC Marks in connection with music-related goods and services, the NDoors Corporation, with an address at Garak-dong 8th Floor, 79-3 Daedong Building Songpa-gu, Seoul, Korea (the “Applicant”), filed an intent-to-use Application on May 20, 2010, in the U.S. Patent and Trademark Office for registration of the mark ATLANTICA for a very wide range of goods services in several classes, listed below:

<b>Mark</b>	<b>Goods/Services</b>
<b>ATLANTICA</b>	<p>IC 009: Cases for mobile phones; exposed cinematographic film; video disks and video tapes with recorded animated cartoons; electronic apparatus, namely, optical disc drives, optical disk readers; laptop computers; CD-ROM writers; CD-ROM drives; personal digital assistants/PDAs; electronic media carrying music; computer peripherals, namely, mouse pads, keyboards, joy sticks, mice</p> <p>IC 016: Fountain pens; scratch papers; envelopes for stationery use; ball point pens; glue for stationery purposes; office requisites except furniture, namely, pencil sharpeners and desk blotters; sketch books; albums for photographs; pencils; adhesive note pads; envelope papers; plastic sheets laid under writing; pencil cases; color pens; passport holders; place mats of paper; coasters of paper; table linen of paper; babies' diapers of paper and cellulose disposable; illustrated postcards; calendars; postcards; posters of paper; graphic printed matters, namely, photographs; geographical maps; greeting cards; business cards; printed handwriting specimens for copying; printed passenger non magnetic subway tickets; telephone calling cards not magnetically coded; credit cards not magnetically coded; printed plans; printed calendars; printed forms; printed timetables; entry tickets; atlases; maps; invitation cards; printed greeting cards; sports trading cards; printed tickets; posters; drawings; graphic prints and representations; pictures; aquarelles; engravings; papier mâché sculptures; blueprints; bromide printing papers; modeling and compound materials for use by children; comic books; paper hand-towels and face towels of paper;</p>

	<p>towels of paper; handkerchiefs of paper; tissues of paper; toilet paper.</p> <p>IC 028: Toy dolls; rubber character toys and rubber inflatable thin toys; clockwork metal toys; toys, namely, toy horse and toy chair made of rattan; mascot dolls; toy building blocks; puppets; toy watches; musical toys; toy cap pistols; toy pistols; toy vehicles; paper toys, namely, paper airplanes; face masks for festival; plush toys; plastic toys, namely, plastic toy hoops; remote controlled amusement apparatus except amusement apparatus adapted for use with television receivers, namely, remote control toy cars; board games; backgammon games; games other than those adapted for use with an external display screen or monitor, namely, action-type target games and action skill games; sports equipment, namely, roller skates, ice skates and sporting balls; toys for domestic pets; ornaments for Christmas trees except illumination articles and confectionery.</p> <p>IC 041: Providing of recreation facilities; providing amusement arcade services; amusement parks; providing facilities for recreation activities, namely, playrooms; providing leisure facilities, namely, swimming pools; providing recreation facilities; providing on-line recreation information relating to sports facilities; rental of sports equipment excluding vehicles; recreational services in the nature of children's playgrounds; rental of recreation facilities; rental of DVD titles, featuring film and television programs; video disc productions for others; publication of text books; publication of books; publication of magazines; publication of periodicals; organization of exhibitions for cultural or educational purposes; production of television and radio entertainment programs.</p>
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6. The Application was filed on a Section 1(b) basis on May 20, 2010. An initial Office Action was issued on August 4, 2010 and Applicant amended the Application. A second Office Action was issued on April 15, 2011 for overbroad wording of goods and services and Applicant against amended the Application. The Application was subsequently published in the *Trademark Official Gazette* on January 3, 2012. On January 27, 2012, Opposer timely filed a request for a ninety (90) day extension of time to oppose the Application upon consent from Applicant to discuss potential settlement, which was granted the same day by the Trademark Trial and Appeal Board through and until May 2, 2012. On May 2, 2012, Opposer timely filed a request

for an additional sixty (60) day extension of time to oppose the Application with Applicant's consent, which was granted the same day by the Trademark Trial and Appeal Board through and until July 1, 2012 (which fell on a Sunday, thereby extending the time for opposition until the following day, July 2, 2011).

7. Applicant's ATLANTICA mark is nearly identical in sound and spelling as the ATLANTIC word mark, with only the addition of the letter "a" distinguishing the word marks.

8. Among the goods listed for Class 9 of the Application, Applicant has included electronic apparatus and electronic media carrying music. Such goods are highly related if not identical to Opposer's music-related goods and services.

9. Opposer's goods and services under the ATLANTIC Marks and Applicant's goods in Class 9 of the Application will be advertised and sold to the same or similar consumers and in similar channels of trade.

10. Applicant's use of the ATLANTICA word mark for "electronic apparatus" and "electronic media carrying music" in Class 9 is likely to cause consumers to be confused, to be deceived, and to assume erroneously that Applicant's goods are those of Opposer, or that Applicant is in some way connected with, sponsored by, or affiliated with Opposer, with consequent injury to Opposer and the public. Consumers viewing ATLANTICA-branded electronic apparatus and electronic media carrying music will undoubtedly believe that such goods are endorsed, authorized, or licensed by the well-known record label ATLANTIC.

11. There is no issue as to priority. Opposer first began using its ATLANTIC Marks in commerce as early as 1949. All registration dates for the ATLANTIC Marks pre-date the May 20, 2010 filing date of Applicant's intent-to-use Application.

12. If Applicant is granted the registration herein opposed, it would thereby obtain a *prima facie* exclusive right to the use of the ATLANTICA word mark for electronic apparatus and electronic media carrying music in Class 9. Such registration would be a source of damage and injury to Opposer.

WHEREFORE, Opposer requests that that registration of Application Serial No. 85/043,325 be amended to strike all Class 9 goods and services in their entirety; or, in the alternative, that the Class 9 goods and services in the Application be appropriately narrowed so as to avoid any confusion with the ATLANTIC Marks.

The opposition fee in the amount of \$300.00 for a notice of opposition in one class is filed herewith. If for any reason this amount is insufficient, it is requested that Kilpatrick Townsend & Stockton's Deposit Account No. 11-0860 be charged with any deficiency. This paper is filed electronically.

Dated: July 2, 2012

Respectfully submitted,

**KILPATRICK TOWNSEND &  
STOCKTON LLP**

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*Attorneys for Opposer Atlantic Recording  
Corporation*

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

In the Matter of Serial No. 85/43,325  
Mark: ATLANTICA  
Filing Date: May 20, 2010  
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<p>ATLANTIC RECORDING CORP.,</p> <p style="text-align:center">Opposer,</p> <p style="text-align:center">v.</p> <p>NDOORS CORP.</p> <p style="text-align:center">Applicant.</p>	<p>Opposition No. _____</p>
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **NOTICE OF OPPOSITION** has been served on the correspondent of record for NDoors Corporation by mailing said copy on July 2, 2012, via First Class Mail, postage prepaid, and addressed as follows:

BRENT E. ROUTMAN  
MERCHANT & GOULD P.C.  
PO BOX 2910  
MINNEAPOLIS, MN 55402-0910

\_\_\_\_\_/s/ Andrew Gerber

Andrew Gerber  
*Attorney for Opposer*

# EXHIBIT A



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<b>Word Mark</b>	A ATLANTIC
<b>Goods and Services</b>	IC 009. US 021 023 026 036 038. G & S: PHONOGRAPH RECORDS [AND SOUND TAPES]. FIRST USE: 19490000. FIRST USE IN COMMERCE: 19490000
<b>Mark Drawing Code</b>	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
<b>Design Search Code</b>	26.01.21 - Circles that are totally or partially shaded. 26.01.26 - Coils; Spirals; Swirls 26.11.10 - Rectangles divided once into two sections
<b>Serial Number</b>	73110680
<b>Filing Date</b>	December 27, 1976
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Registration Number</b>	1116322
<b>Registration Date</b>	April 10, 1979
<b>Owner</b>	(REGISTRANT) ATLANTIC RECORDING CORPORATION CORPORATION DELAWARE 1290 AVENUE OF THE AMERICAS NEW YORK NEW YORK 10104
<b>Assignment Recorded</b>	ASSIGNMENT RECORDED
<b>Attorney of Record</b>	Jason M. Vogel
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Affidavit Text</b>	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20090425.

**Renewal** 1ST RENEWAL 20090425  
**Live/Dead Indicator** LIVE

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<b>Word Mark</b>	ATLANTIC
<b>Goods and Services</b>	IC 009. US 021 023 026 036 038. G & S: PRE-RECORDED RECORDS AND PRE-RECORDED [ AUDIO ]AND AUDIO VISUAL TAPES, [CASSETTES] AND DISCS FOR ENTERTAINMENT PURPOSES. FIRST USE: 19491231. FIRST USE IN COMMERCE: 19491231
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	73747919
<b>Filing Date</b>	August 23, 1988
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	January 24, 1989
<b>Registration Number</b>	<b>1535113</b>
<b>Registration Date</b>	April 18, 1989
<b>Owner</b>	(REGISTRANT) ATLANTIC RECORDING CORPORATION CORPORATION DELAWARE 1290 AVENUE OF THE AMERICAS NEW YORK NEW YORK 10104
<b>Assignment Recorded</b>	ASSIGNMENT RECORDED
<b>Attorney of Record</b>	Jason M. Vogel
<b>Prior Registrations</b>	1116322
<b>Type of Mark Register</b>	TRADEMARK PRINCIPAL
<b>Affidavit Text</b>	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20090505.
<b>Renewal</b>	1ST RENEWAL 20090505
<b>Live/Dead Indicator</b>	LIVE

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