

ESTTA Tracking number: **ESTTA512976**

Filing date: **12/26/2012**

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	Andy Ruffell
Granted to Date of previous extension	12/26/2012
Address	1155 East Twain Avenue #108-50 Las Vegas, NV 89169 UNITED STATES

Attorney information	MICHAEL B CHESAL PERETZ CHESAL & HERRMANN, P.L. 201 S BISCAYNE BLVD SUITE 1750 MIAMI, FL 33131 UNITED STATES trademarks@pch-iplaw.com Phone:305.341.3000
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### Applicant Information

Application No	79105493	Publication date	08/28/2012
Opposition Filing Date	12/26/2012	Opposition Period Ends	12/26/2012
International Registration No.	1097576	International Registration Date	05/10/2011
Applicant	Sony Computer Entertainment Europe Limited 10 Great Marlborough Street London, W1F 7LP, UNITED KINGDOM		

### Goods/Services Affected by Opposition

<p>Class 009. All goods and services in the class are opposed, namely: Computer hardware; computer software and programs for handheld computer games equipment and cellular phones; computer games software; digital music players, namely, MP3 players; mobile telephones; music, sounds, ringtones, images, games, text, signals, software, information, data and code provided by telecommunications networks, by online delivery and/or by way of the Internet and the world wide web, namely, downloadable music, sounds, ringtones, images, games, text, software, information and data via the Internet and wireless devices; downloadable electronic publications in the nature of video games and games software; wallpaper, namely, computer software in the nature of screen backgrounds, particularly for computer and video games, personal computers and mobile phones; computer software featuring musical sound and musical video recordings; digital media, namely, downloadable digital sound and video recordings featuring games for use with handheld electronic device and game consoles; blank magnetic data carriers; blank magnetic and optical data carriers; headphones; stereo headphones; in-ear headphones; loudspeakers; amplifiers; printers; cameras; video cameras; bags and cases adapted or shaped to contain any of the aforementioned goods; parts and fittings for all the aforementioned goods, namely, bags, cases, memory cards and sticks, batteries, chargers,</p>
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headpiece sets, speakers, printers

Class 038.

All goods and services in the class are opposed, namely: Providing access to web sites on the Internet; providing access to gaming, digital music and video web sites; delivery of games, digital music and/or video by electronic transmission; electronic mail services; providing wireless electronic transmission and uploading and downloading of data, music, video, games, ringtones, graphics, information and news via the Internet; streaming of video and audio material on the Internet data broadcasting services, namely, electronic transmission of voice, data and images by television and video broadcasting; broadcasting pre-recorded videos featuring music and entertainment, television programs, motion pictures, news, sports, games, cultural events, and entertainment-related programs of all kinds, via a global computer network; streaming of video material via a global computer network; subscription audio broadcasting via a global computer network; providing online chat rooms and electronic bulletin boards for transmission of messages, music, video and audio recordings among users in the field of general interest via communications networks; television, radio and Internet broadcasting

Class 041.

All goods and services in the class are opposed, namely: Providing an online computer game and online karaoke games; organizing of games; entertainment services, namely, an online activity through which users create their own music videos and recordings and live music concerts and providing prerecorded music, information in the field of music, and commentary and articles about music, all online via a global computer network; providing databases in the field of information regarding music performances; providing information in the field of music, related commentary, interactive features and articles, via the Internet and other electronic communications networks; entertainment information services and online information services in the fields of music, music videos, video in the field of musical performances, film in the field of musical performances, television in the field of musical performances, concerts, radio shows, and entertainment in the field of music; organizing music concerts, motion picture film festivals, audio and video events in the nature of music performances via the Internet

## Grounds for Opposition

Priority and likelihood of confusion

Trademark Act section 2(d)

## Mark Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	DANCESTAR		
Goods/Services	entertainment services in the nature of an award ceremony recognizing achievements in the fields of music and dance; web site featuring musical and dance performances as well as related videos, film clips, blogs and other multimedia material.		

Attachments

dancestar opposition.tiff ( 5 pages )(185127 bytes )

## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Overnight Courier on this date.

Signature	/Michael B Chesal/
Name	Michael B Chesal

Date	12/26/2012
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

ANDY RUFFELL,

Opposer,

v.

SONY COMPUTER  
ENTERTAINMENT  
EUROPE LIMITED,

Applicant/Owner.

In re Application Serial No.: 79105493

Mark: DANCESTAR

**NOTICE OF OPPOSITION**

1. Opposer, Andy Ruffell (“**Ruffell**”), an individual located at 1155 East Twain Avenue, #108-50, Las Vegas, NV 89169, believes he will be damaged by registration of the mark claimed in Application Serial No. 79105493 (the “**Contested Application**”) and accordingly hereby opposes the Contested Application pursuant to Trademark Act Section 13, 15 U.S.C. § 1063, and alleges:

**Introduction**

2. This Notice of Opposition is based upon Opposer’s priority of rights in the mark DANCESTAR, the identical mark in the Contested Application. Based upon such priority, the Contested Application should be refused.

**Opposer’s Prior Rights**

3. In or about March 2000, Opposer (through his predecessor-in-interest) began using the mark DANCESTAR to identify, among other things, entertainment services in the nature of an award ceremony recognizing achievements in the fields of music and dance. DANCESTAR

award ceremonies televised between 2000 and 2004 in the United States and Europe have been described as “the largest televised electronic music and clubbing lifestyle event in history.”<sup>1</sup>

4. Since at least as early as January 2000, Opposer (through his predecessor-in-interest) also began using the mark DANCESTAR to identify the web site located at [www.dancestar.com](http://www.dancestar.com), which has continuously featured musical and dance performances as well as related videos, film clips, blogs and other multimedia material.

5. As a result of the foregoing use of the DANCESTAR mark, Opposer has established significant goodwill in the mark and it has come to be exclusively associated with Opposer.

#### **The Contested Application**

6. Upon information and belief, Applicant, Sony Computer Entertainment Europe Limited (“**Applicant**”) is a United Kingdom Private Limited Company with its principal place of business located at 10 Great Marlborough Street London, W1F 7LP, United Kingdom.

7. Through the Contested Application, Applicant is seeking registration of the identical DANCESTAR mark – for the following goods and services:

“Computer hardware; computer software and programs for handheld computer games equipment and cellular phones; computer games software; digital music players, namely, MP3 players; mobile telephones; music, sounds, ringtones, images, games, text, signals, software, information, data and code provided by telecommunications networks, by online delivery and/or by way of the Internet and the world wide web, namely, downloadable music, sounds, ringtones, images, games, text, software, information and data via the Internet and wireless devices; downloadable electronic publications in the nature of video games and games software; wallpaper, namely, computer software in the nature of screen backgrounds, particularly for computer and video games, personal computers and mobile phones; computer software featuring musical sound and musical video recordings; digital media, namely, downloadable digital sound and video recordings featuring games for use with handheld electronic device and game consoles; blank magnetic data carriers; blank magnetic and optical data carriers; headphones; stereo headphones; in-ear headphones; loudspeakers; amplifiers; printers; cameras; video cameras; bags and cases adapted or shaped to contain any

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<sup>1</sup> Though the last televised DANCESTAR award ceremony took place in 2004, Opposer still enjoys the benefit of the residual goodwill that it generated from those events. Moreover, Opposer has always had the intent to resume use of the DANCESTAR mark for those services.

of the aforementioned goods; parts and fittings for all the aforementioned goods, namely, bags, cases, memory cards and sticks, batteries, chargers, headpiece sets, speakers, printers” in Class 9;

“Providing access to web sites on the Internet; providing access to gaming, digital music and video web sites; delivery of games, digital music and/or video by electronic transmission; electronic mail services; providing wireless electronic transmission and uploading and downloading of data, music, video, games, ringtones, graphics, information and news via the Internet; streaming of video and audio material on the Internet data broadcasting services, namely, electronic transmission of voice, data and images by television and video broadcasting; broadcasting pre-recorded videos featuring music and entertainment, television programs, motion pictures, news, sports, games, cultural events, and entertainment-related programs of all kinds, via a global computer network; streaming of video material via a global computer network; subscription audio broadcasting via a global computer network; providing online chat rooms and electronic bulletin boards for transmission of messages, music, video and audio recordings among users in the field of general interest via communications networks; television, radio and Internet broadcasting” in Class 38; and

“Providing an online computer game and online karaoke games; organizing of games; entertainment services, namely, an online activity through which users create their own music videos and recordings and live music concerts and providing prerecorded music, information in the field of music, and commentary and articles about music, all online via a global computer network; providing databases in the field of information regarding music performances; providing information in the field of music, related commentary, interactive features and articles, via the Internet and other electronic communications networks; entertainment information services and online information services in the fields of music, music videos, video in the field of musical performances, film in the field of musical performances, television in the field of musical performances, concerts, radio shows, and entertainment in the field of music; organizing music concerts, motion picture film festivals, audio and video events in the nature of music performances via the Internet” in Class 41.

8. The Contested Application was filed on May 10, 2011 under Section 66(a) (International Reg. No. 1097576) and was published for opposition on August 28, 2012.

**Opposition Based on Opposer’s Prior Rights**

9. Applicant’s rights are inferior to those of Opposer due to Opposer’s prior use of the DANCESTAR mark.

10. Since Opposer's rights are superior to those of Applicant, the Contested Application should not have been approved for publication.

**The Harm to Opposer**

11. The mark in the Contested Application is identical to Opposer's mark, and when used on or in connection with the goods and services of the Applicant, it is likely to cause confusion, or to cause mistake, or to deceive.

12. If Applicant is granted registration of DANCESTAR, Applicant would thereby obtain a prima facie exclusive right to use the DANCESTAR mark, which would be a source of damage to Opposer's trademark rights as a result of the potential likelihood of confusion between the respective marks.

**WHEREFORE**, Opposer, Andy Ruffell, respectfully requests that registration of the mark claimed in the Contested Application Serial No. 79105493 be refused and that this Opposition be sustained in favor of Opposer.

Dated: December 26, 2012

Respectfully submitted,

PERETZ CHESAL & HERRMANN, PL  
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By: /Michael B. Chesal/  
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**CERTIFICATE OF SERVICE**

I hereby certify that on December 26, 2012 a copy of the foregoing was served via Federal Express Mail, to the following:

**Attorney of Record for  
Applicant:**

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**Applicant:**

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By: /Josh E. Saltz/  
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