

ESTTA Tracking number: **ESTTA516627**

Filing date: **01/17/2013**

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	Zoom Telephonics, Inc.
Granted to Date of previous extension	01/30/2013
Address	207 South Street Boston, MA 02111 UNITED STATES

Attorney information	JOHN L DUPRE' HAMILTON BROOK SMITH & REYNOLDS PC 530 VIRGINIA ROAD, PO BOX 9133 CONCORD, MA 01742-9133 UNITED STATES john.dupre@hbsr.com, trademarks@hbsr.com Phone:978-341-0036
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**Applicant Information**

Application No	85607295	Publication date	10/02/2012
Opposition Filing Date	01/17/2013	Opposition Period Ends	01/30/2013
Applicant	SHENZHEN SMART UNIVERSE TECHNOLOGY LIMITED RM 2902, 29/F,BLK 4, ZHUOYUE CENTURY CTR FUHUA THIRD ROAD & JINTIAN ROAD JUNCTION FUTIAN DIST, SHENZHEN, CHINA		

**Goods/Services Affected by Opposition**

Class 009. All goods and services in the class are opposed, namely: Battery chargers; Communications software for connecting computer network users, global computer networks; Computer game software; Computer hardware and computer software programs for the integration of text, audio, graphics, still images and moving pictures into an interactive delivery for multimedia applications; Computer hardware and peripherals; Galvanic batteries; Headphones; Mobile phones; Tablet computer; Video telephones
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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.	1892967	Application Date	06/08/1993
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Registration Date	05/09/1995	Foreign Priority Date	NONE
Word Mark	ZOOM		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1977/00/00 First Use In Commerce: 1977/00/00 telecommunications and personal computer peripheral products; namely, modems, faxmodems, voice/fax modems, dialers, communications processors, and, voice storage and playback apparatus		

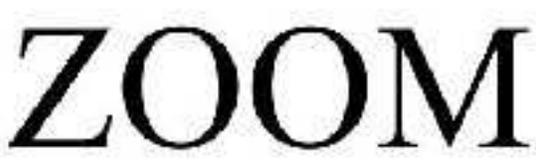
U.S. Registration No.	2159438	Application Date	05/06/1996
Registration Date	05/19/1998	Foreign Priority Date	NONE
Word Mark	ZOOM		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1997/11/05 First Use In Commerce: 1997/11/05 internal, external and personal computer card products that send and receive analog and digital video for display on a desk top, notebook, or other computer		

U.S. Registration No.	2675838	Application Date	04/14/1999
Registration Date	01/21/2003	Foreign Priority Date	NONE
Word Mark	ZOOM		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 1995/08/00 First Use In Commerce: 1995/08/00 COMPUTER HARDWARE AND SOFTWARE FOR TRANSMITTING AND RECEIVING DATA OVER A WIRELESS NETWORK; VOLTAGE SURGE PROTECTORS, LIGHTNING PROTECTORS AND STATIC PROTECTORS FOR COMMUNICATIONS EQUIPMENT SOLD AS A COMPONENT OF COMMUNICATIONS COMPUTER HARDWARE; COMPUTER HARDWARE AND SOFTWARE FOR CREATING NETWORKS OF ELECTRONIC DEVICES IN THE HOME, NAMELY, LOCAL AREA NETWORK DRIVERS, NETWORK INTERFACE CARDS, EXTERNAL INTERFACE DEVICE UNITS, PLUGS AND CONNECTORS, AND RELATED SOFTWARE FOR CREATING NETWORKS OF ELECTRONIC DEVICES; COMPUTER PERIPHERALS, [ NAMELY, VIDEO CAMERAS; COMPUTER PERIPHERALS, ] NAMELY, MODEMS, [ SPEAKERS, MICROPHONES, ] AND COMPUTER HARDWARE, AND COMPUTER OPERATING SOFTWARE FOR USE IN CONNECTION WITH SUCH PERIPHERALS; AND LOCAL AREA NETWORK PRODUCTS, namely, HARDWARE NETWORK INTERFACE CARDS, AND COMPUTER SOFTWARE FOR TRANSMITTING AND RECEIVING DATA OVER A WIRELESS NETWORK</p> <p>Class 042. First use: First Use: 1983/00/00 First Use In Commerce: 1983/00/00 TECHNICAL SUPPORT SERVICES, NAMELY PROVIDING TECHNICAL ADVICE AND CONSULTATION REGARDING INSTALLING, USE, MAINTENANCE AND TROUBLE SHOOTING OF COMPUTER</p>		

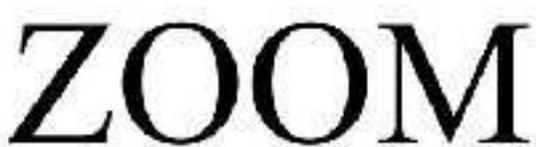
	COMMUNICATIONS SOFTWARE AND HARDWARE PROBLEMS, VIA TELEPHONE AND E-MAIL		
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U.S. Registration No.	2784568	Application Date	04/14/1999
Registration Date	11/18/2003	Foreign Priority Date	NONE
Word Mark	ZOOM		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1998/00/00 First Use In Commerce: 1998/00/00 ADVERTISING SERVICES, NAMELY, PROMOTING THE SERVICES OF INTERNET SERVICE PROVIDERS [; AND ELECTRONIC RETAILING SERVICES VIA A GLOBAL COMPUTER NETWORK FEATURING ELECTRONIC AND MECHANICAL COMPONENTS OF OTHERS, NAMELY, CONNECTORS, RESISTORS, CAPACITORS, AND POWER SUPPLIES ]		

U.S. Registration No.	2891467	Application Date	04/20/1999
Registration Date	10/05/2004	Foreign Priority Date	NONE
Word Mark	ZOOM		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1983/00/00 First Use In Commerce: 1983/00/00 Telecommunications and Computer Peripheral Products, namely, Wide Area Network communication receivers and transmitters, DSL modems, Cable modems [ , and satellite data transmitters and receivers ] Class 038. First use: First Use: 2004/05/12 First Use In Commerce: 2004/05/12 Provision of telecommunication connections to a global computer network		

U.S. Registration No.	3373929	Application Date	07/26/2005
Registration Date	01/22/2008	Foreign Priority Date	NONE
Word Mark	ZOOM		
Design Mark			
Description of Mark	NONE		

Goods/Services	<p>Class 009. First use: First Use: 2004/08/27 First Use In Commerce: 2004/08/27  Communications hardware for enabling voice over IP communications, namely, VoIP adapters, telephone adapters, analog telephone adapters, VoIP adapters that include one or more Ethernet ports and one or more telephone ports, VoIP adapters that include a broadband or narrowband modem, telephone adapters with VoIP and routing capabilities, computer-connected VoIP adapters for connecting to a wired or wireless telephone, computer-connected VoIP adapters for connecting to a wired or wireless headset; Communications hardware for enabling voice communications over data networks, namely, VoIP adapters, telephone adapters, analog telephone adapters, VoIP adapters that include one or more Ethernet ports and one or more telephone ports, VoIP adapters that include a broadband or narrowband modem, telephone adapters with VoIP and routing capabilities, computer-connected VoIP adapters for connecting to a wired or wireless telephone, computer-connected VoIP adapters for connecting to a wired or wireless headset; VoIP adapters that include one or more Ethernet ports and one or more telephone ports; Broadband VoIP adapters that include a broadband modem, such as a DSL or cable modem, and one or more telephone ports</p> <p>Class 038. First use: First Use: 2004/08/27 First Use In Commerce: 2004/08/27  Voice over IP telecommunications services</p>
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U.S. Registration No.	3931890	Application Date	08/10/2009
Registration Date	03/15/2011	Foreign Priority Date	NONE
Word Mark	ZOOM		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 038. First use: First Use: 2004/12/31 First Use In Commerce: 2004/12/31  Internet services, namely, provision of mobile broadband access to data on the Internet; providing email services; web services, namely, web conferencing services; and voice services, namely, voice over internet protocol (VOIP) services; voice services, namely, transmission of voice by data networks, mobile telephony services; and voice services, namely, transmission of voice by switched voice data networks</p>		

Attachments	<p>78678525#TMSN.jpeg ( 1 page )( bytes )  77800462#TMSN.jpeg ( 1 page )( bytes )  Notice of Opposition.pdf ( 7 pages )(106032 bytes )  Exhibit A.pdf ( 2 pages )(74163 bytes )</p>
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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	/John L. DuPre/
Name	JOHN L DUPRE'
Date	01/17/2013

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

-----	X	
ZOOM TELEPHONICS, INC.,	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No.
	)	
SHENZHEN SMART UNIVERSE	)	
TECHNOLOGY LIMITED	)	
	)	
Applicant.	)	
-----	X	

**NOTICE OF OPPOSITION**

In the matter of an application for registration of the mark ZOOMINME, Serial No. 85/607,295, filed on April 25, 2012, by Shenzhen Smart Universe Technology Limited of Shenzhen, China, and published for Opposition in the Official Gazette of October 2, 2012 on Page 515.

Zoom Telephonics, Inc., a Delaware corporation, having its principal place of business at 207 South Street, Boston, Massachusetts 02111 believes that it would be damaged by registration of the mark as sought in the foregoing application and hereby opposes the same.

The grounds of the opposition are as follows:

1. By the application herein opposed, Applicant seeks to register a mark consisting of the word ZOOMINME, under Application Serial No. 85/607,295, for certain goods in Class 9. The application for the ZOOMINME mark was filed on April 25, 2012 and was published for opposition on October 2, 2012. A copy of the page

from the Official Gazette on which the mark is published is attached as Exhibit A. This Opposition opposes the registration of such mark in Class 9.

2. Opposer is the owner of all right, title, and interest in its ZOOM mark and family of ZOOM marks for use in connection with a wide variety of telecommunications products and services.

3. Opposer's ZOOM mark was first adopted and has been used continuously by Opposer in connection with its telecommunications products and services since as early as 1977.

4. Opposer's ZOOM mark and family of ZOOM marks are of significant value to Opposer as an identification of source in connection with the promotion and offering of its goods and services. Opposer's ZOOM mark and family of ZOOM marks distinguish its goods and services from the goods and services of others and the marks have acquired substantial secondary meaning in the minds of consumers. The ZOOM mark is famous as defined in 15 U.S.C. § 1125(c).

5. Opposer has registered the ZOOM mark on the Principal Register as Registration Nos. 1,892,967; 2,159,438; 2,675,838; 2,784,568; 2,891,467; 3,373,929 and 3,931,890, all of which are currently in force. In addition to the ZOOM mark, Opposer owns and uses a family of related marks in connection with its products and services. Among these marks are ZOOMGUARD, Application Ser. No. 85-518,145, as well as other marks. The ZOOM mark is used in connection with telecommunications and personal computer peripheral products; namely, modems, faxmodems, voice/fax modems, dialers, communications processors, and voice storage and playback apparatus. The ZOOM mark also used in connection with internal, external and personal computer

card products that send and receive analog and digital video for display on a desktop notebook, or other computer. The ZOOM mark is also used in connection with computer hardware and software for transmitting and receiving data over a wireless network; voltage surge protectors, lightning protectors and static protectors for communications equipment sold as a component of communications computer hardware; computer hardware and software for creating networks of electronic devices in the home, namely, local area network drivers, network interface cards, external interface device units, plugs and connectors, and related software for creating networks of electronic devices; computer peripherals, namely, modems and computer hardware, and computer operating software for use in connection with such peripherals; and local area network products, namely, hardware network interface cards, and computer software for transmitting and receiving data over a wireless network. The ZOOM mark is also used in connection with advertising services, namely, promoting the services of internet service providers. The ZOOM mark is also used in connection with telecommunications and computer peripheral products, namely wide area network communication receivers and transmitters, DSL modems, and cable modems. The ZOOM mark is also used in connection with communications hardware for enabling voice over IP communications, namely, VoIP adapters, telephone adapters, analog telephone adapters, VoIP adapters that include one or more Ethernet ports and one or more telephone ports, VoIP adapters that include a broadband or narrowband modem, telephone adapters with VoIP and routing capabilities, computer-connected VoIP adapters for connecting to a wired or wireless telephone, computer-connected VoIP adapters for connecting to a wired or wireless headset; communications hardware for enabling voice communications over data

networks, namely, VoIP adapters, telephone adapters, analog telephone adapters, VoIP adapters that include one or more Ethernet ports and one or more telephone ports, VoIP adapters that include a broadband or narrowband modem, telephone adapters with VoIP and routing capabilities, computer-connected VoIP adapters for connecting to a wired or wireless telephone, computer-connected VoIP adapters for connecting to a wired or wireless headset; VoIP adapters that include one or more Ethernet ports and one or more telephone ports; broadband VoIP adapters that include a broadband modem, such as a DSL or cable modem, and one or more telephone ports. The ZOOM mark is also used in connection with internet services, namely, provision of mobile broadband access to data on the Internet; providing email services; web services, namely, web conferencing services; and voice services, namely, voice over internet protocol (VOIP) services; voice services, namely, transmission of voice by data networks, mobile telephony services; and voice services, namely, transmission of voice by switched voice data networks.

6. The proposed use of the ZOOMINME mark by Applicant, which would be considered a form of “ZOOM IN ME,” would so resemble Opposer's registered ZOOM mark and family of ZOOM marks as to be likely to cause confusion, or to cause mistake or to deceive.

7. The goods identified in class 9 in Applicant's application are related to the goods and services that Opposer provides under the ZOOM mark. Upon information and belief, Applicant will be marketing its goods under the ZOOMINME mark to customers or potential customers of Opposer, such that customers and others in the trade would be confused into believing that there would be some connection between Applicant's goods

marketed under the ZOOMINME mark and the well-known and well-recognized ZOOM goods and services of Opposer.

8. Through the use and promotion of Opposer's ZOOM mark and family of ZOOM marks in connection with its goods and services for thirty-five (35) years, purchasers and prospective purchasers of such goods and services, and of goods and services in the same general class, and customers and prospective customers of Opposer have come to associate the ZOOM mark and family of ZOOM marks with the goods, services and business of Opposer.

9. Purchasers and customers, as well as prospective purchasers and customers, familiar with Opposer's business identified by the ZOOM mark and family of ZOOM marks are likely to be misled into believing, contrary to fact, that Applicant's goods provided under the ZOOMINME mark opposed herein, emanate from or are in some way sponsored by Opposer, all to Opposer's irreparable damage through dilution or loss of its goodwill as symbolized by the ZOOM mark and family of ZOOM marks.

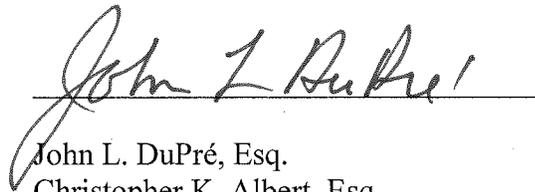
10. Granting of the registration in class 9 for the ZOOMINME mark as sought by Applicant, through the application herein opposed, would place Applicant in a position to harass and cause annoyance to Opposer and its customers, to the damage of Opposer. Such registration would inhibit Opposer in its use of its ZOOM mark and family of ZOOM marks in promoting its business which would manifest damage upon Opposer. Finally, such registration would constitute *prima facie* evidence of an exclusive right of Applicant to use the ZOOMINME mark for the goods identified in its application herein opposed and for all confusingly similar uses, thereby enabling Applicant to occupy

a position in the trade that would further compound confusion on the part of the purchasing public all to the damage of Opposer.

WHEREFORE, Opposer Prays that the application of Serial No. 85/607,295 filed April 25, 2012, for registration of the ZOOMINME trademark, be refused for the goods in Class 9 and that this Opposition be sustained.

Respectfully submitted,

Dated: January 17, 2013

A handwritten signature in cursive script, reading "John L. DuPré", is written over a horizontal line.

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Christopher K. Albert, Esq.  
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Attorneys for Opposer

**CERTIFICATE OF SERVICE**

I hereby certify that on January 17, 2013, I served the foregoing document by emailing and mailing a true and correct copy via First-Class Mail International, postage prepaid addressed to the attorney of record for Applicant as follows:

Zhang Wuxue  
Convention Plaza  
3011, 30/F, Office Tower  
1 Harbour Road  
Hong Kong, China

A handwritten signature in cursive script, reading "Christopher K. Albert", is written over a horizontal line.

Christopher K. Albert

1398341.1

# Exhibit A

**CLASS 9—(Continued).**

COMPUTER NETWORK AND WIRELESS DEVICES; DOWNLOADABLE VIRTUAL GOODS, NAMELY, COMPUTER PROGRAMS FEATURING SOCIAL NETWORKING AND VIRTUAL COMMUNITY FUNCTIONS FOR USE IN ONLINE VIRTUAL WORLDS; JUKE BOXES; MACHINE READABLE COMPUTER PROGRAMS FOR USE IN THE REPRODUCTION OF MUSIC; MUSICAL INSTRUMENT AMPLIFIERS; MUSICAL RECORDINGS; MUSICAL SOUND RECORDINGS; PHONOGRAPH RECORDS FEATURING MUSIC; PROTECTIVE CARRYING CASES FOR PORTABLE MUSIC PLAYERS, NAMELY, MP3 PLAYERS; SERIES OF MUSICAL SOUND RECORDINGS; SOUND RECORDINGS FEATURING MUSICAL RECORDINGS; WIRELESS COMMUNICATION DEVICE FEATURING VOICE, DATA AND IMAGE TRANSMISSION INCLUDING VOICE, TEXT AND PICTURE MESSAGING, A VIDEO AND STILL IMAGE CAMERA, ALSO FUNCTIONAL TO PURCHASE MUSIC, GAMES, VIDEO AND SOFTWARE APPLICATIONS OVER THE AIR FOR DOWNLOADING TO THE DEVICE (U.S. CLS. 21, 23, 26, 36 AND 38).

MICHAEL WIENER, EXAMINING ATTORNEY

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SN 85-606,824. LSI CORPORATION, MILPITAS, CA. FILED 4-24-2012.

**NYTRO PREDICTOR**

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

FOR COMPUTER SOFTWARE FOR ANALYZING AND MANAGING DATA STORAGE CONFIGURATIONS (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 4-20-2012; IN COMMERCE 4-20-2012.  
FRED CARL, EXAMINING ATTORNEY

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SN 85-606,875. NICKLES, ANGELO, VOORHEES, NJ. FILED 4-24-2012.

**BOARDWALK OLD TYME PHOTOS**

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "OLD TIME PHOTOS", APART FROM THE MARK AS SHOWN.

FOR COMPUTER APPLICATION SOFTWARE FOR MOBILE PHONES, PORTABLE MEDIA PLAYERS, HANDHELD COMPUTERS, NAMELY, SOFTWARE FOR THE PURPOSE OF EDITING PHOTOGRAPHS; COMPUTER GAME SOFTWARE FOR USE ON MOBILE AND CELLULAR PHONES (U.S. CLS. 21, 23, 26, 36 AND 38).

LINDA LAVACHE, EXAMINING ATTORNEY

**CLASS 9—(Continued).**

SN 85-607,295. SHENZHEN SMART UNIVERSE TECHNOLOGY LIMITED, FUTIAN DIST, SHENZHEN, CHINA, FILED 4-25-2012.

**zoominme**

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

THE WORDING ZOOMINME HAS NO MEANING IN A FOREIGN LANGUAGE.

FOR BATTERY CHARGERS; COMMUNICATIONS SOFTWARE FOR CONNECTING COMPUTER NETWORK USERS, GLOBAL COMPUTER NETWORKS; COMPUTER GAME SOFTWARE; COMPUTER HARDWARE AND COMPUTER SOFTWARE PROGRAMS FOR THE INTEGRATION OF TEXT, AUDIO, GRAPHICS, STILL IMAGES AND MOVING PICTURES INTO AN INTERACTIVE DELIVERY FOR MULTIMEDIA APPLICATIONS; COMPUTER HARDWARE AND PERIPHERALS; GALVANIC BATTERIES; HEADPHONES; MOBILE PHONES; TABLET COMPUTER; VIDEO TELEPHONES (U.S. CLS. 21, 23, 26, 36 AND 38).

AMY HELLA, EXAMINING ATTORNEY

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SN 85-607,495. PATHOGENETIX, INC., WOBURN, MA. FILED 4-25-2012.



OWNER OF U.S. REG. NO. 2,909,578.

THE MARK CONSISTS OF A SIMPLE DRAWING OF A KEYHOLE.

FOR LABORATORY EQUIPMENT, NAMELY, MICROFLUIDIC DEVICES IN THE NATURE OF MICROFLUIDIC AND NANOFUIDIC CHANNELS FORMED ON OR IN A SUBSTRATE FOR THE TRANSPORT AND ANALYSIS OF FLUID SAMPLES, AND EQUIPMENT FOR MICROFLUIDIC ANALYSIS (U.S. CLS. 21, 23, 26, 36 AND 38).

APRIL HESIK, EXAMINING ATTORNEY