

ESTTA Tracking number: **ESTTA520188**

Filing date: **02/06/2013**

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	Nouvation, Inc.
Granted to Date of previous extension	02/06/2013
Address	17639 Beech Street Fountain Valley, CA 92708 UNITED STATES

Attorney information	Owen Bates Law Office of Owen Bates 1143 Beaconsfield Road San Jose, CA 95121 UNITED STATES ojbates@earthlink.net, rmcampbell@campbell4law.com Phone:650-248-5974
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Applicant Information

Application No	85622313	Publication date	10/09/2012
Opposition Filing Date	02/06/2013	Opposition Period Ends	02/06/2013
Applicant	ASHI Holding Company 1450 Westec Drive Eugene, OR 97402 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. All goods and services in the class are opposed, namely: Software for the management of health and safety educational training services and software for the management of health and safety educational training service businesses
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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.	3865054	Application Date	09/30/2008
Registration Date	10/19/2010	Foreign Priority Date	NONE
Word Mark	OTIS		

Design Mark	<h1>OTIS</h1>
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2008/09/01 First Use In Commerce: 2008/09/03 Software on a CD ROM for occurrence tracking information system for blood donor centers, blood donor processing labs and transfusion services

U.S. Registration No.	3938508	Application Date	06/22/2009
Registration Date	03/29/2011	Foreign Priority Date	NONE

Word Mark	OTIS
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Design Mark	
Description of Mark	The mark consists of the letter "O" in the mark "OTIS" has a leaf on top of it pointing to the right side with the letter being partially shaded.
Goods/Services	Class 009. First use: First Use: 2008/09/01 First Use In Commerce: 2008/09/03 Software on a CD ROM for occurrence tracking information system for blood donor centers, blood donor processing labs and transfusion services

Attachments	77582600#TMSN.jpeg (1 page)(bytes) 77765162#TMSN.jpeg (1 page)(bytes) Notice of Opposition.pdf (2 pages)(85755 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	/Owen Bates/
Name	Owen Bates

Date	02/06/2013
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Application Serial No. **85/622,313**

For the mark: **OTIS**

Filed: 10-May-2012

Published: 9-Oct-2012

NOUVATION, INC.

Opposer

v.

ASHI HOLDING COMPANY

Applicant

Opposition No.

NOTICE OF OPPOSITION

NOUVATION, INC. (Opposer), a corporation organized and existing under the laws of California with a principle place of business at 17639 Beech Street, Fountain Valley, California 92708 believes that it will be damaged by the issuance of a registration for the trademark shown in Application Serial No. 85/622,313 for goods in Class 9, and hereby oppose the same.

As grounds for its opposition, Opposer alleges as follow, with knowledge concerning its own acts and on information and belief as to all other matters.

1. Opposer has been using the standard character mark OTIS since at least as early as 01-September-2008 and the design plus word mark OTIS, where the letter O has been replaced by the graphical representation of a fruit and leaf since at least about 01-September-2008.

2. Applicant has filed an Intent-to-Use application (85/622,314) for the identical word mark: OTIS

3. Opposer sells software for use by blood donor centers, blood processing centers, transfusion services and other medical laboratory facilities for use in tracking quality control deviations.

4. Included as one of the corrective actions that can take place in response to a deviation and which can be recorded and tracked by the OTIS software is training of the personnel that were involved in the quality control deviation.

5. Applicant Intent-to-Use application for the mark OTIS is for software for the management of health and safety educational training services and software for the management of health and safety educational training service businesses. Opposer clearly has priority because Applicant filed this application 3 years and 8 months after Opposer had begun using its mark in commerce.

6. The Opposed goods overlap significantly with those offered by the Opposer because they both can track training records for personnel involved in health and safety. In addition, it's likely customers for both goods are very similar as well, with both populations being involved in health and safety training.

7. With Applicant's mark being identical to that of Opposer's mark, use of Applicant's mark in connection with the Opposed goods is likely to cause confusion, mistake, or deception in the minds of the consumers as to the origin or source of the Opposed goods in violation of the Lanham Act resulting in injury to Opposer and the public.

Therefore, Opposer requests that this opposition be sustained and that the registration of Application Serial No. 85/662,313 in connection with the Opposed goods be denied.

Dated: 6-February-2013

Respectfully submitted,

Law Office of Owen Bates

By: Owen Bates

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