

ESTTA Tracking number: **ESTTA546505**

Filing date: **07/02/2013**

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	Ava Enterprises Inc.
Granted to Date of previous extension	07/06/2013
Address	3451 Lunar Court Oxnard, CA 93030 UNITED STATES

Attorney information	Seth E. Freilich Orrick, Herrington & Sutcliffe LLP 2050 Main Street, Suite 1100 IP Prosecution Department Irvine, CA 92614 UNITED STATES ipprosecution@orrick.com,sfreilich@orrick.com,dfuad@orrick.com,achen@orrick.com Phone:213-629-2020
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Applicant Information

Application No	85798103	Publication date	05/07/2013
Opposition Filing Date	07/02/2013	Opposition Period Ends	07/06/2013
Applicant	Compassion Consulting and Distribution 13630 Immanuel Rd, Ste E Pflugerville, TX 78660 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. All goods and services in the class are opposed, namely: Consumer electronic products, namely, audio amplifiers, audio speakers, audio receivers, electrical audio and speaker cables and connectors, audio decoders, video decoders, speakers, power conversion devices, power converters, and power inverters

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	1730794	Application Date	09/23/1991
Registration Date	11/10/1992	Foreign Priority Date	NONE

Word Mark	BOSS AUDIO SYSTEMS
Design Mark	
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 1989/06/10 First Use In Commerce: 1989/06/10 automobile audio components; namely, AM/FM stereo receivers, cassette tape decks, compact disc players, power amplifiers, equalizers, electronic cross overs, and speakers

Attachments	BOSS Opposition.pdf(75600 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	/Seth E Freilich/
Name	Seth E. Freilich
Date	07/02/2013

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

In the Matter of Application Serial No. 85/798,103
Published in the *Official Gazette* on May 7, 2013
Trademark: **BOSS** (stylized)

<p>AVA ENTERPRISES, INC.</p> <p style="text-align:center">Opposer,</p> <p style="text-align:center">v.</p> <p>COMPASSION CONSULTING AND DISTRIBUTION, LP,</p> <p style="text-align:center">Applicant.</p>	
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NOTICE OF OPPOSITION

Ava Enterprises, Inc., a California corporation having an address at 3451 Lunar Court, Oxnard, California 93030, believes it will be damaged by registration of the mark BOSS shown at Serial No. 85/798,103 in International Class 9 and hereby opposes the same.

As grounds for opposition, Ava Enterprises, Inc. alleges:

1. Compassion Consulting and Distribution, LP (“Applicant”) has filed an application to register the mark BOSS for the following goods: “Consumer electronic products, namely, audio amplifiers, audio speakers, audio receivers, electrical audio and speaker cables and connectors, audio decoders, video decoders, speakers, power conversion devices, power converters, and power inverters” in International Class 9, as evidenced by the publication of such mark in the *Official Gazette* on May 7, 2013.

2. Applicant is, upon information and belief, a Texas limited partnership with an address at 13630 Immanuel Rd, Ste E, Pflugerville, Texas 78660.

3. Ava Enterprises, Inc. (“Opposer”) has, since June 1989, used the mark BOSS in connection with its various car audio products, including head units, amplifiers, crossover units, capacitors, equalizers, and speakers. Opposer is the owner of the following U.S. federal registration:



with Registration No. 1730794 and a registration date of November 10, 1992, for “automobile audio components; namely, AM/FM stereo receivers, cassette tape decks, compact disc players, power amplifiers, equalizers, electronic cross overs, and speakers” in International Class 9 (the “BOSS Mark”).

4. Applicant has not used the BOSS mark in connection with its goods prior to December 8, 2012, as evidenced by Applicant’s filing of its application on an intent-to-use basis on that date. Opposer has used its BOSS Mark since June 1989.

5. Opposer has provided its goods and services under the BOSS Mark throughout the United States and has developed exceedingly valuable goodwill with respect to the BOSS Mark.

6. By virtue of its efforts and the expenditure of considerable sums for promotional and advertising activities and by virtue of the excellence of its goods, Opposer has gained for its BOSS Mark a most valuable reputation and has created, in the minds of the relevant public, an exclusive association between the BOSS Mark and Opposer’s products.

7. The trademark proposed for registration by Applicant, namely, BOSS, is likely to be confused with Opposer’s BOSS Mark because the marks are similar in appearance, sound, meaning and overall commercial impression.

8. Applicant seeks to register BOSS as a mark in connection with goods that are closely related to the goods of Opposer and such use so nearly resembles Opposer's use as to be likely to cause confusion, to cause mistake or to deceive within the meaning of 15 U.S.C. § 1052(d). There is substantial overlap between Opposer's BOSS Mark, which is used in connection with the sale of numerous types of car audio equipment, and Applicant's desire to register BOSS for use with the sale of consumer audio products. Opposer therefore opposes all goods Applicant seeks to use in connection with its application.

9. If Applicant is permitted to use and register the mark BOSS for the goods specified in the opposed application, confusion in trade resulting in damage and injury to Opposer would be caused and would result by reason of the fact that Applicant's mark is confusingly similar to Opposer's marks. Persons familiar with Opposer's BOSS Mark would be likely to purchase Applicant's BOSS goods under the impression they were goods offered by Opposer. Furthermore, any defect, objection, or fault found with Applicant's goods offered and marketed under the mark BOSS would be likely to reflect upon and seriously injure the reputation that Opposer has established for its goods offered under its BOSS Mark.

10. If Applicant is granted the registration herein opposed, such registration would be a source of damage and injury to Opposer.

WHEREFORE, Opposer prays that the opposition be sustained and that the application be refused for registration.

Respectfully submitted,
ORRICK, HERRINGTON & SUTCLIFFE LLP

Dated: July 2, 2013

By: _____ /Seth E Freilich/
Kent B. Goss
Seth E. Freilich
David P. Fuad

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