

ESTTA Tracking number: **ESTTA564073**

Filing date: **10/09/2013**

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	Beats Electronics, LLC
Granted to Date of previous extension	10/09/2013
Address	1601 Cloverfield Blvd. - Suite 5000N Santa Monica, CA 90404 UNITED STATES

Attorney information	Michael Kelber & Lawrence E. James, Jr. Neal, Gerber & Eisenberg LLP Two North LaSalle Street - Suite 1700 Chicago, IL 60601 UNITED STATES mkelber@ngelaw.com, kspicer@ngelaw.com, ljames@ngelaw.com, knye@ngelaw.com, afuelleman@ngelaw.com, mbenson@ngelaw.com, DocketMail@ngelaw.com Phone:312-269-8000
----------------------	---

Applicant Information

Application No	85682885	Publication date	06/11/2013
Opposition Filing Date	10/09/2013	Opposition Period Ends	10/09/2013
Applicant	LG Electronics Inc. 20 Yeouido-dong Yeongdeungpo-gu Seoul 150-721, KOREA, REPUBLIC OF		

Goods/Services Affected by Opposition

Class 009. All goods and services in the class are opposed, namely: MPEG audio layer-3 players; navigation apparatus for vehicle on-board computer; Audio Receivers; Portable multimedia players; Personal Digital Assistants; Headphones; Earphones; loudspeakers; Microphones; Cordless phone; Earphone microphones; telephone headsets; Remote controllers for televisions; Remote controllers for stereos; Remote controllers for cassette players; Remote controllers for MPEG audio layer-3 players; Mobile phones; Smart phones; Television receivers; Portable communication apparatus, namely, mobile phone handsets, walkie-talkies and satellite telephones

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.	3862142	Application Date	06/03/2008
Registration Date	10/12/2010	Foreign Priority Date	NONE
Word Mark	BEATS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2008/07/01 First Use In Commerce: 2008/07/01 headphones		

U.S. Registration No.	4035777	Application Date	06/03/2008
Registration Date	10/04/2011	Foreign Priority Date	NONE
Word Mark	BEATS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2010/09/07 First Use In Commerce: 2010/09/07 Audio speakers; loudspeakers		

U.S. Registration No.	3921110	Application Date	06/11/2009
Registration Date	02/15/2011	Foreign Priority Date	NONE
Word Mark	HEARTBEATS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2009/09/16 First Use In Commerce: 2009/09/16 personal headphones for use with sound transmitting systems; headphones		

U.S. Registration No.	4177191	Application Date	06/08/2010
Registration Date	07/17/2012	Foreign Priority Date	NONE
Word Mark	BEATS PRO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2010/10/14 First Use In Commerce: 2010/10/14 Headphones; personal headphones for use with sound transmitting systems		

U.S. Registration No.	4173065	Application Date	06/25/2010
Registration Date	07/10/2012	Foreign Priority Date	NONE
Word Mark	JUSTBEATS		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2010/10/14 First Use In Commerce: 2010/10/14 headsets for mobile phones; headphones; personal headphones for use with sound transmitting systems

U.S. Registration No.	4176105	Application Date	07/21/2009
Registration Date	07/17/2012	Foreign Priority Date	06/17/2009
Word Mark	BEATS BY DR. DRE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2010/10/14 First Use In Commerce: 2010/10/14 media players for automobiles; DVD players for automobiles; CD players for automobiles; digital audio players for automobiles; audio speakers; car audio speakers; loudspeakers; loudspeaker cabinets; horns for loudspeakers; headphones; personal headphones for use with sound transmitting systems; media players for automobiles Class 025. First use: First Use: 2011/11/05 First Use In Commerce: 2011/11/05 T-shirts		

U.S. Registration No.	4198937	Application Date	12/17/2009
Registration Date	08/28/2012	Foreign Priority Date	NONE
Word Mark	IBEATS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2010/10/14 First Use In Commerce: 2010/10/14 Headsets for mobile telephones; headphones; personal headphones for use with sound transmitting systems		

U.S. Registration No.	4314478	Application Date	02/27/2012
Registration Date	04/02/2013	Foreign Priority Date	NONE
Word Mark	BEATS STUDIO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2012/07/01 First Use In Commerce: 2012/07/01 Headphones		

U.S. Registration No.	4314920	Application Date	03/16/2012
Registration Date	04/02/2013	Foreign Priority Date	NONE

Word Mark	BEATS EXECUTIVE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2012/10/16 First Use In Commerce: 2012/10/16 headphones		

U.S. Registration No.	4314930	Application Date	03/09/2012
Registration Date	04/02/2013	Foreign Priority Date	09/12/2011
Word Mark	URBEATS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2011/11/00 First Use In Commerce: 2011/11/00 Headphones		

U.S. Registration No.	4314931	Application Date	01/09/2012
Registration Date	04/02/2013	Foreign Priority Date	NONE
Word Mark	BEATS PILL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2012/10/16 First Use In Commerce: 2012/10/16 audio speakers; loudspeakers		

U.S. Application No.	85020116	Application Date	04/21/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BEATBOX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: Audio related products and equipment, namely, speakers and speaker components, namely, woofers, subwoofers, tweeters, midrange, tuner, compression drivers, amplifiers, equalizers, crossovers and speaker housings; and docking stations for portable music players		

U.S. Application No.	85057928	Application Date	06/08/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BEATS PRO		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	<p>Class 009. First use:</p> <p>Audio and video equipment, namely, digital audio players, digital video players, media players, portable media players, DVD players, portable DVD players, CD players, portable CD players, media players for automobiles, DVD players for automobiles, CD players for automobiles, digital audio players, digital video players, portable digital audio players, portable digital video players; digital audio players for automobiles; digital video players for automobiles; MP3 players; MP4 players; protective carrying cases for portable music players; cell phones; personal digital assistants (PDA); smart phones; headsets for mobile phones; audio speakers; car audio speakers; loudspeakers; loudspeaker cabinets; horns for loudspeakers; racks for loudspeakers; electric actuators; stands specially adapted for stereos and audio speakers, namely, floor stands and table tops for loudspeakers; surround sound systems; audio equipment, namely, amplifiers, subwoofers, surround sound systems; pre-amplifiers; amplifiers; sound amplifiers; audio amplifiers; racks for amplifiers; high-fidelity stereo systems comprised of amplifiers, loudspeakers, receivers and tuners; signal processors, namely, signal separating, distributing, generating and converting circuits all for audio signals, video signals or audio-video signals; electro acoustic transducers; audio mixers; electronic audio mixers; sound mixers; sound mixers with integrated amplifiers; acoustic conduits; acoustic couplers; acoustic coupling devices; acoustic membranes; acoustic meters; acoustic separation units; apparatus for wireless transmission of acoustic information; wave reflectors for acoustic speakers, lighting apparatus, and air flow devices; electrical pickups for use with musical instruments; musical juke boxes; musical instrument adaptors; musical instrument amplifiers; musical instrument connectors; metronomes; time clocks being time recording devices; teleprinters; scales; micrometers; signal bells, sound locating instruments, namely, sound alarms, sound level meters; projection screens; automatic switchboards; automatic turnstiles; stereo receivers; stereo tuners; stereo amplifiers; audio equipment components, namely, limiters and compressors, boxes specially adapted for housing audio equipment, software to control and improve audio equipment sound quality; video equipment, namely, video receivers, combination video players and recorders, digital video recorders, distribution amplifiers for video signals; video equipment components, namely, component video cables, electronic scalars for video signals, electronic interconnectors for video signals; microphones; electronic cables, namely, audio and video electric cables and cable connectors; power cables and cable connectors; sound and video recording apparatus; portable telephones and accessories, namely, cases for cellular telephones, decorative charms for cellular telephones, Fitted plastic films known as skins for covering and providing a scratch proof barrier or protection for portable telephones; compact disc players; record players and equipment, namely, needles for record players, electrical phonograph record turntable cartridges, phonographic record cleaning kits comprised primarily of replacement stylus needles and also including cleaning solution and brushes; stereo players and equipment, namely, stereo tuners, stereo amplifiers, personal stereos; eyewear and sunglasses; computers; laptop computers; electronic components for computers for enhancing their audio and video sound properties; computer software, namely, software for processing digital music files and software for browsing or editing video, images and sound; computer software, namely, software application for locating and identifying local music venues and live musical or DJ performances; audio application software for use in authoring, downloading, transmitting, receiving, editing, extracting, encoding, decoding, playing, storing, and organizing text, data, images, and audio files; computer accessories, namely, USB sticks being computer hardware, USB hubs, keyboards, computer monitors, computer mouse, and audio speakers for computers; electronic devices, namely, televisions, radios, MP3 players, MP4 players, video players and audio players, all with sound elements; sound systems and sound elements for televisions and radios comprised of surround</p>

	<p>sound systems, sound systems comprising remote controls, amplifiers, loudspeakers and components therefor; audio equipment, namely, media players, portable media players, DVD players, portable DVD players, CD players, portable CD players, media players for automobiles, DVD players for automobiles, CD players for automobiles, digital audio players, portable digital audio players, digital audio players for automobiles; audio speakers for home theater systems; audio speakers for computers; audio recordings featuring music; computer software for processing digital music files; digital photo frames for displaying digital pictures, video clips and music; downloadable music via the Internet and wireless devices; downloadable MP3 or MP4 files, MP3 or MP4 recordings and downloadable pod casts featuring music, audio books in the field of music and news broadcasts; video recordings featuring music; music-composition software; visual recordings and audio visual recordings featuring music; downloadable visual recordings featuring music and musical based entertainment; downloadable cellular phone ringtones; Apparatus for recording, transmission or reproduction of sound or images</p>
--	--

U.S. Application No.	85572143	Application Date	03/16/2012
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BEATS EXECUTIVE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: Audio related products and equipment, namely, speakers and speaker components, namely, woofers, subwoofers, tweeters, midrange, tuner, compression drivers, amplifiers, equalizers, crossovers and speaker housings; and docking stations for portable music players</p>		

U.S. Application No.	85663739	Application Date	06/28/2012
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BEATS PRO X		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: Headphones; carrying cases for headphones; microphones; audio speakers; loudspeakers; audio equipment, namely, media players, portable media players, DVD players, CD players, media players for automobiles, DVD players for automobiles, CD players for automobiles, digital audio players, portable digital audio players, digital audio players for automobiles; mobile telephones and accessories, namely, cell phones, smart phones, and headsets for portable telephones; gaming headsets; personal digital electronic devices for communicating, recording, organizing, transmitting, manipulating, storing and reviewing text, data, image, and audio files; computers; audio components, namely, power cables and cables for transmission of sounds and images; downloadable music via the Internet and wireless devices; and downloadable visual and audiovisual recordings featuring music and musical based entertainment</p> <p>Class 025. First use:</p>		

	Clothing, namely, blouses, dresses, bottoms, coats, foul weather gear, gloves, hosiery, jackets, jeans, lingerie, mittens, neckties, neckwear, nightwear, pajamas, pants, pullovers, rainwear, robes, scarves, shirts, shorts, skirts, skorts, socks, sweatshirts, sweaters, swimwear, T-shirts, track suits, undergarments, vests, polo shirts, sweat pants, jerseys, belts; footwear, namely, boots, shoes, slippers, sneakers; headgear, namely, caps, hats, visors
--	--

Attachments	Notice_of_Opposition_QuadBeat.pdf(20121 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 First Class Mail on this date.

Signature	/Lawrence E. James, Jr./
Name	Lawrence E. James, Jr.
Date	10/09/2013

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

In the Matter of Application No.
85/682,885 for the mark QUADBEAT
Published in the *Official Gazette* June 11, 2013

BEATS ELECTRONICS, LLC,)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
LG ELECTRONICS INC.,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Beats Electronics, LLC (“Beats”), a limited liability company organized under the laws of Delaware with a place of business at 1601 Cloverfield Blvd., Suite 5000N, Santa Monica, California 90404, believes that it will be damaged by the registration of the mark QUADBEAT in International Class 9 as shown in Application Serial No. 85/682,885, filed by Applicant, LG Electronics Inc. (“Applicant”), and therefore hereby opposes the same and requests that registration to Applicant be refused.

The grounds for Beats’ Opposition are as follows:

1. Applicant seeks to register the mark QUADBEAT in International Class 9 for use in connection with “MPEG audio layer-3 players; navigation apparatus for vehicle on-board computer; audio receivers; portable multimedia players; personal digital assistants; headphones; earphones; loudspeakers; microphones; cordless phone; earphone microphones; telephone headsets; remote controllers for televisions; remote controllers for stereos; remote controllers for cassette players; remote controllers for MPEG audio layer-3 players; mobile phones; smart

phones; television receivers; portable communication apparatus, namely, mobile phone handsets, walkie-talkies and satellite telephones.” The Application was filed under 15 U.S.C. § 1051(1)(b), based on Applicant’s alleged intent to use the mark in U.S. commerce.

2. For several years, and long prior to the acts of Applicant alleged herein, Beats has distributed and sold, and continues to distribute and sell numerous music- and audio-related goods and services including audio speakers, earbuds, and headphones under and in connection with its family of BEATS marks.

3. Beats has devoted substantial resources, time, and effort to developing, marketing, and distributing its music- and audio-related goods and services under and in connection with its family of BEATS marks.

4. The family of BEATS marks is now among Beats’ most valuable assets. To protect its rights in its family of marks, Beats has obtained the following federal registrations for BEATS-formative marks for use in connection with goods in International Class 9, all of which cover goods either identical or closely related to Applicant’s goods:

MARK	GOODS	REGISTRATION NUMBER	PRIORITY DATE
BEATS	headphones	3,862,142	June 3, 2008
BEATS	Audio speakers; loudspeakers	4,035,777	June 3, 2008
HEARTBEATS	personal headphones for use with sound transmitting systems; headphones	3,921,110	June 11, 2009
BEATS PRO	Headphones; personal headphones for use with sound transmitting systems	4,177,191	June 8, 2010
JUSTBEATS	headsets for mobile phones; headphones; personal headphones for use with sound transmitting systems	4,173,065	June 25, 2010
BEATS BY DR. DRE	media players for automobiles, DVD players for automobiles, CD players for automobiles, digital audio players for automobiles, audio speakers, car audio	4,176,105	July 29, 2009

	speakers, loudspeakers, loudspeaker cabinets, horns for loudspeakers, headphones, personal headphones for use with sound transmitting systems, and media players for automobiles		
IBEATS	Headsets for mobile telephones; headphones; personal headphones for use with sound transmitting - systems.	4,198,937	December 17, 2009
BEATS STUDIO	Headphones	4,314,478	February 27, 2012
BEATS EXECUTIVE	Headphones	4,314,920	March 16, 2012
URBEATS	Headphones	4,314,930	March 9, 2012
BEATS PILL	audio speakers; loudspeakers	4,314,931	January 9, 2012

5. Additionally, Opposer is the owner of the applications listed below, which were all filed prior to Applicant's July 20, 2012 filing date for the Subject Mark, and all cover goods that are either identical or closely related to Applicant's goods:

MARK	REPRESENTATIVE GOODS	SERIAL NUMBER	FILING DATE
BEATBOX	Audio related products and equipment, namely, speakers and speaker components, namely woofers, subwoofers, tweeters, midrange, tuner, compression drivers, amplifiers, equalizers, crossovers and speaker housings; and docking stations for portable music players	85020116	April 21, 2010
BEATS PRO	Audio and video equipment, namely...portable media players; audio speakers	85057928	June 8, 2010
BEATS EXECUTIVE	Audio related products and equipment, namely, speakers and speaker components, namely, woofers, subwoofers, tweeters, midrange, tuner,	85572143	March 16, 2012

	compression drivers, amplifiers, equalizers, crossovers and speaker housings; and docking stations for portable music players		
BEATS PRO X	Headphones; audio speakers; loudspeakers; audio equipment, namely, media players, portable media players; audio components, namely, power cables and cables for transmission of sounds and images	85663739	June 28, 2012

6. Applicant's advertising and use of the Subject Mark will inevitably reach the same consumers that Opposer targets with the use of its BEATS marks.

7. Consumers, upon seeing the Subject Mark used in connection with Applicant's goods, are likely to mistakenly believe that such mark, and the goods or services provided in connection with it, originated or are connected with, sponsored by, associated with, or licensed or approved by Opposer. Thus, the registration and use by Applicant of the QUADBEAT mark in connection with the recited goods is likely to cause confusion, mistake, or deception in violation of 15 U.S.C. § 1052(d).

8. In light of Opposer's widespread advertising, promotion and use of its BEATS marks, Applicant's selection of a term confusingly similar to Opposer's pre-existing family of BEATS marks suggests that Applicant intends to trade off the goodwill and recognition associated with Opposer's BEATS family of marks.

9. If a registration is issued to Applicant for the Subject Mark, the confusion with Opposer's BEATS marks would result in damage and injury to Opposer and to the public.

10. Additionally, issuance of registrations to Applicant for the Subject Mark would also diminish the distinctive quality of Beats' famous family of marks comprised of the term

BEATS and each of them and would blur and otherwise impair the distinctiveness of these marks, in violation of 15 U.S.C. § 1125(c). In addition, should the quality of Applicant's goods be lacking, Applicant's use of the Subject Mark may also tarnish the good image of Beats' famous BEATS family of marks and each of them, and would thereby cause harm to Beats' reputation in violation of 15 U.S.C. §1125(c).

WHEREFORE, Beats Electronics, LLC requests that the registration sought by Applicant be refused and that this Notice of Opposition be sustained.

Beats authorizes the T.T.A.B. to charge the fees for opposition in one class and any additional fees related to this matter to the deposit account of Neal, Gerber & Eisenberg LLP.

Respectfully submitted,

Dated: October 9, 2013

By: /Lawrence E. James, Jr./
One of the Attorneys for
BEATS ELECTRONICS, LLC
Michael G. Kelber
Lawrence E. James, Jr.
Kristi J. Spicer
Katherine Dennis Nye
Andrea S. Fuelleman
NEAL, GERBER & EISENBERG LLP
2 North LaSalle Street, Suite 1700
Chicago, Illinois 60602
Telephone: 312.269.8000

