

ESTTA Tracking number: **ESTTA609361**

Filing date: **06/11/2014**

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	Auratone LLC		
Entity	Limited Liability Company	Citizenship	Tennessee
Address	P.O. Box 1691 Hendersonville, TN 37077 UNITED STATES		

Attorney information	Amy J. Everhart Everhart Law Firm PLC 1400 Fifth Avenue North Nashville, TN 37208 UNITED STATES amy@everhartlawfirm.com, maria@everhartlawfirm.com Phone:615-800-8919		
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Applicant Information

Application No	85647325	Publication date	05/13/2014
Opposition Filing Date	06/11/2014	Opposition Period Ends	06/12/2014
Applicant	MUSIC Group IP Ltd. P.O. Box 146, Trident Chambers Road Town, VIRGIN ISLANDS, BRITISH		

Goods/Services Affected by Opposition

Class 009. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Apparatus for recording, transmission, and reproduction of sound; apparatus for creating, processing, retrieval, and manipulation of sound, namely, speakers and loudspeakers; headphones
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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. Application No.	86306852	Application Date	
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		

Goods/Services	
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Attachments	Notice of Opposition.pdf(1227132 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	/Amy J. Everhart/
Name	Amy J. Everhart
Date	06/11/2014

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

Auratone LLC,)
Opposer,) Opposition No. _____
)
v.) Application Serial No. 85647325
)
MUSIC Group IP Ltd.) Published in the Official Gazette on
Applicant.) May 13, 2014

NOTICE OF OPPOSITION

To the Honorable Commissioner of Patents and Trademarks:

Opposer, Auratone LLC, P.O. Box 1691, Hendersonville, TN 37077, believes that it will be damaged by registration of the mark shown in Serial No. 85647325, and hereby opposes the same.

Description of Applicant's Application:

Filing date:	June 8, 2012
Published for Opposition in the Official Gazette:	May 13, 2014
Mark:	AURATONE
International Class:	009
Goods and services:	Apparatus for recording, transmission, and reproduction of sound; apparatus for creating, processing, retrieval, and manipulation of sound, namely, speakers and loudspeakers; headphones
Filing Basis:	1(b)

As grounds for opposition, Auratone LLC alleges that:

1. Auratone LLC is a Tennessee limited liability company. Auratone LLC is the successor in interest to the late John A. "Jack" Wilson and his company.

2. Mr. Wilson and his company, and, subsequently, his heirs and then their company, Auratone LLC, have used the AURATONE trademark in connection with audio equipment in commerce since at least 1959, including, in particular, the 5C Super Sound Cube that has been described as “revolutionary,” “a fixture in pro studios since the 1970s,” “the real thing,” the speaker that “originally defined the breed,” and “one of the most famous mixing speakers in studio history.” Since that time, the mark has evolved into a famous mark, known worldwide by consumers in connection with the company’s unique sound speakers. The public has maintained a strong association of the AURATONE mark with Mr. Wilson because of the fame of the sound speakers.

3. Mr. Wilson registered the trademark AURATONE in the United States Patent and Trademark Office (“USPTO”) in connection with “High Fidelity Furniture and Parts Thereof—Namely, Loudspeaker Enclosures, Loudspeaker Wall Baffles, Extension Loudspeaker Enclosures, Loudspeaker Enclosure Grilles and Grille Boards, Loudspeaker Enclosure Speaker Port Covers, Loudspeaker Enclosure Tuning Ducts, Loudspeaker Enclosure Mounting Bracket Kits, Loudspeaker Adapter Boards, High Fidelity Component Equipment Cabinets, and Recording Changer Bases; Also, High Fidelity Loudspeaker Systems, Extension Loudspeakers, and Loudspeakers” on October 1, 1963. The date of first use of the mark in commerce is listed as December 22, 1959.

4. After Mr. Wilson passed in 2005, his legacy and goodwill in the mark continued, and, while his family endeavored to determine how best to commemorate his legacy and brand, they continued to market and sell inventory using the AURATONE mark. They ultimately formed Auratone LLC, and the company recently launched a new

website to revitalize the classic brand and sell a custom built limited edition of the classic 5C Super Sound Cube. As also announced on their website, the company is also in the process of developing a new version of the 5C. Attached hereto as Exhibit A is a true and correct copy of the current version of the company website.

5. On June 8, 2012, in defiance of Auratone LLC and its predecessors' rights, MUSIC Group IP Ltd. ("Music Group") filed with the USPTO Application Serial No. 85647325 for registration of the mark AURATONE in the category of "Apparatus for recording, transmission, and reproduction of sound; apparatus for creating, processing, retrieval, and manipulation of sound, namely, speakers and loudspeakers; headphones."

6. Upon information and belief, Music Group did not choose the mark AURATONE by happenstance; indeed, Music Group has a reputation for passing off products of other manufacturers as their own and has been the defendant in several lawsuits involving such claims.

7. Upon information and belief, Music Group has yet to use the mark AURATONE in commerce in the United States. Auratone LLC or its predecessors have been using the mark in commerce in connection with its loudspeakers since the 1950s. As all rights of an intent-to-use applicant are conditioned on registration and trademark rights attach upon first use of the mark in commerce, Auratone LLC's rights in the mark are superior Music Group.

8. Music Group was notified of Auratone LLC's rights in correspondence dated February 27, 2013, and July 23, 2013, but has not withdrawn its application.

9. Auratone LLC has a legitimate interest in the outcome of this proceeding, as it is the successor in interest to the trademark rights of Mr. Wilson and his company and continues to use the AURATONE mark in commerce to this day in connection with loudspeakers, and, if Music Group is permitted to register the same mark in connection with loudspeakers and similar products, Auratone LLC would be deprived of the right to use the AURATONE brand in connection with goods and services in the future.

10. The registration of the mark AURATONE by Music Group in connection with its goods is likely to cause confusion, deception, and mistake, and will seriously damage Auratone LLC.

11. For the reasons described above, Auratone LLC has a reasonable basis for its belief in damage.

WHEREFORE, the Opposer, Auratone LLC, prays that said application Serial No. 85647325 be rejected, that no registration be issued thereon to the Applicant, Music Group IP Ltd., and that this opposition be sustained in favor of the Opposer.

Auratone LLC hereby appoints Amy J. Everhart and Maria A. Spear of Everhart Law Firm PLC, 1400 Fifth Avenue North, Nashville, Tennessee 37208, (615) 800-8919, members of the bar of the State of Tennessee, to act as attorneys for Auratone LLC herein, with full power to prosecute said Opposition, to transact all relevant business with the Patent and Trademark Office and in the United States Courts and to receive all official communications in connection with this Opposition.

The filing fee of this Opposition is submitted herewith.

Respectfully submitted,

Auratone LLC, the Opposer

By: /Amy J. Everhart/
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Attorneys for Opposer,
Auratone LLC

Date: June 11, 2014

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and complete copy of the foregoing Notice of Opposition has been served on E. Russell Tarleton of Seed IP Law Group PLLC by mailing said copy on June 11, 2014 via electronic mail to russt@seedip.com and via First Class Mail, postage prepaid, in an envelope addressed as follows:

E. Russell Tarleton
Seed IP Law Group PLLC
701 5th Avenue, Suite 5400
Seattle, WA 98104-7064

/Amy J. Everhart/
Amy J. Everhart



EXHIBIT
A



PRODUCTS

Home of the Original
Auratone 5C Super Sound Cube



Recording Monitors for the Real World



CONTACT



Limited Edition 5C Sound Cube

AVAILABLE NOW

Founded in 1958 by Jack Wilson, Auratone has been family owned for over 50 years, and has set the standard in the music and recording industry for quality. As Jack used to say, "I will never sacrifice quality for quantity." The legendary 5C Super Sound Cubes, which are found in studios across the globe, shook up the recording industry, and are still the industry standard today. Due to the unfortunate passing of Jack Wilson, the company has since moved its offices from Coronado, CA to Nashville, TN, and is currently in a revitalizing stage. Jack's name and

what he did for the recording industry will always be remembered, and we look to keep his legacy alive for years to come.



1960



1970



1980



1985



1990



2014



Home of the Original Auratone 5C
info@auratonesoundcubes.com

5C Super Sound Cube Limited Edition



Dimensions: 6 1/2" by 6 1/2" by 6"
Frequency Response: 70 – 15,000 Hz
Impedance: 8 OHMS
Driver: 4 1/2" full range
SPL/Sensitivity: 90 DB @ 1w/1m
Cabinet: Sealed 5/8" MDF

\$260



\$269 (plus S&H)

BUY NOW

[Click to Enlarge](#)

In celebration of the 55th anniversary of Auratone, we are excited to announce a Limited Edition of the 5C Super Sound Cube. The 5C Super Sound Cube, which became famous in the 1970's and 80's and has been used in virtually every major recording studio worldwide, is still the undisputed industry standard for "real world" referencing in the recording studio. Custom built with mahogany laminate, this limited time offer includes an Auratone "Recording Monitors for the Real World" Logo T-Shirt. Look forward to The New 5C...Coming Soon!



Home of the Original

Auratone 5C Super Sound Cube



Home of the Original Auratone 5C
info@auratonesoundcubes.com

Order a Limited Edition 5C Super Sound Cube Now

Complete the form below & a representative will contact you to complete your order. If you have questions, please send them below as well.

Thanks for choosing Auratone!

* Indicates Required Field.

Name*



Email *

All fields required when placing an order

Address

City, State, & Zip

Phone Number

Message

SEND





Auratone LLC, Nashville, TN

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Home of the Original Auratone 5C

info@auratonesoundcubes.com

Order a Limited Edition 5C Super Sound Cube Now

Complete the form below & a representative will contact you to complete your order. If you have questions, please send them below as well.

Thanks for choosing Auratone!

* Indicates Required Field.

Name *

Email *

All fields required when placing an order

Address

City, State, & Zip



Phone Number

Message

SEND



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