

ESTTA Tracking number: **ESTTA609416**

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	Home Box Office, Inc.
Granted to Date of previous extension	06/22/2014
Address	1100 Avenue of the Americas New York, NY 10036 UNITED STATES
Attorney information	TAMARA F. CARMICHAEL LOEB & LOEB LLP 345 PARK AVENUE NEW YORK, NY 10154 UNITED STATES chdocket@loeb.com, tcarmichael@loeb.com, jsarowitz@loeb.com, aproven- cio@loeb.com Phone:212-407-4000

Applicant Information

Application No	86023926	Publication date	12/24/2013
Opposition Filing Date	06/11/2014	Opposition Period Ends	06/22/2014
Applicant	CINEX TECHNOLOGIES, INC. 2405 W. Serene Ave., Unit 920 Las Vegas, NV 89123 UNITED STATES		

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: Computer application software for mobile phones and handheld computers, namely, software for creating, editing, organizing and sharing video clips; Computer application software for mobile phones and handheld computers, namely, software for enabling the transmission of video clips; Computer application software for mobile phones and handheld computers, namely, software for social networking

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.	1349993	Application Date	05/20/1980
Registration Date	07/16/1985	Foreign Priority Date	NONE

Word Mark	CINEMAX
Design Mark	
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 1980/05/16 First Use In Commerce: 1980/05/16 PREMIUM OR PAY TELEVISION SERVICES

U.S. Registration No.	1887240	Application Date	03/14/1994
Registration Date	04/04/1995	Foreign Priority Date	NONE
Word Mark	CINEMAX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1983/00/00 First Use In Commerce: 1983/00/00 hats, jackets, and shirts		

U.S. Registration No.	4298664	Application Date	01/11/2011
Registration Date	03/05/2013	Foreign Priority Date	NONE
Word Mark	CINEMAX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2011/08/07 First Use In Commerce: 2011/08/07 Entertainment services in the nature of providing entertainment programming and content, namely, on-going television programs, and related clips and graphics and information relating to television programming and content in the fields of comedy, drama, action, adventure via television, cable and satellite systems, the Internet, electronic communications networks, computer networks and wireless communications networks		

U.S. Registration No.	4258419	Application Date	04/15/2011
Registration Date	12/11/2012	Foreign Priority Date	NONE
Word Mark	CINEMAX		

Design Mark	
Description of Mark	The mark consists of "CINEMAX" in slanted block letters on a quadrilateral background.
Goods/Services	Class 009. First use: First Use: 2012/08/07 First Use In Commerce: 2012/08/07 Pre-recorded video discs, DVDs, high definition digital discs featuring drama, comedy, action, adventure featuring content from or related to television programming or television series; motion picture films and films for television featuring drama, comedy, action, adventure; pre-recorded digital media featuring drama, comedy, action, adventure

U.S. Registration No.	4191586	Application Date	04/15/2011
Registration Date	08/14/2012	Foreign Priority Date	NONE

Word Mark	CINEMAX
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Design Mark	
Description of Mark	The mark consists of "CINEMAX" in slanted block letters on a quadrilateral background.
Goods/Services	Class 038. First use: First Use: 2011/08/15 First Use In Commerce: 2011/08/15 Broadcasting of television programs; cable television broadcasting services; electronic transmission, broadcasting and delivery of audio, video and multimedia entertainment content including text, data, images, audio, video and audiovisualfiles by means of the Internet, wireless communication, electronic communications networks and computer networks; electronic transmission and streaming of digital media content for others via global and local computer networks; electronic transmission of voice, data and images by television and video broadcasting

U.S. Registration No.	1898808	Application Date	03/14/1994
Registration Date	06/13/1995	Foreign Priority Date	NONE

Word Mark	CINEMAX
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Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 011. First use: First Use: 1983/00/00 First Use In Commerce: 1983/00/00 [flashlights]</p> <p>Class 014. First use: First Use: 1992/00/00 First Use In Commerce: 1992/00/00 [watches]</p> <p>Class 016. First use: First Use: 1983/00/00 First Use In Commerce: 1983/00/00 message holders and pens</p> <p>Class 018. First use: First Use: 1983/00/00 First Use In Commerce: 1983/00/00 flight bags, tote bags and umbrellas</p> <p>Class 020. First use: First Use: 1983/00/00 First Use In Commerce: 1983/00/00 chairs, non-metal key holders and plastic key tags</p> <p>Class 021. First use: First Use: 1983/00/00 First Use In Commerce: 1983/00/00 mugs</p>

Attachments	<p>85215359#TMSN.jpeg(bytes)</p> <p>85296273#TMSN.jpeg(bytes)</p> <p>85296277#TMSN.jpeg(bytes)</p> <p>Notice of Opposition CINEX 86023926.pdf(14589 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	/TAMARA F. CARMICHAEL/
Name	TAMARA F. CARMICHAEL
Date	06/11/2014

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

In the Matter of Application Serial No. 86/023,926: CINEX
Published in the *Official Gazette* of December 24, 2013

HOME BOX OFFICE, INC.,)	
)	
Opposer,)	
)	Opposition No. _____
v.)	
)	
CINEX TECHNOLOGIES, INC.)	
)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Home Box Office, Inc. (“Opposer”), a Delaware corporation located and doing business at 1100 Avenue of the Americas, New York, New York 10036, believes it will be damaged by the registration of the trademark **CINEX** in Class 9 in Application Serial No. 86/023,926, filed by Cinex Technologies, Inc. (“Applicant”), and hereby opposes the same.

As grounds for this opposition, Opposer alleges:

1. Opposer is a well-known operator of premium pay television channels.
2. Since long prior to the filing of Applicant’s Application Serial No. 86/023,926, Opposer has marketed, distributed and sold its premium and pay television services under the trademark CINEMAX (the “CINEMAX Marks”).
3. Opposer owns applications and registrations for the CINEMAX Marks and related marks for premium and pay television services and other related goods and services with the United States Patent and Trademark Office (“PTO”). Opposer’s registrations include, but are not limited to:

<u>TRADEMARK</u>	<u>REG. NO.</u>
CINEMAX	1349993
CINEMAX	1887240
CINEMAX	1898808
CINEMAX	4298664
CINEMAX	4258419
CINEMAX	4191586

These registrations are valid, subsisting, and owned by Opposer. Reg. Nos. 1349993, 1887240, and 1898808, are also incontestable pursuant to 15 U.S.C. §§1064 and 1115(b).

4. By virtue of the popularity of Opposer’s services offered or sold in connection with the CINEMAX Marks, Opposer has built up and now owns an extremely valuable goodwill which is symbolized by its CINEMAX Marks.

5. Applicant’s proposed use of the CINEX mark for “Computer application software for mobile phones and handheld computers, namely, software for creating, editing, organizing and sharing video clips; Computer application software for mobile phones and handheld computers, namely, software for enabling the transmission of video clips; Computer application software for mobile phones and handheld computers, namely, software for social networking” in International Class 09 (“Applicant’s Goods”) in App. Ser. No. 86/023,926 is without Opposer’s consent or permission.

6. Opposer believes that Applicant’s proposed use of CINEX for Applicant’s Goods may cause confusion, mistake, or deception in that consumers may be likely to believe Applicant’s Goods are Opposer’s goods or services or the goods or services of a person or company that is sponsored, authorized or licensed by, or in some other way legitimately connected with, Opposer.

WHEREFORE, Opposer respectfully requests that this opposition be sustained and that Application Serial No. 86/023,926 be denied registration.

Please debit our Deposit Account No. 502547 for the filing fee and for any additional necessary fees.

Please address all correspondence to Tamara F. Carmichael, Esq., Loeb & Loeb LLP, 345 Park Avenue, New York, New York, 10154.

Date: June 11, 2014

LOEB & LOEB LLP

By: /s/ Tamara F. Carmichael
Tamara F. Carmichael
Jodi R. Sarowitz
345 Park Avenue
New York, New York 10154
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*Attorneys for Opposer
Home Box Office, Inc.*

CERTIFICATE OF SERVICE

I, Angela Provencio, hereby certify that a copy of this **NOTICE OF OPPOSITION** has been served upon:

JOSHUA M. GERBEN, ESQ.
GERBEN LAW FIRM, PLLC
1050 CONNECTICUT AVE NW FL 10
WASHINGTON, D.C. 20036-5334

via first class mail, postage prepaid, on this 11th day of June, 2014.

/s/ Angela Provencio

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