

ESTTA Tracking number: **ESTTA626264**

Filing date: **09/10/2014**

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	Fishman Transducers, Inc.
Granted to Date of previous extension	09/10/2014
Address	6 Riverside Drive Andover, MA 01810 UNITED STATES
Attorney information	Ronald S. Bienstock, Esq. Bienstock & Michael, P.C. 411 Hackensack Avenue 7th Floor Hackensack, NJ 07601 UNITED STATES ip@musicesq.com Phone:201-525-0300

Applicant Information

Application No	85647325	Publication date	05/13/2014
Opposition Filing Date	09/10/2014	Opposition Period Ends	09/10/2014
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
--

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2972017	Application Date	07/03/2003
Registration Date	07/19/2005	Foreign Priority Date	NONE
Word Mark	AURA		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2003/07/18 First Use In Commerce: 2003/07/18 Audio signal conditioners, for use with acoustic musical instruments, namely, amplifiers, acoustic mixer, and tone controllers

Attachments	76527541#TMSN.png(bytes) Not_of_Opp.pdf(13600 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	/Brent M. Davis/
Name	Brent M. Davis, Esq.
Date	09/10/2014

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

FISHMAN TRANSDUCERS, INC.)	
)	
Opposer,)	
)	Opposition No. _____
v.)	
)	Application Serial No. 85/647,325
MUSIC GROUP IP, LTD.)	
)	Published in the Official Gazette
)	on May 13, 2014
Applicant.)	
)	

NOTICE OF OPPOSITION

Opposer, Fishman Transducers, Inc. (“Opposer”), a Delaware corporation, having its principal place of business at 6 Riverside Drive, Andover, Massachusetts , 01810, believes that it will be damaged by registration of the mark shown in Serial No. 85/647,325, and hereby opposes the same.

As grounds for its opposition, Opposer, by its attorney of record, alleges as follows:

1. Opposer is the owner of U.S. Reg. No. 2,972,017 for the standard character mark AURA (the “AURA® Mark”) in Class 009 for “audio signal conditioners, for use with acoustic musical instruments, namely, amplifiers, acoustic mixer, and tone controllers” (the “AURA® Registration”).
2. Opposer first used the AURA® Mark in commerce in 2003 and has used it, and continues to use it, continuously and exclusively.

3. The AURA® Mark was registered on July 19, 2005 and has obtained incontestable status.
4. Upon information and belief, MUSIC Group IP, Ltd. (“Applicant”) is a Virgin Islands, British corporation having an address of P.O. Box 146, Trident Chambers, Wickhamy Cay, Road Town, Virgin Islands, British.
5. On June 8, 2012, Applicant filed with the United States Patent and Trademark Office (the “USPTO”) Application Serial No. 85/647,325 for registration of the mark AURATONE in Class 009 for “Apparatus for recording, transmission, and reproduction of sound; apparatus for creating, processing, retrieval, and manipulation of sound, namely, speakers and loudspeakers; headphones,” as an “intent to use” application (the “’325 Application”).
6. On May 13, 2014, the ‘325 Application was published in the Official Gazette.
7. On June 10, 2014, Opposer timely filed a request for extension of time to oppose with the Board. This request was granted the same day.
8. On July 7, 2014, Opposer timely filed a second request for extension of time to oppose with the Board. This request was granted the same day.
9. Applicant's intended products would compete with Opposer's products as they are both intended for the musical equipment consumer.
10. Applicant's mark wholly incorporates Opposer's trademark AURA®.
11. The remaining portion of Applicant’s mark is comprised of the word "tone", a term which is highly descriptive of Applicant's intended products and Opposer's products.
12. Opposer has not authorized Applicant to incorporate the AURA® trademark into its mark, and has not authorized Applicant to use Opposer's AURA® trademark in any manner whatsoever.

13. Applicant's mark is likely to cause confusion, or to cause mistake, or to deceive consumers with respect to Opposer's AURA® trademark.

14. Based upon the foregoing averments, the registration of Applicant's mark will cause injury and damage to Opposer.

15. Opposer has submitted herewith a payment in the amount of \$300 for the filing fee for this Notice of Opposition.

WHEREFORE, Opposer requests that Application Serial Number 85/647,325 not be registered and that this Opposition be sustained.

Opposer hereby appoints Brent M. Davis and Ronald S. Bienstock of the firm BIENSTOCK & MICHAEL, P.C. as its Attorneys of Record in the matter of the above captioned Notice of Opposition to prosecute this opposition, to transact all business with the United States Patent and Trademark Office and the United States Courts connected with this Opposition, and to sign their names to all papers which may hereafter be filed in connection with this opposition and to receive the official communications relating to this opposition.

Dated: Hackensack, New Jersey
September 10, 2014

Respectfully submitted,
BIENSTOCK & MICHAEL, P.C.

By: s/ Brent M. Davis
Brent M. Davis, Esq.
Ronald S. Bienstock, Esq.
Bienstock & Michael, P.C.
411 Hackensack Avenue, 7th Floor
Hackensack, N.J. 07601
Telephone: (201) 525-0300
Facsimile: (201) 525-0133

ATTORNEY FOR OPPOSER

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true and complete copy of the foregoing Petition for Cancellation has been served, via United States Postal Service first-class mail, certified, postage pre-paid, on this 10th day of September, 2014, on:

E RUSSELL TARLETON, ESQ.
SEED IP LAW GROUP PLLC
701 5TH AVE STE 5400
SEATTLE, WA 98104-7064
UNITED STATES

ATTORNEY OF RECORD

MUSIC GROUP IP, LTD.
P.O. BOX 146, TRIDENT CHAMBERS
WICKHAMY CAY
ROAD TOWN
VIRGIN ISLANDS, BRITISH

APPLICANT

s/ Brent M. Davis _____
Brent M. Davis, Esq.

CERTIFICATE OF FILING

I hereby certify that this correspondence, including all enclosures and attachments, is being transmitted to the United States Patent and Trademark Office, Trademark Trial and Appeal Board, via the TTAB's ESTTA procedure on September 10, 2014.

s/ Brent M. Davis _____
Brent M. Davis, Esq.