

ESTTA Tracking number: **ESTTA683804**

Filing date: **07/15/2015**

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	Plantronics, Inc.
Granted to Date of previous extension	07/15/2015
Address	345 Encinal Street Santa Cruz, CA 95060 UNITED STATES

Correspondence information	ANNE HIARING HOCKING Donahue Fitzgerald LLP 80 East Sir Francis Drake Blvd Suite 2M Larkspur, CA 94939 UNITED STATES ahocking@donahue.com, khatami@donahue.com, ebaxter@donahue.com Phone:415-524-1603
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Applicant Information

Application No	86397290	Publication date	03/17/2015
Opposition Filing Date	07/15/2015	Opposition Period Ends	07/15/2015
Applicant	Senss Technologies, Inc. 4571 Mercurio Street San Diego, CA 92130 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: Digital recorder devices, namely, digital audio recorders; Digital audio recorders; Accessories for use with hands free devices for mobile phones, namely, digital audio recorder device for recording telephone calls made through headsets for cellular or mobile phones and hands free devices for mobile-phones; Electronic digital voice recorders for recording and storing cellular telephone conversations received via a hands free device
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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.	3918140	Application Date	10/20/2009
Registration Date	02/08/2011	Foreign Priority Date	NONE

Word Mark	BLACKWIRE
Design Mark	
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2010/03/05 First Use In Commerce: 2010/03/05 Telecommunications devices, namely, headsets for use with computers, tele- phonesand telephone communications systems

U.S. Registration No.	4268559	Application Date	10/20/2009
Registration Date	01/01/2013	Foreign Priority Date	NONE

Word Mark	BLACKWIRE
Design Mark	
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2012/10/21 First Use In Commerce: 2012/10/21 Telecommunications devices, namely, headsets for use with cellular phones

Attachments	77980956#TMSN.png(bytes) 77853075#TMSN.png(bytes) Notice of Opposition Final Document.pdf(824678 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	/Kuscha Hatami/
Name	Kuscha Hatami

Date	07/15/2015
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

PLANTRONICS, INC., A DELAWARE
CORPORATION,

Opposer,

v.

SENSS TECHNOLOGIES, INC., A
CALIFORNIA CORPORATION

Applicant.

Opposition No.: _____

Application No.: 86,397,290

Publication Date: March 17, 2015

Mark: BLUEWIRE

NOTICE OF OPPOSITION

Plantronics, Inc., a Delaware corporation having its principal place of business at 345 Encinal Street, Santa Cruz, California, 95060 (“**Opposer**”) believes that it will be damaged by registration of the mark BLUEWIRE for goods in International Class 9 shown and identified in Application Serial No. 86,397,290, which was filed on September 17, 2014 by or on behalf of Senss Technologies, Inc., believed to be a California corporation with a principal place of business at 4571 Mercurio Street, San Diego, California, 92130 (“**Applicant**”) and hereby opposes same.

As grounds of opposition, Opposer alleges that:

1. Opposer is the owner of U.S. Registration Nos. 3,918,140 and 4,268,559 (the “**Registrations**”) of the mark BLACKWIRE (“**Opposer’s Mark**”). Exhibits A and B are true and correct copies of the USPTO TSDR records for Opposer’s Mark. U.S. Registration No. 3,918,140 was registered on February 8, 2011 for use on “Telecommunications devices, namely, headsets for use with computers, telephones and telephone communications systems” in International Class 9; U.S. Registration No. 4,268,559 was registered on January 1, 2013 for use

on “Telecommunications devices, namely, headsets for use with cellular phones” in International Class 9. Collectively, the goods described in the Registrations are “**Opposer’s Goods.**”

2. The Registrations are subsisting and are not abandoned.

3. Opposer is currently using Opposer’s Mark, and Opposer has used Opposer’s Mark in connection with Opposer’s Goods continuously in interstate commerce throughout the United States since at least as early as March 5, 2010.

4. Opposer has invested time, money, and effort in marketing, advertising, and promotion of Opposer’s Mark in connection with the sale of Opposer’s Goods.

5. As a consequence of Opposer’s long and continuous use, and its investment in marketing, advertising, and promotion of Opposer’s Mark in connection with Opposer’s Goods, Opposer’s Mark has accrued and has significant and valuable goodwill among consumers.

6. Applicant applied to register BLUEWIRE (“**Applicant’s Mark**”) on September 17, 2014 in Application Serial No. 86,397,290 (the “**Application**”) for use on “Digital recorder devices, namely, digital audio recorders; Digital audio recorders; Accessories for use with hands free devices for mobile phones, namely, digital audio recorder device for recording telephone calls made through headsets for cellular or mobile phones and hands free devices for mobile-phones; Electronic digital voice recorders for recording and storing cellular telephone conversations received via a hands free device” in International Class 9 (“**Applicant’s Goods**”).

7. Opposer has not licensed or authorized Applicant’s use of Opposer’s Mark in any way.

8. Applicant’s Mark is confusingly similar to Opposer’s Mark.

9. Applicant’s Goods are identical to Opposer’s Goods; namely, the Applicant’s Goods are Bluetooth[®] headsets.

10. Applicant’s Goods are or will be sold in the same channels of trade as are Opposer’s Goods.

11. Consumers of Applicant’s Goods are the same class of consumers as the consumers of Opposer’s Goods.

12. Applicant's Mark is so similar to Opposer's Mark as to cause consumer confusion, mistake, and/or deceit within the meaning of Section 2(d) of the Lanham Act (15 U.S.C. § 1052(d)).

13. Opposer will be damaged by registration of Applicant's Mark in connection with Applicant's Goods because such registration will create registered trademark rights in Applicant's Mark and the color of authority to use its confusingly similar mark in commerce in connection with Applicant's Goods.

14. Opposer will be damaged by Applicant's use of Applicant's Mark in commerce on Applicant's Goods because such use is likely to cause confusion, mistake, and/or deceit as to the source of Applicant's Goods.

Therefore, Opposer respectfully requests that this Opposition be sustained and that: (i) registration of Applicant's Mark be denied; and (ii) that the opposed Application be ordered abandoned with prejudice.

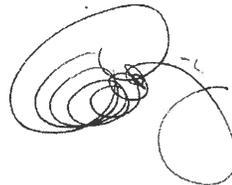
FEE AND DEPOSIT REQUEST

The filing fee in the amount of \$300.00 for this Notice of Opposition is submitted with this Notice of Opposition.

Dated: July 13, 2015

Respectfully submitted:
Donahue Fitzgerald, LLP

By:

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Anne Hiaring Hocking, Esq.
Kuscha Hatami, Esq.
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415-381-4161
Attorneys for Opposer

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and complete copy of the foregoing NOTICE OF OPPOSITION has been served on Senss Technologies, Inc., by mailing said copy on this date, via First Class Mail, postage prepaid to: Kevin Keener, Keener and Associates, P.C., 161 N. Clark St., Ste 4700, Chicago, Illinois, 60601-3201.

Dated: July 15, 2015

By: 

Celeste Huchison
DONAHUE FITZGERALD LLP
Wood Island
80 E. Sir Francis Drake Blvd, Suite 2M
Larkspur, CA 94939
Telephone: (415) 381-4161
Facsimile: (415) 381-7515

EXHIBIT A

United States of America

United States Patent and Trademark Office

BLACKWIRE

Reg. No. 3,918,140

Registered Feb. 8, 2011

Int. Cl.: 9

TRADEMARK

PRINCIPAL REGISTER

PLANTRONICS, INC. (DELAWARE CORPORATION)
LEGAL DEPARTMENT
345 ENCINAL STREET
SANTA CRUZ, CA 95060

FOR: TELECOMMUNICATIONS DEVICES, NAMELY, HEADSETS FOR USE WITH COMPUTERS, TELEPHONES AND TELEPHONE COMMUNICATIONS SYSTEMS, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 3-5-2010; IN COMMERCE 3-5-2010.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 77-980,956, FILED 10-20-2009.

FLORENTINA BLANDU, EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office

Legal Entity Type: CORPORATION

State or Country Where Organized: DELAWARE

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Francois de Villiers

Attorney Primary Email trademarks@plantronics.com
Address:

Attorney Email No
Authorized:

Correspondent

Correspondent Name/Address: FRANCOIS DE VILLIERS
PLANTRONICS, INC.
345 ENCINAL ST
SANTA CRUZ, CALIFORNIA 95060-2146
UNITED STATES

Phone: 8314587758

Fax: 8314262965

Correspondent e-mail: trademarks@plantronics.com

Correspondent e-mail No
Authorized:

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Feb. 08, 2011	REGISTERED-PRINCIPAL REGISTER	
Jan. 06, 2011	NOTICE OF ACCEPTANCE OF STATEMENT OF USE E-MAILED	
Jan. 05, 2011	LAW OFFICE REGISTRATION REVIEW COMPLETED	66213
Jan. 04, 2011	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Dec. 07, 2010	NOTICE OF PSEUDO MARK MAILED	
Dec. 06, 2010	STATEMENT OF USE PROCESSING COMPLETE	76538
Nov. 16, 2010	USE AMENDMENT FILED	76538
Dec. 06, 2010	DIVISIONAL PROCESSING COMPLETE	
Nov. 16, 2010	DIVISIONAL REQUEST RECEIVED	
Dec. 02, 2010	CASE ASSIGNED TO INTENT TO USE PARALEGAL	76538
Nov. 16, 2010	TEAS REQUEST TO DIVIDE RECEIVED	
Nov. 16, 2010	TEAS STATEMENT OF USE RECEIVED	
May 25, 2010	NOA MAILED - SOU REQUIRED FROM APPLICANT	
Mar. 30, 2010	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Mar. 30, 2010	PUBLISHED FOR OPPOSITION	
Feb. 20, 2010	LAW OFFICE PUBLICATION REVIEW COMPLETED	66213
Feb. 20, 2010	ASSIGNED TO LIE	66213
Jan. 25, 2010	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jan. 24, 2010	ASSIGNED TO EXAMINER	73360
Oct. 27, 2009	NOTICE OF PSEUDO MARK MAILED	
Oct. 24, 2009	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Oct. 23, 2009	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Jan. 05, 2011

EXHIBIT B

United States of America
United States Patent and Trademark Office

BLACKWIRE

Reg. No. 4,268,559

Registered Jan. 1, 2013

Int. Cl.: 9

TRADEMARK

PRINCIPAL REGISTER

PLANTRONICS, INC. (DELAWARE CORPORATION)
LEGAL DEPARTMENT
345 ENCINAL STREET
SANTA CRUZ, CA 95060

FOR: TELECOMMUNICATIONS DEVICES, NAMELY, HEADSETS FOR USE WITH CELLULAR PHONES, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 10-21-2012; IN COMMERCE 10-21-2012.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 77-853,075, FILED 10-20-2009.

FLORENTINA BLANDU, EXAMINING ATTORNEY



David J. Kyfas

Director of the United States Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*

What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.*
See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*

What and When to File:

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or
reminder of these filing requirements.**

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

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Mark: BLACKWIRE

BLACKWIRE

US Serial Number: 77853075
Application Filing Date: Oct. 20, 2009
US Registration Number: 4268559
Registration Date: Jan. 01, 2013
Register: Principal
Mark Type: Trademark
Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.
Status Date: Jan. 01, 2013
Publication Date: Mar. 30, 2010
Notice of Allowance Date: May 25, 2010

Mark Information

Mark Literal Elements: BLACKWIRE
Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.
Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Related Properties Information

International Registration Number: 1037469
International Application(s) /Registration(s) Based on this Property: A0019516/1037469
Claimed Ownership of US Registrations: 77980956
Parent Of: 77980956

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis (..) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Telecommunications devices, namely, headsets for use with cellular phones

International Class(es): 009 - Primary Class

U.S Class(es): 021, 023, 026, 036, 038

Class Status: ACTIVE

Basis: 1(a)

First Use: Oct. 21, 2012

Use in Commerce: Oct. 21, 2012

Basis Information (Case Level)

Filed Use: No	Currently Use: Yes	Amended Use: No
Filed ITU: Yes	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: Plantronics, Inc.
Owner Address: Legal Department
345 Encinal Street
Santa Cruz, CALIFORNIA 95060
UNITED STATES

Legal Entity Type: CORPORATION

State or Country Where Organized: DELAWARE

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Francois de Villiers

Attorney Primary Email Address: trademarks@plantronics.com

Attorney Email No Authorized:

Correspondent

Correspondent Name/Address: FRANCOIS DE VILLIERS
PLANTRONICS, INC.
345 ENCINAL ST
SANTA CRUZ, CALIFORNIA 95060-2146
UNITED STATES

Phone: 8314587758

Fax: 8314262965

Correspondent e-mail: trademarks@plantronics.com

Correspondent e-mail No Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Jan. 01, 2013	REGISTERED-PRINCIPAL REGISTER	
Nov. 29, 2012	NOTICE OF ACCEPTANCE OF STATEMENT OF USE E-MAILED	
Nov. 28, 2012	LAW OFFICE REGISTRATION REVIEW COMPLETED	66213
Nov. 28, 2012	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Nov. 15, 2012	STATEMENT OF USE PROCESSING COMPLETE	76538
Nov. 13, 2012	USE AMENDMENT FILED	76538
Nov. 13, 2012	TEAS STATEMENT OF USE RECEIVED	
May 02, 2012	NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED	
May 01, 2012	EXTENSION 4 GRANTED	76538
Apr. 19, 2012	EXTENSION 4 FILED	76538
Apr. 19, 2012	TEAS EXTENSION RECEIVED	
Oct. 27, 2011	NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED	
Oct. 26, 2011	EXTENSION 3 GRANTED	76538
Oct. 24, 2011	EXTENSION 3 FILED	76538
Oct. 24, 2011	TEAS EXTENSION RECEIVED	
May 26, 2011	NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED	
May 25, 2011	EXTENSION 2 GRANTED	76538
May 23, 2011	EXTENSION 2 FILED	76538
May 23, 2011	TEAS EXTENSION RECEIVED	
Dec. 07, 2010	NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED	
Dec. 07, 2010	CORRECTED NOA E-MAILED	
Dec. 06, 2010	EXTENSION 1 GRANTED	76538
Nov. 16, 2010	EXTENSION 1 FILED	76538
Dec. 06, 2010	DIVISIONAL PROCESSING COMPLETE	
Nov. 16, 2010	DIVISIONAL REQUEST RECEIVED	
Dec. 02, 2010	CASE ASSIGNED TO INTENT TO USE PARALEGAL	76538
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Oct. 23, 2009	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Nov. 28, 2012