

ESTTA Tracking number: **ESTTA684089**

Filing date: **07/16/2015**

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	Avido, LLC		
Entity	Limited Liability Company	Citizenship	Maryland
Address	11622 Log Jump Trail Ellicott City, MD 21042 UNITED STATES		

Correspondence information	Kevin S. Lance Chief Executive Officer Avido, LLC 11622 Log Jump Trail Ellicott City, MD 21042 UNITED STATES info@avidopower.com
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Applicant Information

Application No	86481753	Publication date	07/14/2015
Opposition Filing Date	07/16/2015	Opposition Period Ends	08/13/2015
Applicant	Damiani, Joseph L. 8 Pear Circle Nanuet, NY 10954 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. First Use: 2014/12/15 First Use In Commerce: 2014/12/15 All goods and services in the class are opposed, namely: Computer software that provides web-based access to physical fitness, work-out and exercise applications and services through a web operating system or portal interface

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.	86490504	Application Date	12/24/2014
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	AVIDO		

Design Mark	
Description of Mark	The mark consists of the term "AVIDO" in a stylized font with the right leg of the "A" extended so as to underline the remainder of the term, and a vertical line separating the top portion of the letter "O" forming the universal power symbol.
Goods/Services	Class 009. First use: First Use: 2014/05/00 First Use In Commerce: 2014/05/00 Audio speakers; Batteries and battery chargers; Battery cases; Battery charge devices; Battery packs; Devices for hands-free use of mobile phones; Electric cables and wires; Electronic cables; Micro USB cables; Portable radios; USB cables; USB cables for cellphones

Attachments	86490504#TMSN.png(bytes) AVIDO Notice of Opposition.pdf(109305 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	/ Kevin S. Lance /
Name	Kevin S. Lance
Date	07/16/2015

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Avido, LLC,)	
)	
Opposer,)	Opposition No. _____
)	
v.)	U.S. Serial No.: 86/481,753
)	
Joseph L. Damiani)	Date of Filing: December 16, 2014
)	
Applicant.)	Subject Mark: AVIDO (Stylized)
)	

NOTICE OF OPPOSITION

Opposer Avido, LLC (“Avido”) is a Maryland limited liability company with its principal place of business at 11622 Log Jump Trail, Ellicott City, Maryland 21042.

To the best of Avido’s knowledge, Joseph L. Damiani (“Applicant”) is an individual with an address of 8 Pear Circle, Nanuet, New York 10954 and owns U.S. Ser. No. 86/481,753.

Avido believes that it is or will be damaged by registration of U.S. Ser. No. 86/481,753, and opposes it as set forth below.

Factual Background

1. Avido, founded in May 2014, is in the business of selling consumer electronics and mobile accessories.

2. Avido has quickly become a successful and well-known electronics brand, and its AVIDO (Stylized) line of power banks consistently ranks in the top 1000 Amazon Best Sellers for External Battery Packs.

3. Avido’s use of its AVIDO (Stylized) mark has been valid and continuous since at least as early as May 2014.

4. Avido is the owner of U.S. Serial No. 86/490,504 for AVIDO (Stylized), filed December 24, 2014 and covering “Audio speakers; batteries and battery chargers; battery cases; battery charge devices; battery packs; devices for hands-free use of mobile phones; electric cables and wires; electronic cables; micro USB cables; portable radios; USB cables; USB cables for cellphones” in Class 9 (“Avido’s Goods”). The AVIDO (Stylized) is based on use in commerce since at least as early as May 2014.

5. Since at least as early as May 2014, Avido has sold Avido’s Goods under the AVIDO (Stylized) mark.

6. Goods bearing the AVIDO (Stylized) mark are currently available for purchase online through Avido’s store on Amazon.com.

7. Applicant is the owner of U.S. Application No. 86/481,753 for AVIDO (Stylized), filed December 16 and 2014, covering “Computer software that provides web-based access to physical fitness, work-out and exercise applications and services through a web operating system or portal interface” in Class 9 (“Applicant’s Goods”). Applicant’s AVIDO (Stylized) application claims use in commerce since December 15, 2014.

8. The opposed application was published for opposition on July 14, 2015.

Likelihood of Confusion

9. Applicant’s use of the mark AVIDO (Stylized) in the United States will inevitably commercialize and capitalize upon the distinctiveness of Avido’s AVIDO (Stylized) Mark.

10. Applicant’s AVIDO (Stylized) mark so resembles Avido’s AVIDO (Stylized) mark previously used by Avido as to cause mistake, or to deceive, or to cause confusion as to source, sponsorship or affiliation.

11. Applicant’s Goods are closely related to Avido’s Goods.

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Notice of Opposition has been served on counsel for Joseph L. Damiani by mailing said copy on July 16, 2015 via first class mail, postage prepaid to:

Scott H. Kaliko
Kaliko & Associates, LLC
883 Hilltop Terrace
Franklin Lakes, New Jersey 07417

/ Kevin S. Lance /
Kevin S. Lance