

ESTTA Tracking number: **ESTTA695688**

Filing date: **09/14/2015**

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	Express Communications, LLC
Granted to Date of previous extension	09/13/2015
Address	PO Box 828 Pismo Beach, CA 93448 UNITED STATES
Party who filed Extension of time to oppose	Express Communications
Relationship to party who filed Extension of time to oppose	"LLC" was inadvertently omitted from request for extension of time to oppose.

Attorney information	Matthew M Googe Robinson IP Law, PLLC 9724 Kingston Pike, STE 1403 Knoxville, TX 37922 UNITED STATES mgooge@robinsoniplaw.com, docketing@robinsoniplaw.com Phone:8659786480
----------------------	---

Applicant Information

Application No	86391852	Publication date	03/17/2015
Opposition Filing Date	09/14/2015	Opposition Period Ends	09/13/2015
International Registration No.	NONE	International Registration Date	NONE
Applicant	Samsung Electronics Co., Ltd. 129, Samsung-ro Gyeonggi-do, KOREA, REPUBLIC OF		

Goods/Services Affected by Opposition

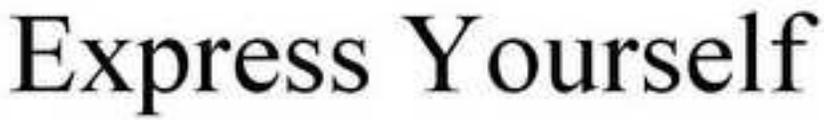
Class 009. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Downloadable software applications for customizing the screen appearance, settings and functions of mobile telephones and computers; Downloadable computer programs for customizing the screen appearance, settings and functions of mobile telephones and computers; Computer application software for mobile phones, smart phones, tablet computers, portable media players and handheld computers for customizing the screen appearance, settings and functions of these devices

Grounds for Opposition

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

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3937502	Application Date	07/25/2010
Registration Date	03/29/2011	Foreign Priority Date	NONE
Word Mark	EXPRESS YOURSELF		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2002/12/26 First Use In Commerce: 2002/12/26 Retail and wholesale stores services featuring electronic devices, devices capable of storing, producing, transmitting, receiving of data, and signals such as sound, images, video, and text, namely, transceivers, telephones, cellular or mobile telephones and fax machines; Retail and wholesale stores services featuring electronic goods and accessories, namely, internal and external components, antennas, vehicle chargers, outlet chargers, batteries, hands-free headsets, carrying cases, pouches, holsters, vehicle mountings, housings, face plates and customizing		

U.S. Registration No.	3913116	Application Date	03/21/2010
Registration Date	02/01/2011	Foreign Priority Date	NONE
Word Mark	EXPRESS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1991/06/01 First Use In Commerce: 1992/12/13		

	Advertising and promotional services; Retail and wholesale stores services featuring electronic devices, devices capable of storing, producing, transmitting, receiving of data, and signals such as sound, images, video, and text, namely, transceivers, telephones, cellular or mobile telephones and fax machines; Retail and wholesale stores services featuring electronic goods and accessories, namely, internal and external components, antennas, vehicle chargers, outlet chargers, batteries, hands-free headsets, carrying cases, pouches, holsters, vehicle mountings, housings, face plates and customizing
--	--

U.S. Registration No.	3026855	Application Date	03/31/2004
-----------------------	---------	------------------	------------

Registration Date	12/13/2005	Foreign Priority Date	NONE
-------------------	------------	-----------------------	------

Word Mark	EXPRESS
-----------	---------

Design Mark	
-------------	---

Description of Mark	NONE
---------------------	------

Goods/Services	Class 009. First use: First Use: 1991/06/01 First Use In Commerce: 1992/12/13 apparatus for producing sound, images or audio, video and data communications systems, namely, electronic and optical instruments and components in the form of digital and analog signal transmitters, receivers and converters, radio and telephone transmitters, receivers [and communications servers] ; telephones, wireless and cellular telephones [and answering machines,] telecommunication transmission, receiving, and storage apparatus, namely, telecommunication transceivers, data transmitters, [facsimile machines, electronic mail apparatus for electronic exchange of data images and messages, pagers, paging equipment, facsimile transmitters and receivers, wireless fax machines,] cellular telephone accessories, namely, protective leather cases for cellular telephones, specialty holsters for carrying cellular telephones, cellular telephone housings, hands-free head sets for cellular telephones
----------------	--

Attachments	85092359#TMSN.png(bytes) 77964211#TMSN.png(bytes)
-------------	--

	78393660#TMSN.png(bytes) 01143-20150914-tottab-NoticeOfOpposition.pdf(85721 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	/MattGooge/
Name	Matthew M Googe
Date	09/14/2015

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

In re Application Serial No.:	86/391,852
For the mark:	EXPRESS ME
Filing Date:	September 11, 2014
EXPRESS COMMUNICATIONS, LLC,)
)
Opposer,)
v.)
)
SAMSUNG ELECTRONICS CO., LTD.)
)
Applicant.)

NOTICE OF OPPOSITION

Opposer, Express Communications, LLC (hereinafter "Express" or "Opposer"), believes it will be damaged by registration of the mark of Application Serial No. 86/391,852 filed by the named applicant therein, and hereby opposes the same. As grounds for this opposition, it is alleged as follows:

1. On information and belief, Samsung Electronics Co., Ltd., is a South Korean corporation, with an address at 129 Samsung-ro, Yeongtong-gu, Suwon-si, Gyeonggi-do, South Korea.
2. Express Communications, LLC, is a limited liability company of the state of Nevada having an address at PO Box 2212, Lompoc, California 93448.
3. On information and belief, Applicant filed an application under Sections 1(b) and 44(d) of the Trademark Act in the U.S. Patent and Trademark Office on September 11, 2014,

seeking to register the mark EXPRESS ME (“Applicant’s Mark”) on the Principal Register. The application was assigned Application Serial No. 86/391,852 (“the ’852 Application”). The ’852 Application seeks to register Applicant’s Mark in connection with “Downloadable software applications for customizing the screen appearance, settings and functions of mobile telephones and computers; Downloadable computer programs for customizing the screen appearance, settings and functions of mobile telephones and computers; Computer application software for mobile phones, smart phones, tablet computers, portable media players and handheld computers for customizing the screen appearance, settings and functions of these devices” (“Applicant’s Goods”) in International Class 009.

4. The ’852 Application was published in the Official Gazette on March 17, 2015.

5. On April 15, 2015, Express filed a request for a 90-day extension of time to file an opposition as to the ’852 Application. This Notice was filed less than 30 days after the date of publication of the ’852 Application. An additional 60-day extension of time to file an opposition against the ’852 Application was filed on July 15, 2015.

6. Express is the owner of all right, title, and interest in and to a family of EXPRESS Marks including, for example, U.S. Trademark Registration Nos. 3,937,502, 3,913,116, 3,026,855, which are valid and subsisting.

7. Express has expended considerable time, effort, and expense in promoting, advertising, and making well-known among the purchasing public and the trade in general Express’s goods and services offered and provided under the EXPRESS Marks in commerce in the United States, with the result that Express has established valuable and exclusive rights and goodwill in the Express Marks as a symbol of a source or origin of Express’s Goods among the purchasing public and the trade in general in the United States.

8. Express has priority of use anywhere and in commerce of the EXPRESS Marks for and in connection with Express's Goods in relation to any actual or constructive use of Applicant's Mark for Applicant's Goods, such priority including, but not limited to, the earlier and substantially continuous actual and constructive use of the EXPRESS Marks in commerce in the United States for and in connection with Express's Goods prior to the filing date of the '852 application or any earlier date of first use of the mark EXPRESS ME mark as claimed by Applicant.

9. Applicant's Goods are the same as or are highly related to Express's Goods offered under the EXPRESS Marks for which Express has priority of use.

10. On information and belief, Applicant's Goods are or will be offered and provided by Applicant through the same or related channels of trade and advertising media and are directed to the same general class of purchasers as Express's Goods offered and provided under the EXPRESS Marks.

11. Applicant's EXPRESS ME mark is confusingly similar to the EXPRESS Marks and would be likely, when used on or in connection with Applicant's Goods, to cause confusion, to cause mistake, or to deceive purchasers and prospective purchasers as to whether Applicant's Goods offered under Applicant's Mark are produced, sponsored, endorsed, or approved by the same source as the source of Express's Goods offered under the EXPRESS Marks, or that the source of the same is in some way affiliated, related, connected, sponsored by or associated with Express or the source of Express's Goods, all to the damage and detriment of Express. Registration of the EXPRESS ME mark of the '852 application to Applicant should, therefore, be refused under at least 15 U.S.C. §§ 1052(d) and 1063.

WHEREFORE, Express prays that the mark of Application Serial No. 86/391,852 be

refused registration in the USPTO, that judgment be entered in favor of Express in all respects, and that Express receive such other and further relief as this Honorable Board deems just in this cause.

Respectfully submitted,



Matthew M. Googe, Reg. No. 66,985
ROBINSON IP LAW, PLLC
9724 Kingston Pike, Suite 1403
Knoxville, TN 37922
(865) 978-6480
Attorney for Opposer

Certificate of Service

This is to certify that a true and correct copy of the foregoing is being served on Applicant's counsel of record, by first class mail, postage prepaid, addressed as follows:

Daniel Lano
IPHorgan, Ltd.
195 N. Arlington Heights Rd., STE 125
Buffalo Grove, Illinois 60089

Date: September 14, 2015


Matthew M. Googe