

ESTTA Tracking number: **ESTTA697144**

Filing date: **09/21/2015**

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	09/19/2015
Address	PO Box 2212 Lompoc, CA 93438 UNITED STATES
Attorney information	Matthew Googe Robinson IP Law, PLLC 9724 Kingston Pike Suite 1403 Knoxville, TN 37922 UNITED STATES mgooge@robinsoniplaw.com, docketing@robinsoniplaw.com Phone:865-978-6480

**Applicant Information**

Application No	85799934	Publication date	07/21/2015
Opposition Filing Date	09/21/2015	Opposition Period Ends	09/19/2015
International Registration No.	NONE	International Registration Date	NONE
Applicant	Samsung Electronics Co., Ltd. 129, Samsung-ro, Yeongtong-gu, Suwon-si Gyeonggi-do, KOREA, REPUBLIC OF		

**Goods/Services Affected by Opposition**

<p>Class 009. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Audio equipment, namely, stereo audio speakers, built-in wireless communication receivers and electronic docking stations for use with portable electronic apparatus, namely, electronic book readers, tablet computers, mp3 players, mp4 players, mobile phones, and smartphones; computer application software for portable electronic for installing and controlling mp3 players and mp4 players; blank Universal Serial Bus (USB) flash memory drive; camcorders; computer game software; Computer network hubs, switches and routers; computer software for instant messaging, sending and receiving emails and contact information, schedule sharing and contents sharing service; computer software for managing and organizing various digital reading contents, namely, e-books, e-newspapers, thesis, and e-magazines; computer software for personal information management, namely, schedules, address books and telephone directories; computer software for purchasing, downloading, playing or listening to music; computer software for purchasing, subscribing, downloading, playing or listening to digital reading contents, namely, e-books, e-newspapers, thesis and e-magazines and electronic games; computer software for use in recording, organizing, transmitting, manipulating, and reviewing of digital data and information,</p>
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namely, text, data, audio files, video files and electronic games in connection with TV, computers, music players, video players, media players and mobile phones; computer application software for use in voice recognition; computer operating software with satellite and Global Positioning System (GPS) navigation systems for navigation, route and trip planning, and electronic mapping; computer operating software for travel information systems that provide travel advice and for online information concerning hotels, landmarks, museums, public transportation, and restaurants regarding travel and transport; computer software for suggesting the most suitable pen-input applications for the mobile device; computer software for viewing and downloading electronic maps; computer software embedded on portable phones and portable computers that allows users to play and download electronic games, listen to and download ring tones and music, and view and download screen savers and wallpapers; computer software that edit daily activities, address books, calendars, memos, and multimedia contents stored in mobile devices; Computer software that enables authoring, posting, uploading, downloading, transmitting, receiving, editing, extracting, encoding, decoding, playing, storing, organizing, showing, displaying, tagging, blogging, sharing of digital data and information, and computer software for providing access to electronic media and information over the Internet or other communications network; computer software that enables users to program and distribute audio, video, text and other multimedia content, namely, music, concerts, videos, radio, television, news, sports, games, cultural events, and entertainment-related and educational programs via communication network; computer software to receive, transport, encode, decode, decrypt, encrypt, transmit, multiplex, de-multiplex, and manipulate video and other data in digital format to deliver television and other video programming to appropriate video devices for distribution of television programming for viewing on television sets; computers; digital albums in the nature of digital photo viewers; digital cameras; digital photo frames for displaying digital pictures, video clips and music; digital set-top boxes; software that allows the downloading of digital images, namely, downloadable photo graphic or video images in the field of education and entertainment; downloadable ring tones for mobile phones; DVD players; electronic computer whiteboards; facsimile machines; hard disk drives; Intercom key terminals for connection to a telephone network; Internet Protocol (IP) Phone; Internet protocol (IP) private branch exchange switchboards; Local Area Network (LAN) Switches; mobile phone and tablet computer accessories, namely, batteries, electric battery chargers, data communication cables, wired headsets, wireless headsets, ear phones, car chargers, leather cases for mobile phones and protective cases for mobile electronic devices, namely, electronic book readers, tablet PCs, mobile phones and smart phones, hands free kits adapted for use with mobile phones and tablet computers, flip case covers adapted for mobile phone and tablet computer, computer stylus, and mobile phone straps; replacement front electronic control panels for mobile phones and portable computers; audio decks adapted for use with mobile phone and tablet computer; holders adapted for mobile phones; mobile phone operating system software; mobile telephones; computer and television monitors; MP3 players; network access server hardware; network access server operating software; Personal Digital Assistants (PDAs); portable computers; Portable media players; printers for computers; semiconductors; smart phones; operating software for network management system; stylus for portable electronic devices, namely, electronic book readers, tablet computers, MP3 players, MP4 players, mobile phones, and smartphones; tablet computer operating system software; Tablet Computers; telephones; telephones used as terminal devices for Internet protocol (IP) private branch exchange (PBX); Television receivers; three dimensional (3D) eyeglasses; wide area network (WAN) routers

## 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.	3937502	Application Date	07/25/2010
Registration Date	03/29/2011	Foreign Priority Date	NONE
Word Mark	EXPRESS YOURSELF		

Design Mark	<h1>Express Yourself</h1>
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	<h1>Express</h1>
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

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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	/MattGooge/
Name	Matthew Googe
Date	09/21/2015

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

In re Application Serial No.:	85/799,934
For the mark:	SAMSUNG XPRESS
Filing Date:	December 11, 2012
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. 85/799,934 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 December 11, 2012,

seeking to register the mark SAMSUNG XPRESS (“Applicant’s Mark”) on the Principal Register. The application was assigned Application Serial No. 85/799,934 (“the ’934 Application”). The ’934 Application seeks to register Applicant’s Mark in connection with various goods in International Class 009 including “smart phones” and “mobile phone and tablet computer accessories.”

4. The ’934 Application was published in the Official Gazette on July 21, 2015.

5. On June 18, 2015, Express filed a request for a 90-day extension of time to file an opposition as to the ’934 Application. This Notice was filed less than 30 days after the date of publication of the ’934 Application.

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 ’934

Application or any earlier date of first use of the mark SAMSUNG XPRESS 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 SAMSUNG XPRESS 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 SAMSUNG XPRESS mark of the '934 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. 85/799,934 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,



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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:

Jay F. Moldovanyi  
Fay Sharp LLP  
1228 Euclid Ave. FL 5  
Cleveland, Ohio 44115

Date: September 21, 2015

  
Matthew M. Googe