

ESTTA Tracking number: **ESTTA742733**

Filing date: **04/27/2016**

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	KYOCERA Corporation
Granted to Date of previous extension	04/27/2016
Address	6, Takeda Tobadono-cho, Fushimi-ku Kyoto-shi, Kyoto, 612-8501 JAPAN

Attorney information	JERALD E NAGAE CHRISTENSEN O'CONNOR JOHNSON KINDNESS PL 1201 Third Avenue, Suite 3600 Seattle, WA 98101-3029 UNITED STATES jerry.nagae@cojk.com, melissa.nowak@cojk.com, litdoc@cojk.com Phone:206-682-8100
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Applicant Information

Application No	86341556	Publication date	12/29/2015
Opposition Filing Date	04/27/2016	Opposition Period Ends	04/27/2016
Applicant	XU, CHUWEN APT.106 CHICAGO, IL 60616 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: Electric and electronic circuits; Electric sensors; Electronic controls for motors; Electronic servo motor controllers; Integrated circuits; Micro-computers; Microcontrollers; Optical communications systems comprised of optical and electronic hardware and computer software for the transmission of data between two points; Radio receivers and transmitters
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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.	86718748	Application Date	08/07/2015
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	SMART SONIC RECEIVER
Design Mark	<p style="text-align: center;">SMART SONIC RECEIVER</p>
Description of Mark	NONE
Goods/Services	<p>Class 009. First use: First Use: 2012/05/30 First Use In Commerce: 2013/01/28 Telephones; cellular phones; telephones to enable the users to hear the sounds by conducting vibrations generated by the piezo-electric elements to the tissues of the human bodies; cellular phones to enable the users to hear the sounds by conducting vibrations generated by the piezo-electric elements to the tissues of the human bodies; piezo elements; computers; communications computers; electronic automatic translators; smart phones; smart phones to enable the users to hear the sounds by conducting vibrations generated by the piezo-electric elements to the tissues of the human bodies; personal digital assistants (PDA); personal digital assistants (PDA) to enable the users to hear the sounds by conducting vibrations generated by the piezo-electric elements to the tissues of the human bodies; piezo-electric actuators for creating and transmitting audio vibrations; audio speakers; audio speakers to enable the users to hear the sounds by conducting vibrations generated by the piezo-electric elements to the tissues of the human bodies; piezo-electric audio speakers; audio speakers for conducting vibration of oscillatory waves to bones; audio speakers for converting vibration of oscillatory waves to sounds, and transmitting the sounds to the hearing organs; computers equipped with piezo-electric speakers; communications computers equipped with piezo-electric speakers; electronic automatic translators equipped with piezo-electric speakers; telephones equipped with piezo-electric speakers; cellular phones equipped with piezo-electric speakers; smart phones equipped with piezo-electric speakers; personal digital assistants (PDA) equipped with piezo-electric speakers; telephones equipped with piezo-electric actuators for creating and transmitting audio vibrations; cellular phones equipped with piezo-electric actuators for creating and transmitting audio vibrations; smart phones equipped with piezo-electric actuators for creating and transmitting audio vibrations; personal digital assistants (PDA) equipped with piezo-electric actuators for creating and transmitting audio vibrations; computer equipped with piezo-electric actuators for creating and transmitting audio vibrations; communications computers equipped with piezo-electric actuators for creating and transmitting audio vibrations; electronic automatic translators equipped with piezo-electric actuators for creating and transmitting audio vibrations; computers equipped with speakers for conducting vibration of oscillatory waves to bones; communications computers equipped with speakers for conducting vibration of oscillatory waves to bones; telephones equipped with speakers for conducting vibration of oscillatory waves to bones; cellular phones equipped with speakers for conducting vibration of oscillatory waves to bones; smart phones equipped with speakers for conducting vibration of oscillatory waves to bones; personal digital assistants (PDA) equipped with speakers for conducting vibration of oscillatory waves to bones; computers equipped with speakers for converting vibration of oscillatory waves to sounds, and transmitting the sounds to the hearing organs; communications computers equipped with speakers for converting vibration of oscillatory waves to sounds, and transmitting the sounds to the hearing organs; electronic automatic translators equipped</p>

	with speakers for converting vibration of oscillatory waves to sounds, and transmitting the sounds to the hearing organs; telephones equipped with speakers for converting vibration of oscillatory waves to sounds, and transmitting the sounds to the hearing organs; cellular phones equipped with speakers for converting vibration of oscillatory waves to sounds, and transmitting the sounds to the hearing organs smart phones equipped with speakers for converting vibration of oscillatory waves to sounds, and transmitting the sounds to the hearing organs; personal digital assistants (PDA) equipped with speakers for converting vibration of oscillatory waves to sounds, and transmitting the sounds to the hearing organs
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Attachments	86718748#TMSN.png(bytes) 2016-04-27 Notice of Opposition.pdf(39946 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	/Jerald E. Nagae/
Name	JERALD E NAGAE
Date	04/27/2016

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

KYOCERA CORPORATION,
Opposer,

v.

CHUWEN XU,
Applicant.

Opposition No. _____

Serial No. 86341556

NOTICE OF OPPOSITION

KYOCERA Corporation, a corporation of Japan, having an address of 6, Takeda Tobadono-cho, Fushimi-ku, Kyoto-shi, Kyoto, 612-8501, Japan (hereinafter “Opposer”) believes it will be damaged by registration of the trademark claimed in U.S. Application Serial No. 86341556, in International Class 9, and hereby opposes the same. As grounds for the opposition, Opposer alleges as follows.

1. On information and belief, Chuwen Xu is a citizen of Chile with an address of 2801 S. King Drive, Apt.106, Chicago, Illinois 60616 (hereinafter “Applicant”).

2. Continuously since long prior to any date upon which Applicant can rely, Opposer has used the trademark SMART SONIC RECEIVER, in association with goods promoted and sold in the consumer electronics industry.

3. Opposer is the owner of U.S. Application Serial No. 86718748, for the mark SMART SONIC RECEIVER, for “Telephones; cellular phones; telephones to enable the users to hear the sounds by conducting vibrations generated by the piezo-electric elements to the tissues of the human bodies; cellular phones to enable the users to hear the sounds by conducting vibrations generated by the piezo-electric elements to the tissues of the human bodies; piezo elements; computers; communications computers; electronic automatic translators; smart phones; smart phones to enable the users to hear the sounds by conducting vibrations generated by the

piezo-electric elements to the tissues of the human bodies; personal digital assistants (PDA); personal digital assistants (PDA) to enable the users to hear the sounds by conducting vibrations generated by the piezo-electric elements to the tissues of the human bodies; piezo-electric actuators for creating and transmitting audio vibrations; audio speakers; audio speakers to enable the users to hear the sounds by conducting vibrations generated by the piezo-electric elements to the tissues of the human bodies; piezo-electric audio speakers; audio speakers for conducting vibration of oscillatory waves to bones; audio speakers for converting vibration of oscillatory waves to sounds, and transmitting the sounds to the hearing organs; computers equipped with piezo-electric speakers; communications computers equipped with piezo-electric speakers; electronic automatic translators equipped with piezo-electric speakers; telephones equipped with piezo-electric speakers; cellular phones equipped with piezo-electric speakers; smart phones equipped with piezo-electric speakers; personal digital assistants (PDA) equipped with piezo-electric speakers; telephones equipped with piezo-electric actuators for creating and transmitting audio vibrations; cellular phones equipped with piezo-electric actuators for creating and transmitting audio vibrations; smart phones equipped with piezo-electric actuators for creating and transmitting audio vibrations; personal digital assistants (PDA) equipped with piezo-electric actuators for creating and transmitting audio vibrations; computers equipped with piezo-electric actuators for creating and transmitting audio vibrations; communications computers equipped with piezo-electric actuators for creating and transmitting audio vibrations; electronic automatic translators equipped with piezo-electric actuators for creating and transmitting audio vibrations; computers equipped with speakers for conducting vibration of oscillatory waves to bones; communications computers equipped with speakers for conducting vibration of oscillatory waves to bones; telephones equipped with speakers for conducting vibration of oscillatory waves to bones; cellular phones equipped with speakers for conducting vibration of oscillatory waves to bones; smart phones equipped with speakers for conducting vibration of oscillatory waves to bones; personal digital assistants (PDA) equipped with speakers for conducting vibration of

oscillatory waves to bones; computers equipped with speakers for converting vibration of oscillatory waves to sounds, and transmitting the sounds to the hearing organs; communications computers equipped with speakers for converting vibration of oscillatory waves to sounds, and transmitting the sounds to the hearing organs; electronic automatic translators equipped with speakers for converting vibration of oscillatory waves to sounds, and transmitting the sounds to the hearing organs; telephones equipped with speakers for converting vibration of oscillatory waves to sounds, and transmitting the sounds to the hearing organs; cellular phones equipped with speakers for converting vibration of oscillatory waves to sounds, and transmitting the sounds to the hearing organs smart phones equipped with speakers for converting vibration of oscillatory waves to sounds, and transmitting the sounds to the hearing organs; personal digital assistants (PDA) equipped with speakers for converting vibration of oscillatory waves to sounds, and transmitting the sounds to the hearing organs,” in International Class 9. The application was filed August 7, 2015; sets forth a first use date of at least as early as May 30, 2012; and sets forth a first use in commerce date of at least as early as January 28, 2013. The application was suspended March 30, 2016, pending disposition of U.S. Application Serial No. 86341556.

4. The mark SMARTISONIC, claimed by U.S. Application Serial No. 86341556, so resembles Opposer’s mark SMART SONIC RECEIVER, when used in connection with all of the goods claimed in International Class 9, as to be likely to cause confusion, or to cause mistake, or to deceive within the meaning of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

5. Opposer will be damaged by the registration sought by Applicant in International Class 9 insofar as the registration will be *prima facie* evidence of the validity of the registration, Applicant’s ownership of the mark SMARTISONIC for the goods claimed by U.S. Application Serial No. 86341556 in International Class 9, and Applicant’s exclusive right to use the mark SMARTISONIC in association with all of the goods claimed in International Class 9 when, in fact, Applicant is not entitled to such rights by virtue of Opposer’s prior and continuous use of

the mark SMART SONIC RECEIVER in association with goods in the consumer electronics industry.

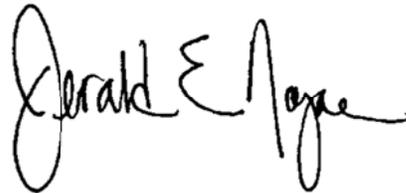
6. Based upon the foregoing, registration of the mark shown by U.S. Application Serial No. 86341556 in International Class 9 is likely to cause injury and damage to Opposer.

WHEREFORE, Opposer respectfully requests that registration of the mark SMARTISONIC in International Class 9 as requested by U.S. Application Serial No. 86341556 be denied under Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), and that this Opposition be sustained.

This opposition is being filed electronically, without the requirement for any duplicate copies. The filing fee in the amount of \$300 is being paid concurrently with the filing.

Dated this 27th day of April, 2016.

CHRISTENSEN O'CONNOR
JOHNSON KINDNESS^{PLLC}



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Attorneys for Opposer
KYOCERA CORPORATION

CERTIFICATE OF SERVICE

I hereby certify on April 27, 2016, that a true and complete copy of the foregoing
NOTICE OF OPPOSITION is being duly served via First Class mail upon the Applicant:

Chuwen Xu
2801 S. King Dr., Apt. 106
Chicago, IL 60616-2924

