

ESTTA Tracking number: **ESTTA770208**

Filing date: **09/13/2016**

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

Proceeding	91227887
Party	Defendant Shenzhen Auto-vox Technology Co. Ltd
Correspondence Address	PENG XIAOPAN RAINBOW ROOM 811 YAOHUA CHUANGJIAN BUILDING, SHENNAN ROAD FUTIAN DISTRICT SHENZHEN GUANGDONG, CHINA litinso02@litinso.com, Litinso001@sohu.com
Submission	Answer
Filer's Name	Peng Xiaopan
Filer's e-mail	litinso02@litinso.com,litinso01@litinso.com
Signature	/Peng Xiaopan/
Date	09/13/2016
Attachments	ANSWER to NOTICE OF OPPOSITION.pdf(86349 bytes)

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

Application Serial No. : 86675025
Filed: Jun. 25, 2015
Published for Opposition on Jan. 26, 2016
Trademark: IMAXPLUS

Opposer: IMAX Corporation
Applicant: Shenzhen Auto-vox Technology Co. Ltd
Opposition No. 91227887

Answer to Notice of Opposition

The applicant, Shenzhen Auto-vox Technology Co. Ltd, is a limited company (Ltd.) legally organized under the laws of China, having an address of NO. 709, 7/F, Block 5, Jinfanghua Area, Xinhe St, Hebei Vil, Longgang Dist, Shenzhen, Guangdong, China.

Applicant filed a Motion for Relief from Entry of Default Judgment on August 9, 2016, presenting the causes why he failed to file an answer to the Opposition and respond to the Board's Notice of Default timely. Applicant's delay to the matters set forth above was not willful or in bad faith. On August 30, 2016, Applicant's motion to set aside default was GRANTED by the Board and the Board's July 5, 2016 notice of default was set aside. Applicant is allowed until September 19, 2016 to file and serve on counsel for Opposer an answer.

Grounds for defending:

1. Physically, Applicant's applied-for mark IMAXPLUS ends with "PLUS". It is with design and the colors red, orange, yellow, blue, and green were claimed as a feature of the mark. Opposer's marks end with many other words. They are visually different and easily

distinguishable.

2. Applicant's applied-for mark is IMAXPLUS with design for " Bite indicators; Bite sensors; Fishing tackle; Game equipment, namely, chips; Gaming devices, namely, gaming machines, slot machines, bingo machines, with or without video output; Mountaineering and rock climbing equipment, namely, climbing cams and anchors made of metal; Radio controlled model vehicles; Skateboards; Skis; Snowboards; Surf boards; Swim fins; Swimming flippers; Swimming jackets; Toy masks; Toy robots; Work-out gloves" in International Class 028. Opposer alleges that it has been, and is currently, using the IMAX mark in connection with a wide range of technology and services. Nevertheless, the goods/services its marks cover are Class U026, Class U038, Class 041, Class 009, Class 025, Class 028. Among all the goods/services covered by Opposer's IMAX Family of Marks, at least twelve marks are in class 41, for "Motion picture production and post production services, including remastering of films from one film format into another; Displaying Motion Picture Film and Operating Motion Picture Theatres; motion picture theater services featuring integrating large format, wide angle, low distortion, high resolution, high image stability cinematographic projection equipment and film, screen, theater design, seating and sound technology; movie theater services; and Providing fitness and exercise facilities" and other related terms. The public's awareness and recognition of Opposer's IMAX mark is, to a large extent, mainly about studio entertainment industry and the auxiliary products. The only term may be affected is "motion simulator rides" covered by Opposer's registered word mark IMAX in class 028. In view of the fact set forth above, it is obviously that no confusion will cause between Opposer's marks and Applicant's applied-for mark.

3. The international class of goods covered by Applicant's applied-for mark is 28. The nature of both parties' goods and/or services is not related. Opposer alleged that several of the categories of Applicant's goods were related to the goods and services Opposer provides and intends to provide. Applicant will remove the related goods Opposer provides. Thus the goods will be totally different. Consumers will not be confused because 1. Applicant and Opposer sell different goods; 2. the functions, the purposes, the channels of trade of their products are fundamentally different.

4. Applicant's applied-for mark has been used in commerce in connection with all the goods specified in its application since 2010. Applicant has also expended substantial amounts of money, time and effort in advertising and promoting its mark IMAXPLUS throughout the United States and other countries and the brand has gained very good reputation. Its products have a large number of devoted consumers.

Applicant therefore requests that the trademark IMAXPLUS is legal and valid, and that the Opposition against registration of the mark is void.

Dated September 13, 2016

Respectfully submitted
/Peng Xiaopan/
Duly authorized officer
Shennan Road, Futian District
Room 811, Yaohua Chuangjian Building
Shenzhen, Guangdong, China

CERTIFICATE OF SERVICE

I hereby certify that a courtesy copy of the foregoing ANSWER to NOTICE OF OPPOSITION
has been served via email on this day, Sept. 13, 2016, upon the following:

Christopher P. Bussert
ATTORNEY FOR OPPOSER
Phone: 404-815-6500
Email: cbussert@ktslaw.com,
kteilhaber@ktslaw.com,
tmadmin@ktslaw.com

/Peng Xiaopan/
Peng Xiaopan
Duly authorized officer
Shenzhen Auto-vox Technology Co. Ltd

CERTIFICATE OF TRANSMITAL

I hereby certify that a true copy of the foregoing ANSWER TO NOTICE OF OPPOSITI-
ON is being filed electronically with the PTO via ESTTA on this day, Sept. 13, 2016.

/Peng Xiaopan/
Peng Xiaopan
Duly authorized officer
Shenzhen Auto-vox Technology Co. Ltd