

ESTTA Tracking number: **ESTTA768896**

Filing date: **09/06/2016**

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	JHS PEDALS, LLC
Granted to Date of previous extension	09/04/2016
Address	12411 Grandview Road Grandview, MO 64030 UNITED STATES
Attorney information	Ronald S. Bienstock Scarinci & Hollenbeck, LLC 1100 Valley Brook Avenue Lyndhurst, NJ 07071 UNITED STATES trademarks@sh-law.com

Applicant Information

Application No	86778100	Publication date	03/08/2016
Opposition Filing Date	09/06/2016	Opposition Period Ends	09/04/2016
Applicant	New Sensor Corporation 55-01 2nd Street Long Island City, NY 11101 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. First Use: 2015/10/05 First Use In Commerce: 2015/10/05 All goods and services in the class are opposed, namely: Electronic effect pedals for use with sound amplifiers
Class 015. First Use: 2015/10/05 First Use In Commerce: 2015/10/05 All goods and services in the class are opposed, namely: Electronic effects pedals for use with musical instruments; Foot pedals for use in connection with musical instruments; Guitar pedals; Sound effect pedals for musical instruments

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.	86835633	Application Date	12/01/2015
Registration Date	NONE	Foreign Priority	NONE

		Date	
Word Mark	CRAYON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 015. First use: First Use: 2015/09/04 First Use In Commerce: 2015/09/04 Electronic effects pedals for use with musical instruments		

Attachments	86835633#TMSN.png(bytes) Not_Opp.pdf(11739 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 Overnight Courier on this date.

Signature	/Adrian L. Lee/
Name	Adrian L. Lee
Date	09/06/2016

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

In the Matter of Trademark Application Serial No. 86/778,100
Published for Opposition on March 8, 2016

JHS PEDALS, LLC)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
NEW SENSOR CORPORATION)	
)	
Applicant.)	
)	

NOTICE OF OPPOSITION

Opposer, JHS Pedals, LLC (“Opposer”), a Mississippi limited liability company, having its principal place of business at 12411 Grandview Road, Grandview, MO 64030, is a well-known manufacturer and seller of electronic effects pedals for musical instruments, especially guitars. Opposer believes that it will be damaged if the above-identified application matures to registration, and hereby opposes the same.

As grounds for its opposition, Opposer, by its attorney of record, alleges as follows:

BACKGROUND

1. Upon information and belief, New Sensor Corporation (“Applicant”) is a New York corporation, with an address of 55-01 2nd Street, Long Island City, NY 11101.

2. Opposer is the owner of United States Trademark Application Serial No. 86/835,633 (“Opposer’s Application”) for its CRAYON standard character mark, in International Class 015 for “Electronic effects pedals for use with musical instruments” (“CRAYON Mark”).

3. Opposer has used the CRAYON Mark continuously since as early as September 4, 2015.

4. Opposer has invested substantial amounts of time, money, and other resources in promoting the CRAYON Mark and the professional quality of its goods provided under the CRAYON Mark throughout the United States, and is continuing to spend substantial amounts of time and money in the promotion of its goods.

5. On October 5, 2015, Applicant filed a Section 1(b) intent-to-use application for registration (Trademark Application Serial No. 86/778,100) (the “1(b) Application”) for the standard character mark CRAYON in International Class 009 for “Electronic effect pedals for use with sound amplifiers” and in International Class 015 for “Electronic effects pedals for use with musical instruments; Foot pedals for use in connection with musical instruments; Guitar pedals; Sound effect pedals for musical instruments” (the “Junior Mark”).

6. On October 29, 2015, Applicant filed an Amendment to Allege Use of the Junior Mark in International Classes 009 and 015 in the 1(b) Application (“Amended Application”) (the 1(b) Application and the Amended Application are collectively herein referred to as the “Application”).

7. On March 8, 2016, the United States Patent and Trademark Office (the “USPTO”) published the Application for opposition in the Trademark Official Gazette.

8. Opposer timely filed the First 30-Day Request for Extension of Time to Oppose the Application on March 30, 2016.

9. The Board granted Opposer's First 30-Day Request for Extension of Time to Oppose the Application on the same day.

10. Opposer timely filed a 60-Day Request for Extension of Time to Oppose for Good Cause on April 25, 2016.

11. The Board granted Opposer's 60-Day Request for Extension of Time to Oppose for Good Cause on the same day.

12. Opposer timely filed an additional 60-Day Request for Extension of Time to Oppose upon Applicant's Consent on July 1, 2016.

13. The Board granted Opposer's additional 60-Day Request for Extension of Time to Oppose upon Applicant's Consent on the same day.

14. Opposer files this Notice of Opposition before the expiration of the additional 60-Day Request for Extension of Time to Oppose upon Applicant's Consent.

15. Opposer has priority of use in connection with its CRAYON Mark by virtue of its earlier date of first use in commerce of said mark over any first use date of the subject applied-for mark that can be established by Applicant, as Applicant claims a date of first use of October 5, 2015, which date is after Opposer's September 4, 2015 date of first use in commerce of its CRAYON Mark in connection with its goods.

16. The Junior Mark is identical and confusingly similar to Opposer's CRAYON Mark such that the Applicant's application for the mark CRAYON would be inconsistent with, and damaging to, Opposer's prior rights in and to its CRAYON Mark.

17. Opposer has a real interest in this matter, as Applicant's Junior Mark so resembles Opposer's CRAYON Mark as to be likely, when applied to Applicant's goods, to cause

confusion, mistake, and/or to deceive as well as cause damage to Opposer and the consuming public.

18. The goods set forth in the Application are highly related to Opposer's goods listed in Opposer's Application for the CRAYON Mark, thereby increasing the likelihood that consumers will be confused.

19. Opposer will be damaged if Applicant's subject Application is allowed to mature to registration because such application is supporting and assisting Applicant in the confusing and misleading use of the mark CRAYON.

20. Opposer will be further damaged by the Application because the subject Application has been cited as a potential basis of refusal against Opposer's Application for its CRAYON Mark by the USPTO.

WHEREFORE, Opposer prays that the Trademark Application Serial No. 86/778,100 be refused and not be allowed to mature to registration.

Dated: Lyndhurst, New Jersey
September 6, 2016

Respectfully submitted,
SCARINCI & HOLLENBECK, LLC

By: s/ Ronald S. Bienstock
Ronald S. Bienstock, Esq.

Scarinci & Hollenbeck, LLC
1100 Valley Brook Avenue
Lyndhurst, NJ 07071

ATTORNEYS FOR OPPOSER

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true and complete copy of the foregoing notice of opposition, has been served via federal express, POSTAGE pre-paid, on this 6th day of September, 2016, on:

NEW SENSOR CORPORATION
55-01 2ND STREET
LONG ISLAND CITY, NY 11101

APPLICANT

s/ Adrian L. Lee
Adrian L. Lee, Esq.

CERTIFICATE OF FILING

I hereby certify that this correspondence, including all enclosures and attachments, is being transmitted to the United States Patent and Trademark Office, Trademark Trial and Appeal Board, via the TTAB's ESTTA procedure on September 6, 2016.

s/ Adrian L. Lee
Adrian L. Lee, Esq.