

ESTTA Tracking number: **ESTTA777817**

Filing date: **10/19/2016**

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	Sam Ash Music Corporation
Granted to Date of previous extension	10/19/2016
Address	278 Duffy Avenue Hicksville, NY 11801 UNITED STATES
Attorney information	ALEXANDRA R CALECA KATTEN MUCHIN ROSENMAN LLP 575 MADISON AVENUE NEW YORK, NY 10022 UNITED STATES alexandra.caleca@kattenlaw.com

### Applicant Information

Application No	86683426	Publication date	06/21/2016
Opposition Filing Date	10/19/2016	Opposition Period Ends	10/19/2016
Applicant	SANCON INC 36 south 18th avenue ADAMS, CO 80601 UNITED STATES		

### Goods/Services Affected by Opposition

Class 009. First Use: 2014/08/26 First Use In Commerce: 2014/12/26 All goods and services in the class are opposed, namely: Answering machines; Antennas; Batteries; Batteries and battery chargers; Converters; Electric door bells; Intercoms; Radio pagers; Radios for vehicles; Radiotelephony sets; Switchboards; Transmitters of electronic signals; Video telephones; Walkie-talkies
--

### 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.	2981185	Application Date	07/16/2004
Registration Date	08/02/2005	Foreign Priority Date	NONE
Word Mark	SAMSON		

Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1981/05/05 First Use In Commerce: 1981/05/05 Sound system equipment, namely, audio speakers, audio amplifiers, converters, and mixers; microphones; wireless microphones; and headphones		

U.S. Registration No.	2981187	Application Date	08/11/2004
Registration Date	08/02/2005	Foreign Priority Date	NONE

Word Mark	SAMSON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1986/12/31 First Use In Commerce: 1986/12/31 sound system equipment, namely, speakers, amplifiers, coverters, mixers and headphones; microphones; wireless microphones		

U.S. Registration No.	1146100	Application Date	11/24/1978
-----------------------	---------	------------------	------------

Registration Date	01/20/1981	Foreign Priority Date	NONE
Word Mark	SAMSON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 015. First use: First Use: 1977/01/00 First Use In Commerce: 1977/01/00 Drums, and Disco Units Consisting of Cabinets Containing Turntables and an Electronic Mixing Board		

U.S. Registration No.	1252756	Application Date	08/13/1981
Registration Date	10/04/1983	Foreign Priority Date	NONE
Word Mark	SAMSON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1981/05/05 First Use In Commerce: 1981/05/05 a Radio Transmitter and Paired Receiver for Wireless Transmission and Reception of Music and Voice		

U.S. Registration No.	1532532	Application Date	09/04/1987
Registration Date	04/04/1989	Foreign Priority Date	NONE
Word Mark	SAMSON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1973/09/00 First Use In Commerce: 1985/07/00 CLEANSING AND POLISHING PREPARATIONS FOR MUSICAL CYMBALS Class 009. First use: First Use: 1973/09/00 First Use In Commerce: 1981/06/00 MICROPHONE STANDS Class 015. First use: First Use: 1973/09/00 First Use In Commerce: 1983/09/00 MUSICAL INSTRUMENTS AND ACCESSORIES, NAMELY, KEYBOARD STANDS AND REPLACEMENT PARTS THEREFOR, DRUM SETS		

	(INCLUDING DRUMS, DRUM PADS, DRUM PEDALS, SNARE STANDS, AND CYMBAL STANDS), CARRYING BAGS FOR MUSICAL KEYBOARDS, CHOPS PADS Class 042. First use: First Use: 1973/09/00 First Use In Commerce: 1973/09/00 DISTRIBUTORSHIP SERVICES IN THE FIELD OF MUSICAL INSTRUMENTS AND ACCESSORIES		
--	--	--	--

U.S. Registration No.	2659735	Application Date	12/21/1995
Registration Date	12/10/2002	Foreign Priority Date	NONE
Word Mark	SAMSON		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1995/05/02 First Use In Commerce: 1995/05/02 computerized on-line retail services, in the field of books, magazines, music, manuscripts, sheet music and clothing, namely, T-shirts; dissemination of advertising for others of musical instruments and related accessories via an on-line electronic communications network		

U.S. Registration No.	2562281	Application Date	10/13/1999
Registration Date	04/16/2002	Foreign Priority Date	NONE
Word Mark	SAMSON EXPEDITION		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2000/06/00 First Use In Commerce: 2000/11/27 PROFESSIONAL AUDIO SPEAKERS		

U.S. Application No.	87161969	Application Date	09/06/2016
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SAMSON		

Design Mark	<h1>SAMSON</h1>
Description of Mark	NONE
Goods/Services	<p>Class 009. First use: First Use: 2005/01/19 First Use In Commerce: 2005/01/19  Computer accessories, namely, microphones, USB cables, wireless transmitters and receivers, wireless speakers, wirelessheadphones; Computer stands specially designed for holding a computer and computer peripherals; Stands adapted for tablet computers; Computer software for noise reduction and sound editing</p> <p>Class 015. First use: First Use: 2012/05/01 First Use In Commerce: 2012/05/01  electronic musical keyboards</p>

Attachments	78451924#TMSN.png( bytes ) 78465951#TMSN.png( bytes ) 73194401#TMSN.png( bytes ) 73323433#TMSN.png( bytes ) 75822245#TMSN.png( bytes ) 87161969#TMSN.png( bytes ) SAMCOM Notice of Opposition.pdf(174761 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	/Alexandra R. Caleca/
Name	ALEXANDRA R CALECA
Date	10/19/2016



equipment and accessories and related goods and services, including, among others, the following: (collectively, the “SAMSON Marks”):

- Incontestable U.S. Trademark Registration No. 2,981,185 for the mark SAMSON, issued August 2, 2005 and covering “sound system equipment, namely, audio speakers, audio amplifiers, converters, and mixers; microphones; wireless microphones; and headphones”, reciting a date of first use of May 5, 1981;
- Incontestable U.S. Trademark Registration No. 2,981,187 for the stylized mark SAMSON, issued August 2, 2005 and covering “sound system equipment, namely, speakers, amplifiers, converters, mixers and headphones; microphones; wireless microphones”, reciting a date of first use of December 31, 1986;
- Incontestable U.S. Trademark Registration No. 1,146,100 for the stylized mark SAMSON, issued January 20, 1981, covering “drums, and disco units consisting of cabinets containing turntables and an electronic mixing board”, reciting a date of first use as early as January, 1977;
- Incontestable U.S. Trademark Registration No. 1,252,756 for the stylized mark SAMSON, issued October 4, 1983, covering “a radio transmitter and paired receiver for wireless transmission and reception of music and voice”, reciting a date of first use as early as May, 1981;
- Incontestable U.S. Trademark Registration No. 1,532,532 for the mark SAMSON, issued April 4, 1989, covering “distributor services in the field of musical instruments and accessories”, reciting a date of first use as early as September, 1973;
- Incontestable U.S. Trademark Registration No. 2,659,735 for the mark SAMSON, issued December 10, 2002, covering, among other things, “computerized on-line retail services, in the field of books, magazines, music, manuscripts, sheet music and clothing, namely, t-shirts; dissemination of advertising for others of musical instruments and related accessories via an on-line electronic communications network”, reciting a date of first use as early as May, 1995;
- Incontestable U.S. Trademark Registration No. 2,562,281 for the mark SAMSON EXPEDITION, issued April 16, 2002, in International Class 9, covering, among other things, “professional audio speakers”, reciting a date of first use as early as April, 2002; and
- U.S. Trademark Serial No. 87/161,969 for the mark SAMSON, filed September 6, 2016, covering, among other things, “Computer accessories, namely, microphones, USB cables, wireless transmitters and receivers, wireless speakers, wireless headphones; Computer stands specially designed for holding a computer and computer peripherals; Stands adapted for tablet computers; Computer software for noise reduction and sound editing”, reciting a date of first use as early as January 19, 2005.

4. Each and all of Opposer's SAMSON Family of Marks are valid and subsisting, in full force and effect, and are conclusive evidence of Opposer's right to use said mark in commerce on and in connection with the goods and services specified in said registrations.

5. Since its initial use of the SAMSON Marks, Opposer has continually used, advertised, promoted and offered Opposer's products bearing its SAMSON Marks to the public, with the result that members of the relevant consuming public have come to know and recognize the SAMSON Marks and associate them with Opposer and the goods offered by Opposer. Opposer has established goodwill in connection with the manufacturing, sourcing, importing, advertising, distributing and selling of professional and consumer audio equipment and accessories under each and all of its SAMSON Marks.

6. Prior to Applicant's filing date or any priority date that may be claimed by Applicant, Opposer has used, and is currently using, the SAMSON Marks in connection with, among other things, professional and consumer audio equipment and accessories offered by Opposer in commerce. Opposer's use of the SAMSON Marks has expanded over time to include a wide range of professional and consumer audio products and accessories and related products and services.

7. Upon information and belief, on July 6, 2015, long after the adoption and use by Opposer of the SAMSON Marks, Applicant filed the instant Application seeking registration of the mark SAMCOM for use on and in connection with "Answering machines; Antennas; Batteries; Batteries and battery chargers; Converters; Electric door bells; Intercoms; Radio pagers; Radios for vehicles; Radiotelephony sets; Switchboards; Transmitters of electronic signals; Video telephones; Walkie-talkies", in International Class 09.

8. The filing dates for each and all of the SAMSON Marks (except Serial No. 87/161,969) pre-date both the filing date of the instant Application and the date of first use claimed therein. The registration dates and dates of first use for each and all of the SAMSON Marks also pre-date both the filing date of the instant Application and the date of first use claimed therein.

9. Applicant's SAMCOM mark is a simulation and colorable imitation of, and so resembles the SAMSON Marks as to be likely, when applied to the goods of Applicant, to cause confusion or mistake or to deceive the relevant consuming public resulting in damage and detriment to Opposer and its reputation, in violation of Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

10. Upon information and belief, Opposer and Applicant will both be engaged in the sale and promotion of their respective product offerings through similar and/or overlapping channels of trade and to the same and/or highly related general classes of consumers.

11. Upon information and belief, the product offerings of Opposer and Applicant under their respective marks are related.

12. Upon information and belief, Applicant promotes and offers for sale its goods to the same and/or highly related general classes of consumers and through the same and/or highly related channels of trade to which Opposer promotes and sells its goods.

13. Members of the relevant consuming public are likely to be confused, mistaken or deceived as to the origin and sponsorship of Applicant's goods marketed under Applicant's alleged SAMCOM mark and misled into believing that such goods are produced by, offered by, emanate from, or are in some way associated with Opposer, to the damage and detriment of Opposer and its reputation.

14. Opposer will be damaged by the confusion which will result in the marketplace if the Applicant is permitted to register the SAMCOM mark for the specified goods and therefore, Opposer is likely to suffer damage and/or injury to its reputation and goodwill as a result thereof.

In an effort to address this matter amicably, Opposer, through its attorneys, attempted to contact Applicant and Applicant's attorney of record at the addresses listed below, as provided in the Application. Both letters were returned to Opposer's attorneys as non-deliverable by FedEx:

**Sancon Inc.**  
36 South 18<sup>th</sup> Avenue  
Suite A, Brighton  
Adams, Colorado USA 80601

**Shenzhen Gangyi Business Ltd.**  
Pengnian Hotel, Luohu  
Room 3004  
Shenzhen, China 518000

WHEREFORE, Opposer, without alternate recourse available, believes that it will be damaged by registration of the SAMCOM mark, and respectfully requests that the mark shown in U.S. Trademark Application Serial No. 86/683,426 be refused and that this Opposition be sustained.

Respectfully submitted,

KATTEN MUCHIN ROSENMAN LLP  
Attorneys for Opposer  
575 Madison Avenue  
New York, New York 10022-2585  
(212) 940-6351

By:   
Alexandra R. Caleca

October 19, 2016

**CERTIFICATE OF SERVICE**

I hereby certify that I have caused a true and correct copy of the Notice of Opposition against Application Serial No. 86/683,426 to be served upon Applicant's attorney of record, set forth below, by placing the same in an envelope, properly sealed and addressed, with postage prepaid and depositing the same with the United State Postal Service on this 19<sup>th</sup> day of October, 2016.

**Shenzhen Gangyi Business Ltd.**

Pengnian Hotel, Luohu  
Room 3004  
Shenzhen, China 518000

A handwritten signature in black ink, appearing to read 'A. Caleca', written over a horizontal line.

Alexandra R. Caleca  
Katten Muchin Rosenman LLP  
Attorneys for Opposer  
575 Madison Avenue  
New York, New York 10022-2585  
(212) 940-6351