

to-talk switches, intercoms, citizen band transceivers, family radio service transceivers, general mobile radio service transceivers, amateur radio transceivers, and connection adapters, comprising lead cables for headsets, pus-to-talk switch and transceiver connections” in international class 09. Petitioner believes the applicant to be RF Limited / Magnum International, a Washington Corporation (hereinafter referred to as “Respondent”). Petitioner believes that it is and it will be damaged by registration of the mark and hereby opposes the registration of said mark.

As grounds therefore, it is alleged that:

1. Petitioner is the owner of a United States Trademark Registration for the mark “BOSS AUDIO SYSTEMS”, registration No.: 1,730,794 for “automobile audio components; namely, AM/FM stereo receivers, cassette tape decks, compact disc players, power amplifiers, equalizers, electronic cross overs and speakers, in international class 9.”
2. Petitioner has adopted and continuously used the term “BOSS AUDIO SYSTEMS” in interstate commerce at least since June 10, 1989 and currently uses such term, in connection with automobile audio components; namely, AM/FM stereo receivers, cassette tape decks, compact disc players, power amplifiers, equalizers, electronic cross overs and speakers.
3. Petitioner has provided its goods under the “BOSS AUDIO SYSTEMS” trademark throughout the Untied States. As a result of the high quality of Petitioner’s goods and the extensive promotion and public acceptance thereof, Petitioner has gained significant and valuable goodwill for the “BOSS AUDIO SYSTEMS” trademark.
4. The public recognizes Petitioner’s “BOSS AUDIO SYSTEMS” trademark to identify Petitioner’s goods and to distinguish them from the goods of others. The “BOSS

AUDIO SYSTEMS” trademark functions as an indicator of origin of Petitioner’s goods, and as such, is the exclusive property right of Petitioner.

5. Trademark Application Serial No. 78/321,156 sought to be opposed, is for the mark “AUDIOBOSS” for “motorcycle, snowmobile, ATV, personal watercraft, and motorsport audio and communication accessories, namely, audio headsets, earphones, microphones, remote push-to-talk switches, intercoms, citizen band transceivers, family radio service transceivers, general mobile radio service transceivers, amateur radio transceivers, and connection adapters, comprising lead cables for headsets, pus-to-talk switch and transceiver connections” in international class 09. Such application was filed on October 20, 2003 and was filed based on section 1(b). On information and belief Petitioner first used the term “BOSS AUDIO SYSTEMS” prior to Respondent’s filing date in the United States.

6. Because of the substantial and deceptive similarity between the terms, Respondent’s alleged mark is likely to cause confusion and lead to deception as to the origin of Respondent’s goods bearing Respondent’s alleged mark. People familiar with Petitioner’s trademark would be likely to purchase Respondent’s goods as and for goods sold by Petitioner. Any such confusion would inevitably result in lost business to Petitioner.

7. Petitioner has expended considerable effort an expense in promoting its “BOSS AUDIO SYSTEMS” trademark and the goods sold under such term, with the result that the purchasing public has come to know, rely upon, and recognize the goods of Petitioner by such trademark. Petitioner has an exceedingly valuable goodwill established in the “BOSS AUDIO SYSTEMS” trademark.

8. If the Respondent is permitted to attain the registration sought to be opposed, Respondent will have the prima facie exclusive right to use the "AUDIOBOSS" term in commerce in connection with the goods. Confusion in trade is likely to result from any such concurrent use and registration of the "AUDIOBOSS" and "BOSS AUDIO SYSTEMS" trademark by Petitioner and Respondent, respectively, all to the great detriment of Petitioner.

9. Purchaser and users are likely to consider the goods of Respondent sold under the "AUDIOBOSS" term as emanating from or sponsored by Petitioner, and to purchase or use such goods as those of Petitioner, resulting in injury to Petitioner.

10. Concurrent use of the two terms by Respondent and Petitioner will result in irreparable damage to Petitioner's reputation and goodwill, if the goods sold by Respondent are inferior, because purchasers are likely to attribute the source or sponsorship of Respondent's goods to Petitioner.


11. If Respondent is permitted to attain the registration, a cloud will be placed on Petitioner's title in and to its "BOSS AUDIO SYSTEM" trademark, and on its right to enjoy the free and exclusive use thereof in connection with the sale of its goods, all to the great injury of Petitioner.

WHEREFORE, Petitioner prays that this Petition for Opposition be granted and that Trademark Application Serial No. 78/321156 not be allowed to pass to registration.

This Petition for Opposition is filed in duplicate and the required filing fee in the amount of \$300 is enclosed.

Dated: August 16, 2004

AVA ENTERPRISES, INC.
By its attorneys,

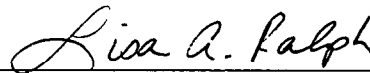
By 
KENT G. GOSS
CHRISTOPHER J. CHAUDOIR
PILLSBURY WINTHROP LLP
725 South Figueroa Street, Suite 2800
Los Angeles, California 90017-5406
Telephone: (213) 488-7100

Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

SERIAL NO. 78/321156
MARK: AUDIOBOSS

CERTIFICATE OF EXPRESS MAIL MAILING

I hereby certify that on August 16, 2004 the enclosed original executed and two copies of Opposition to Registration of Trademark submitted on behalf of Ava Enterprises Inc., check in the amount of \$300.00, and a self-addressed stamped postal acknowledgment card are being deposited with the United States Postal Service, as "Express Mail Post Office to Addressee," mailing label no EV 330955631 US addressed to Commissioner of Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513.



Lisa A. Ralph

August 16, 2004
Date of Signature



PILLSBURY WINTHROP_{LLP}

TTAB

725 SOUTH FIGUEROA STREET SUITE 2800 LOS ANGELES, CA 90017-5406 213.488.7100 F: 213.629.1033

August 16, 2004

Christopher J. Chaudoir
213.488.7284
chaudoir@PillsburyWinthrop.com

VIA U.S. EXPRESS MAIL
NO. EV 330955631 US

Box TTAB - FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Re: Petitioner: Ava Enterprises, Inc.
Mark: AUDIOBOSS
Serial No.: 78/321,156
Our Ref. No.: 006515-000-0013

Dear Sir or Madam:

We are the attorneys for Ava Enterprises, Inc. On behalf of our client, enclosed please find the following documents:

1. Opposition to Registration of Trademark (original and two copies);
2. Check in the amount of \$300.00
3. A Certificate of Express Mailing; and
4. A self-addressed stamped postal acknowledgment card.

Please acknowledge your receipt of the enclosed by date-stamping the enclosed self-addressed, stamped postcard and returning the same to us.

Please charge any underpayment or credit any overpayment to Deposit Account of Pillsbury Winthrop LLP, No. 16-1805.



08-16-2004

U.S. Patent & TMO/TM Mail Rcpt Dt. #22



PILLSBURY WINTHROP^{LLP}

Box TTAB - FEE
August 16, 2004
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Thank you in advance for your prompt attention to this matter.

Very truly yours,

PILLSBURY WINTHROP^{LLP}

Christopher J. Chaudoir

Enclosure

cc: Kent B. Goss, Esq. (w/o enc.)