

ESTTA Tracking number: **ESTTA41653**

Filing date: **08/09/2005**

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	Kia Motors America, Inc.
Granted to Date of previous extension	08/10/2005
Address	9801 Muirlands Blvd.P.O. Box 52410 Irvine, CA 92619 UNITED STATES

Correspondence information	David N. Makous Attorney Lewis Brisbois Bisgaard & Smith LLP 221 N. Figueroa Street, Suite 1200 Los Angeles, CA 90012 UNITED STATES makous@lbbslaw.com, hamilton@lbbslaw.com, quintero@lbbslaw.com Phone:(213) 250-1800
-----------------------------------	--

Applicant Information

Application No	78198682	Publication date	04/12/2005
Opposition Filing Date	08/09/2005	Opposition Period Ends	08/10/2005
Applicant	BBE Sound, Inc.		

5381 Production Drive
Huntington Beach, CA 92649
UNITED STATES

Goods/Services Affected by Opposition

Class 009.

All goods and services in the class are opposed, namely: Consumer electronics, namely, telephones, cellular telephones, audio speakers, stereo receivers, audio mixers, compact disc players, computers and Personal Digital Assistants

Attachments

KIA-NOTICE OF OPPOSITION OPTIMA (BBE Sound).pdf (2 pages)

Signature

/David N. Makous/

Name

David N. Makous

Date

08/09/2005

A. BBE Sound, Inc. (hereinafter "Applicant") has applied for registration for OPTIMA in connection with "Consumer electronics, namely, telephones, cellular telephones, audio speakers, stereo receivers, audio mixers, compact disc players, computers and Personal Digital Assistants" in International Class 09, Serial No. 78198682 published in the Official Gazette on April 12, 2005.

B. KIA MOTORS AMERICA, INC., ("Opposer") a corporation, based in Irvine, California believes that it will be damaged by registration of the above designated mark and hereby opposes it. Opposer is the exclusive licensee in the United States of all trademarks and service marks owned by KIA MOTORS CORPORATION ("KMC"). Additionally, Opposer is the exclusive distributor in the United States of those goods manufactured by KMC, and their respective parts, related services and licensed merchandise.

C. Opposer has prior rights to the mark OPTIMA for automotive vehicles and related parts. This mark has been used by Opposer since at least November 2000 in the United States.

D. Opposer has widely promoted, advertised and sold its OPTIMA automobiles and related products prior to Applicant's application, such that OPTIMA is distinctive and famous.

E. Opposer alleges it will be damaged by registration of Applicant's proposed mark because it is confusingly similar to Opposer's mark OPTIMA and dilutes its OPTIMA mark.

F. Applicant is not entitled to registration of the OPTIMA mark because:

1. Opposer has rights prior to Applicant; and
2. OPTIMA consists of or comprises a mark which so resembles the mark OPTIMA so as to be likely to cause confusion, mistake or to deceive (15 U.S.C. § 1052(d));
and

3. Opposer's trademark is famous and the proposed mark dilutes the distinctive nature of Opposer's trademark.

Therefore, Opposer requests that registration of the subject mark be refused.