

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

In the matter of Trademark Application
Serial No. 76/572,763
Filed: January 29, 2004
Trademark: HEIRLOOM ASSURANCE PROGRAM
Published: October 11, 2005

-----X)	
Assurant, Inc.,)	
)	
Opposer)	
)	Opposition No. _____
v.)	
)	
Yamaha Corporation of America,)	
)	
Applicant.)	
-----X)	

NOTICE OF OPPOSITION

Assurant, Inc., a Delaware corporation having a principal place of business at One Chase Manhattan Plaza, 41st Floor, New York, NY 10005 ("Opposer"), believes that it will be damaged by the registration of the mark shown in Application Serial No. 76/572,763, filed January 29, 2004, by Yamaha Corporation of America, a California corporation having a 6600 Orangethorpe Avenue, Buena Park, CA 90620 ("Applicant"), and hereby opposes the registration of said mark.

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01 FC:6402 300.00 OP

As grounds of opposition, it is alleged that:

1. Since long prior to January 29, 2004, the date on which the subject ITU application was filed by Applicant, or the actual date of first use of the HEIRLOOM ASSURANCE PROGRAM mark by Applicant (if any such use has been made), Opposer, its predecessors, subsidiaries, related companies and licensees ("Opposer and its Affiliates") have



12-09-2005

been in the business of offering for sale and selling insurance services to the public in this country and elsewhere. Among those insurance services offered by Opposer and its Affiliates are insurance programs to protect and insure valuables, some of which are referred to and generally described as heirlooms.

2. The term "heirloom" is commonly used in the insurance industry and the general public in this country to describe valued possessions. The phrase, "heirloom assurance program," when used in the context of the services with which Applicant intends to use or uses the phrase, immediately conveys to consumers and potential consumers that Applicant's services are directed to providing insurance services for heirlooms.

3. Through Trademark Application Serial No. 76/572,763, Applicant seeks to register the designation HEIRLOOM ASSURANCE PROGRAM as a composite trademark, for use in conjunction with the following services: "insurance services, namely, underwriting extended warranty contracts for musical instruments."

4. As used in the subject mark, the term "HEIRLOOM" is generic.

5. Alternatively, the term "HEIRLOOM," as used in the subject mark, is descriptive and has not attained secondary meaning as a source-identifier for Applicant's services. Applicant's mark immediately conveys information of significant ingredients, qualities, characteristics, features, functions, purposes or uses of the services with which it is used or is intended to be used.

6. As such, the term "HEIRLOOM" requires disclaimer. However, Applicant has not disclaimed the term "HEIRLOOM" in seeking to register the composite designation HEIRLOOM ASSURANCE PROGRAM for use in connection with the services described in

Applicant's application.

7. Opposer has a real interest in the registration of the mark HEIRLOOM ASSURANCE PROGRAM for use on or in connection with the described services, since such registration, without a disclaimer of "HEIRLOOM," would interfere with Opposer's right to the lawful generic and/or descriptive use of the term "heirloom" to refer to Opposer's services, particularly Opposer's insurance services directed at protecting and insuring valuables such as heirlooms.

8. Thus, Applicant's application for registration should be refused on the basis that the composite mark made the subject of this application consists of or comprises: a generic term, without a disclaimer thereof; or, alternatively, a descriptive term which has not become distinctive of Applicant's goods, without a disclaimer thereof.

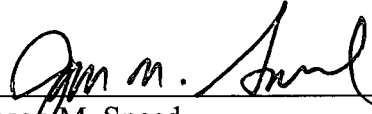
9. Accordingly, Opposer asserts, pursuant to 15 U.S.C. § 1063, that it will be damaged by the issuance of a registration for the HEIRLOOM ASSURANCE PROGRAM mark to Applicant as sought in Trademark Application Serial No. 76/572,763.

WHEREFORE, Opposer, Assurant, Inc., prays that the application for registration of Applicant's mark be rejected, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

A duplicate copy of this Notice of Opposition and a fee of \$300 are enclosed herewith. Please charge any additional fees incurred by Opposer in conjunction with this proceeding to the firm's Deposit Account No. 16-0605.

Date: December 9, 2005

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jason M. Sneed", written over a horizontal line.

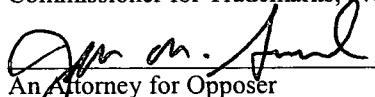
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CERTIFICATE OF MAILING

"Express Mail" mailing label number EV659482366 US
Date of Deposit: December 9, 2005

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to BOX TTAB/FEE, Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451, on December 9, 2005.


An Attorney for Opposer
Date of Signature: December 9, 2005

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