

ESTTA Tracking number: **ESTTA66649**

Filing date: **02/15/2006**

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	Marriott International, Inc.
Granted to Date of previous extension	02/15/2006
Address	Marriott Drive10400 Fernwood Road Bethesda, MD 20817 UNITED STATES
Attorney information	Paul F. Kilmer Holland & Knight LLP 2099 Pennsylvania Avenue, N.W. Washington, DC 20006 UNITED STATES anthony.masiello@hkllaw.com Phone:(202) 955-3000

Applicant Information

Application No	78523204	Publication date	10/18/2005
Opposition Filing Date	02/15/2006	Opposition Period Ends	02/15/2006
Applicant	Yuhao, CHEN 1 Xiongqi Road, Songgangshashui Industrial Park, Nanhai District Foshan City, CHINA		

Goods/Services Affected by Opposition

Class 009. All goods and sevicees in the class are opposed, namely: Flat panel display screens; LCD large-screen displays; Cabinets for loudspeakers; Loudspeakers; Apparatus for recording, transmission or reproduction of sound and images; Sound mixers; Television sets; Video game machines for use with televisions; Video output game machines for use with televisions; Radios for vehicles; Personal stereos; Video and audio apparatus for vehicles, namely liquid crystal displays, DVD players for vehicles, sound amplifiers, sub-woofers, woofers; Power amplifiers

Attachments	marriola__Feb_15_2006_16_56_13_538.pdf (8 pages)
-------------	--

Signature	/anthony masiello/
Name	Anthony R. Masiello
Date	02/15/2006

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

MARRIOTT INTERNATIONAL, INC.)	
)	
Opposer)	
)	
v.)	Opp. No. _____
)	
YUHAO, CHEN)	(Serial No. 78/523,204)
)	
Applicant)	

NOTICE OF OPPOSITION

Marriott International, Inc. ("Opposer"), a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 10400 Fernwood Road, Bethesda, MD 20817, believes that it will be damaged by the registration of the mark claimed in Application Serial No. 78/523,204 (the "Application") filed by Chen Yuhao, an individual citizen of China, of 1 Xiongqi Road, Songgangshashui Industrial Park, Nanhai District, Foshan City, China, on November 26, 2004 (the "Application Filing Date") and published in the Official Gazette of October 18, 2005, and hereby opposes registration of the same under the provisions of Section 13 of the Trademark Act of 1946, 15 U.S.C. §1063.

On November 15, 2005, Opposer timely filed a request for a thirty (30) day extension of time to oppose the subject application which was granted by the Trademark Trial and Appeal Board on that same day (expiring December 17, 2005). On December 15, 2005, Opposer timely filed a request for a further sixty (60) day extension of time to oppose the subject application which was granted on December 16, 2005 (expiring February 15, 2006).

As grounds for opposition, Opposer alleges the following:

1. Opposer is the owner of all right, title, and interest in and to the well known and famous trademark and service mark MARRIOTT, which Opposer and its predecessors in interest (collectively hereinafter "Opposer") have used since at least as early as 1960 in connection with hotel services and a wide range of hotel-related goods and services.

2. Since at least as early as July, 1960, Opposer has used the mark set forth below, in connection with hotel and restaurant services:

Marriott

3. Opposer is the owner of U.S. Registration No. 904,029 for the mark shown in Paragraph 2 above, for "hotel and restaurant services," which registration issued on December 8, 1970 and is valid and subsisting.

4. Opposer's Reg. No. 904,029 is incontestable and provides conclusive evidence of Opposer's ownership of the mark set forth therein, of the validity of that mark, and of Opposer's exclusive right to use that mark in commerce.

5. Opposer is the owner of U.S. Registration No. 899,900 for the mark MARRIOTT, in standard character form, for "hotel and restaurant services," which registration issued on September 29, 1970 and is valid and subsisting.

6. Opposer's Reg. No. 899,900 is incontestable and provides conclusive evidence of Opposer's ownership of the mark set forth therein, of the validity of that mark, and of Opposer's exclusive right to use that mark in commerce.

7. Since at least as early as 1988, Opposer has used the stylized form of its famous MARRIOTT mark in the following form:

Marriott

The mark set forth above is hereinafter referred to as "Opposer's Stylized Mark".

8. Opposer is the owner of U.S. Registration No. 2,504,099 for the mark set forth below for use in connection with "hotel, restaurant, catering, bar and lounge services; provision of facilities for meetings, conferences and exhibitions; reservation services for hotel accommodations," which registration issued on November 6, 2001 and is valid and subsisting:

Marriott

9. The font and appearance used for the stylization of Opposer's marks were created on a custom basis especially for Opposer and are not part of any commonly available or standard font.

10. Opposer has used the mark MARRIOTT and Opposer's Stylized Mark in connection with hotels, resort hotels, health spa services, physical fitness consultation, massage services, beauty salon services, restaurant, catering, bar and lounge services, providing facilities for meetings, conferences, and exhibitions, providing banquet and social function facilities, real estate time sharing services, financing, management, brokerage and leasing of timeshare properties and other real estate, airline catering, golf and tennis club services, marina services, reservation services, hotel management and franchise services, meeting and event planning and consultation, apartment services, travel services, retail services and charitable services (the "Marriott Services").

11. Opposer currently operates or franchises approximately 502 MARRIOTT branded hotels, resorts and conference centers located throughout the United States, and in at least 64 other countries. In connection with such hotels, resorts and conference centers, and the related services provided therein, Opposer displays the MARRIOTT mark and Opposer's Stylized Mark. In addition, Opposer's MARRIOTT mark and Opposer's Stylized Mark are displayed in signage and used at approximately 2000 other properties throughout the world in connection with many of the other hotel, timeshare and apartment brands owned by Opposer.

12. As a result of Opposer's widespread use, advertising, and promotion of the MARRIOTT mark and Opposer's Stylized Mark, both marks have become well-known and famous as distinctive indicators of the origin of the Marriott Services and the marks have acquired a highly favorable reputation among members of the purchasing public and become valuable symbols of Opposer's goodwill.

13. In connection with the provision of the Marriott Services, Opposer provides its guests with a wide variety of related services, including videoconferencing and audioconferencing services for business meetings, conferences and conventions.

14. In connection with the provision of videoconferencing and audioconferencing services, Opposer provides its customers access to a wide variety of equipment for use within Opposer's facilities, including video equipment, televisions, monitors, display screens, large-screen displays, audio equipment, and loudspeakers.

15. Opposer is the owner of U.S. Registration No. 2,592,830 for the mark set forth below, for use in connection with "providing videoconferencing, audioconferencing and web streaming services for business meetings, conferences and conventions," which registration issued on July 9, 2002 and is valid and subsisting:



16. In connection with the provision of the Marriott Services, Opposer distributes a wide variety of merchandise, promotional items, and gifts, marked with Opposer's Stylized Mark.

17. Opposer has offered property management, financial management, and other computer software, systems, applications and technologies in commerce under and by reference to Opposer's MARRIOTT mark and Opposer's Stylized Mark from a date prior to the Application Filing Date.

18. From a date preceding the Application Filing Date, and prior to any use by Applicant of Applicant's Mark, Opposer has distributed in commerce calculators, CD holders, and computer cases marked with Opposer's Stylized Mark or with marks that incorporate Opposer's Stylized Mark.

19. Notwithstanding Opposer's prior rights in the MARRIOTT mark and Opposer's Stylized Mark, on November 26, 2004, Applicant filed the Application in the United States Patent and Trademark Office for registration of the mark set forth below for "Flat panel display screens; LCD large-screen displays; Cabinets for loudspeakers; Loudspeakers; Apparatus for recording, transmission or reproduction of sound and images; Sound mixers; Television sets; Video game machines for use with televisions; Video output game machines for use with televisions; Radios for vehicles; Personal stereos; Video and audio apparatus for vehicles, namely liquid crystal displays, DVD players for vehicles, sound amplifiers, sub-woofers, woofers; Power amplifiers" (collectively "Applicant's Goods"):

Marriola

The mark set forth above is hereinafter referred to as "Applicant's Mark."

20. The upper-case letter M in Applicant's Mark is a nearly identical simulation of the initial letter of Opposer's Stylized Mark.

21. Applicant's Mark makes use of an un-dotted lower-case letter "i" that resembles the un-dotted lower-case letter "I" in Opposer's Stylized Mark.

22. The style of all of the letters of Applicant's Mark closely resembles the distinctive style of the letters in Opposer's Stylized Mark.

23. On information and belief, Applicant knew or had reason to know of Opposer's prior rights in Opposer's Stylized Mark when Applicant filed the Application.

24. On information and belief, Applicant or Applicant's agents intentionally copied Opposer's Stylized Mark in designing Applicant's Mark.

25. The Application was filed on the basis of intent to use, under Trademark Act Section 1(b), 15 U.S.C. Section 1051(b).

26. On information and belief, Applicant made no use of Applicant's Mark in connection with Applicant's Goods prior to the filing of the Application.

27. On information and belief, Applicant has to date made no use of Applicant's Mark in connection with any goods or services offered, sold, distributed or transported in commerce.

28. Opposer's mark MARRIOTT and Opposer's Stylized Mark have been used, advertised and promoted in interstate commerce from a date long prior to the Application Filing Date and long prior to any use by Applicant of Applicant's Mark.

29. Opposer's Registrations No. 904,029, 2,504,099 and 2,592,830 issued long prior to the Application Filing Date and long prior to any use by Applicant of Applicant's Mark.

30. Opposer's mark MARRIOTT is famous and became famous long prior to any real or "constructive" use by Applicant of Applicant's Mark.

31. Opposer's Stylized Mark is famous and became famous long prior to any real or "constructive" use by Applicant of Applicant's Mark.

32. The mark in Opposer's Registration No. 2,504,099 is famous and became famous long prior to any real or "constructive" use by Applicant of Applicant's Mark.

COUNT I
Likelihood of Confusion - §2(d)

33. Opposer realleges and incorporates by reference the allegations contained in paragraphs 1 through 32, above, as if set forth in their entirety herein.

34. The Applicant's Mark so closely resembles the Opposer's Stylized Mark in appearance, sound and/or meaning that the use and registration thereof by Applicant is likely to cause confusion, mistake, and deception as to the source or origin of Applicant's Goods and will injure and damage Opposer and the goodwill and reputation symbolized by Opposer's Stylized Mark.

35. The Applicant's Mark so closely resembles the mark in Opposer's Registration No. 904,029 in appearance, sound and/or meaning that the use and registration thereof by Applicant is likely to cause confusion, mistake, and deception as to the source or origin of Applicant's Goods and will injure and damage Opposer and the goodwill and reputation symbolized by Opposer's registered mark.

36. The Applicant's Mark so closely resembles the mark in Opposer's Registration No. 2,504,099 in appearance, sound and/or meaning that the use and registration thereof by Applicant is likely to cause confusion, mistake, and deception as to the source or origin of Applicant's Goods and will injure and damage Opposer and the goodwill and reputation symbolized by Opposer's registered mark.

37. Applicant's Goods are so closely related to the equipment that Opposer provides to its customers in connection with its videoconferencing and audioconferencing services, and other goods and services provided by Opposer, that the public is likely to be confused, to be deceived, and to assume erroneously that Applicant's Goods are those of Opposer or that Applicant is in some way connected with, sponsored by, or affiliated with Opposer, all to Opposer's irreparable damage and injury.

38. Likelihood of confusion in this case is enhanced by the fame of Opposer's MARRIOTT mark, Opposer's Stylized Mark, and the mark in Opposer's Registration No. 2,504,099.

39. Under the circumstances, registration and use of Applicant's Mark is likely to cause Opposer to lose control over the good and valuable reputation represented by and derived from Opposer's MARRIOTT mark and Opposer's Stylized Mark.

40. Registration of Applicant's Mark in light of the prior rights of Opposer in the MARRIOTT mark, Opposer's Stylized Mark and the mark in Registrations Nos. 904,029 and 2,504,099 is therefore likely to cause confusion, mistake and/or deception among members of the relevant purchasing public resulting in damage and injury to Opposer in violation of the provisions of Section 2(d) of the Trademark Act. 15 U.S.C. §1052(d).

COUNT II
Deception - §2 (a)

41. Opposer realleges and incorporates by reference the allegations contained in paragraphs 1 through 40, above, as if set forth in their entirety herein.

42. The distinctive upper-case letter M that appears in Opposer's Stylized Mark uniquely indicates Opposer as the source of goods and services, such that customers in the marketplace will likely believe, erroneously, that goods or services marked with Applicant's Mark, which includes such distinctive letter M, are goods or services originating with Opposer, and such customers will thereby be deceived.

43. Opposer's Stylized Mark uniquely indicates Opposer as the source of goods and services.

44. Applicant's Mark so closely resembles Opposer's Stylized Mark that customers in the marketplace will likely believe, erroneously, that goods or services marked with Applicant's Mark are goods or services originating with Opposer, and such customers will thereby be deceived.

45. Applicant's Mark so closely resembles Opposer's Stylized Mark that it falsely suggests a connection with Opposer, such that customers in the marketplace are likely to believe, erroneously, that goods marked with Applicant's Mark originate with Opposer, are sponsored or approved by Opposer, or are otherwise connected to Opposer.

46. The erroneous belief of customers that goods marked with Applicant's Mark originate with Opposer would be a material factor in the decision of such customers to select and purchase such goods.

47. The incorrect belief of customers that goods marked with Applicant's Mark originate with Opposer, are sponsored or approved by Opposer, or are otherwise connected to Opposer would be a material factor in the decision of such customers to select and purchase such goods.

48. Registration of Applicant's Mark would violate the provisions of Section 2(a) of the Trademark Act, 15 U.S.C. §1052(a), because Applicant's Mark consists of or comprises deceptive matter, and because it falsely suggests a connection with Opposer, resulting in damage and injury to the public and to Opposer.

COUNT III
Dilution - §43(c)

49. Opposer realleges and incorporates by reference the allegations contained in paragraphs 1 through 48, above, as if set forth in their entirety herein.

50. Use of Applicant's Mark will cause dilution of the distinctive quality of Opposer's Stylized Mark and of Opposer's MARRIOTT mark, both of which are famous.

51. Use or registration of Applicant's Mark will lessen the capacity of Opposer's Stylized Mark and Opposer's MARRIOTT mark to identify and distinguish Opposer's goods and services.

52. Use and registration of the Applicant's Mark will deprive Opposer of the ability to protect its reputation, persona, and goodwill.

53. Likelihood of damage to Opposer's goodwill is enhanced by the fact that prospective customers who encounter defects in the quality of Applicant's Goods will attribute those defects to Opposer, and this will dilute Opposer's reputation and goodwill.

54. By reason of the foregoing, Opposer will be damaged by the registration of Applicant's Mark and registration should be refused pursuant to the provisions of Section 43(c) of the Trademark Act, 15 U.S.C. §1125(c).

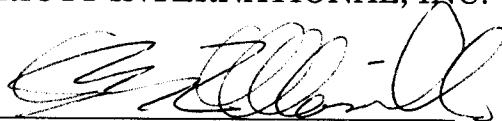
The required fee of \$300.00 has been provided. Any additional charges should be made to the Deposit Account of Holland & Knight LLP, Account No. 50-1542.

WHEREFORE, Opposer prays that this opposition be sustained and that registration be denied to Applicant's Mark.

MARRIOTT INTERNATIONAL, INC.

Date: February 15, 2006

By: _____



Paul F. Kilmer
Anthony R. Masiello
HOLLAND & KNIGHT LLP
2099 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
(202) 955-3000

Attorneys for Opposer