

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

In the matter of Application Serial No. 78/606,837  
Published for Opposition in the OFFICIAL GAZETTE of January 10, 2006

MEGATRAX PRODUCTION MUSIC, INC.

Opposer

Opposition No.:

:  
:  
:

v.

STEPHANI, SCOTT P.

Applicant



01-31-2006

U.S. Patent & TMO/TM Mail Rpt Dt. #11

**NOTICE OF OPPOSITION**

Megatrax Production Music, Inc. ("Opposer"), a California corporation, having its principal place of business in North Hollywood, California, believes it would be damaged by registration of the mark MEGA MEDIA XCHANGE as shown in Application Serial No. 78/606,837 filed by Scott P. Stephani ("Applicant") and hereby opposes same.

As grounds for this opposition it is alleged:

1. On or before April 12, 2005, Applicant filed an application with the United States Patent & Trademark Office to register the mark MEGA MEDIA XCHANGE for retail store services and computerized on-line retail services featuring new and used audio, video and electronic equipment, components and accessories, digital video discs, compact discs, video tapes, video games, video game consoles and accessories, video game strategy guides, books, comic books and audio books in International Class 35.

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2. Opposer has been using the mark MEGATRAX for publications, namely, pre-recorded compact discs featuring music an CD-ROMs featuring music and catalogs of music; maintaining a library of recorded music; record production services; music publishing services, producing audio recordings of music and sound effects; publications for cultural and educational purpose of musical works; music editing services for others and ownership recording studio services for others, and composition of music for others since April 12, 1993.

3. Opposer has been using the mark MEGATRAX on the above-referenced goods and services since at least as early as April 12, 1993. As such, Opposer has for many years been engaged in the manufacture and sale of pre-recorded compact discs featuring music an CD-ROMs featuring music and catalogs of music in International Class 9, the services of maintaining a library of recorded music; record production services; music publishing services, producing audio recordings of music and sound effects; publications for cultural and educational purpose of musical works; music editing services for others and ownership recording studio services for others in International Class 41; and composition of music for others in International Class 42 since April 12, 1993 as set forth in paragraph 2 of this Notice of Opposition.

4. Opposer is the owner of the following United States trademark registrations for MEGATRAX and MEGATRAX (stylized): Registration No. 286607 for pre-recorded compact discs featuring music and CD-ROMs featuring music and catalogs of music in International Class 9; and maintaining a library of recorded music; record production services; music publishing services, producing audio recordings of music and sound effects; publications for cultural and educational purpose of musical works; music editing services for others, composition of music of others and ownership recording studio services for others in International Class 41; Registration No. 1931471 for music libraries; record production; music

publishing services, namely producing audio recordings of music and sound effects in International Class 41; and licensing of intellectual property, namely proprietary recorded music and sound effects; composition of music for others in International Class 42; and Registration No. 1898704 for pre-recorded compact discs featuring music, and CD-ROMs featuring music and catalogs of music in International Class 9; maintaining a library of recorded music; record production services in International Class 41; and composition of music for others in International Class 42.

5. Since prior to Applicant's filing of the application for the mark MEGA MEDIA XCHANGE and/or any alleged use of the mark, Opposer has made substantial and continuous use of the MEGATRAX mark in interstate commerce on and in connection with the advertising, promotion, and sale of its goods and services, as set forth above.

6. By virtue of the aforesaid advertising, promotions and sales, Opposer's MEGATRAX trademarks have come to represent valuable goodwill owned by Opposer.

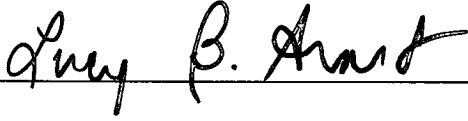
7. The goods and services in connection with which Opposer uses its MEGATRAX mark and the services for which Applicant seeks to register the MEGA MEDIA XCHANGE mark are closely related and they are sold through the same channels of trade and to the same class of purchasers.

8. Furthermore, Opposer's mark MEGATRAX and Applicant's mark MEGA MEDIA XCHANGE are highly similar.

9. Use by Applicant of the mark MEGA MEDIA XCHANGE would be likely to cause confusion, mistake or deception with Opposer's aforesaid MEGATRAX trademarks and

Date of Deposit: January 26, 2006

I hereby certify that this paper or fee is being deposited with the United States Postal Service on the date indicated above and is addressed to: Assistant Commissioner for Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451.

A handwritten signature in cursive script, reading "Lucy B. Arant", written over a horizontal line.

(Signature)-