

ESTTA Tracking number: **ESTTA114882**

Filing date: **12/15/2006**

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	Monster Cable Products, Inc.		
Entity	Corporation	Citizenship	CA
Address	455 Valley Drive Brisbane, CA 94005-1209 UNITED STATES		

Attorney information	Brent A. Capehart LaRiviere, Grubman & Payne, LLP 19 Upper Ragsdale Dr., Ste 200 P. O. Box 3140 Monterey, CA 93942-3140 UNITED STATES bcapehart@lgpatlaw.com, lvictorino@lgpatlaw.com, rpayne@lgpatlaw.com, nsmith@lgpatlaw.com Phone:831-649-8800
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Applicant Information

Application No	78689661	Publication date	11/21/2006
Opposition Filing Date	12/15/2006	Opposition Period Ends	12/21/2006
Applicant	MONSTER DADDY, LLC P.O. BOX 26855 GREENVILLE, SC 29616 UNITED STATES		

Goods/Services Affected by Opposition

Class 001. All goods and services in the class are opposed, namely: Chemical compositions in the nature of a lifting agent and emulsifier for use in the manufacture of cleaning preparations; adhesives for general industrial, commercial and household use
Class 003. All goods and services in the class are opposed, namely: Chemical compositions in the nature of a lifting agent and emulsifier for use in cleaning; cleaners and chemicals, namely, preparations for cleaning and washing vehicle, motorcycle and watercraft surfaces and general purpose preparations for cleaning, waxing, restoring, protecting and shining finished surfaces for use on vehicles, motorcycles and watercrafts
Class 025. All goods and services in the class are opposed, namely: Clothing, namely, shirts, polo shirts, jerseys, head wear, beanies and coats
Class 036. All goods and services in the class are opposed, namely: Financial sponsorship of racing events

Related Proceedings	Opposition No. 91172424
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Attachments	Monster Industrial Opposition- filed 12-15-06.pdf (10 pages)(89034 bytes)
Signature	/S/ Brent A. Capehart
Name	Brent A. Capehart
Date	12/15/2006

Date of Filing: December 15, 2006

I hereby certify that this paper or fee is being electronically filed with the United States Patent and Trademark Office on the date indicated above.

Typed or Printed Name of Person Electronically Filing Paper or Fee: Linda M. Victorino
Signature: Linda Victorino

TRADEMARK: MONSTER INDUSTRIAL

IN THE

UNITED STATES PATENT AND TRADEMARK OFFICE

TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Trademark Registration Application Serial No. 78/689,661 published in the Official Gazette (Trademarks) on November 21, 2006:

MONSTER CABLE PRODUCTS, INC.)	
)	
Opposer,)	
v.)	Opposition No.: _____
)	
MONSTER DADDY, LLC,)	
)	
Applicant.)	
_____)	

NOTICE OF OPPOSITION

MONSTER CABLE PRODUCTS, INC., a California corporation, whose address is 455 Valley Drive, Brisbane, CA 94005-1209 (referred to herein as "Opposer") believes that they will be damaged by the registration of the mark "MONSTER INDUSTRIAL" in International Classes 1, 3, 25 and 36 (for (1) Chemical compositions in the nature of a lifting agent and emulsifier for use in the manufacture of cleaning preparations; adhesives for general industrial, commercial and household use; (3) Chemical compositions in the nature of a lifting agent and emulsifier for use

in cleaning; cleaners and chemicals, namely, preparations for cleaning and washing vehicle, motorcycle and watercraft surfaces and general purpose preparations for cleaning, waxing, restoring, protecting and shining finished surfaces for use on vehicles, motorcycles and watercrafts; (25) Clothing, namely, shirts, polo shirts, jerseys, head wear, beanies and coats; and (36) Financial sponsorship of racing events, respectively) on the Principal Register, as shown in the above-referenced application made by MONSTER DADDY, LLC ("Applicant"), and hereby opposes same.

As grounds of opposition, it is alleged that:

1. Opposer has prior rights to the trademark MONSTER, as it first used said mark at least as early as May 18, 1978, and caused said mark to be placed in commerce at least as early as August 18, 1978 in connection with other goods, such as electrical and musical items.

2. Since long prior to August 10, 2005, the filing date of the subject ITU application, or the actual date of first use of the MONSTER INDUSTRIAL mark by Applicant, Opposer has used continuously the MONSTER mark and an extensive "MONSTER" family of marks using the "Monster" stem word (hereinafter "MONSTER Family of Marks"), on or in connection with various goods and services in the United States. Among those goods and services sold and provided for by Opposer in the United States under the MONSTER Family of Marks are a variety of goods and services, including but not limited to, electrical, audio, video, clothing, musical items and thereafter on related items, including products and services in connection with computers, the Internet and electronic commerce, professional sports events, community events, and related goods.

3. By reason of the adoption and continuous use of the MONSTER Family of Marks, these marks have a distinctive quality and have acquired special and particular significance and very valuable goodwill as identifying Opposer and its goods and services. Opposer's MONSTER Family of Marks has become famous and distinctive through, *inter alia*, Opposer's extensive use, advertising and promotion of those marks throughout the United States for a variety of goods and services over a substantial period of time.

4. Consequently, through such usage and recognition, Opposer has acquired common-law rights in the MONSTER Family of Marks as proprietary trademarks, which rights extend without limitation, to the exclusive right to use such designation nationwide in conjunction with Opposer's goods and services.

5. Moreover, since prior to either the filing date of the subject application or the actual date of first use of the MONSTER INDUSTRIAL mark by Applicant, Opposer has used the designation MONSTER, either alone or in connection with other terms, as a trademark on or in conjunction with a variety of goods and services and, as such, has acquired nationwide common law rights in the MONSTER designation as a proprietary trademark for its goods and services.

6. Opposer is also the licensor of additional marks employing the term "Monster".

7. Opposer is also the owner of many U.S. registrations for its MONSTER Family of Marks, including, without limitation, the following registrations:

a. Federal Trademark Registration No. 2,184,002, for the mark MONSTER in Class 9 for namely electrical and musical signal transmitting cable and connectors;

- b. Federal Trademark Registration No. 1,342,164, for the mark MONSTER CABLE in Class 9, for electrical signal transmitting cable and connectors;
- c. Federal Trademark Registration No. 1,340,229, for the mark MONSTER CABLE in Class 9, for musical and voice signal transmitting cable and connectors;
- d. Federal Trademark Registration No. 1,384,076, for the mark MONSTER CABLE (STYLIZED) in Class 9, for computer cables;
- e. Federal Trademark Registration No. 2,998,513, for the mark "MONSTER" in Class 28 for bowling balls;
- f. Federal Trademark Registration No. 3,103,291, for the mark "MONSTER GARAGE" in Class 9 for motion picture films; pre-recorded video disks and audio-visual recordings; pre-recorded videotapes; pre-recorded compact discs; DVDs and CD-ROMs; all of the above goods featuring subject matter related to the television series of the same name that features the reconstruction of automobiles into unique motor vehicle devices;
- g. Federal Trademark Registration No. 3,103,290, for the mark "MONSTER GARAGE" in Class 41 for entertainment services in the nature of a television series regarding the reconstruction of automobiles into unique motor vehicle devices;
- h. Federal Trademark Registration No. 3,097,551, for the mark "MONSTER GARAGE" in Class 41 for entertainment services in the nature of a television series regarding the reconstruction of automobiles into unique motor vehicle devices; provision of information related to television program of the same name via the internet;

I. Federal Trademark Registration No. 3,055,801, for the mark "MONSTER GEAR" in Class 18 for luggage;

j. Federal Trademark Registration No. 2,972,563, for the mark "MONSTER MINTS" in Class 30 for mint candy;

k. Federal Trademark Registration No. 3,057,145, for the mark "MONSTER UNIVERSITY" in Class 41 for educational and training services, namely, conducting online training with respect to electronic products, key word and key phrase information relating to electronic products, and hookup information relating to electronic products.

l. Federal Trademark Registration No. 1,844,244, for the trademark MONSTER HOME THEATRE for Class 9, for audio cables.

m. Federal Trademark Registration No. 1,738,114, for the trademark MONSTER DESIGN for Class 9, for cable connectors for use with audio equipment.

n. Federal Trademark Registration No. 2,809,051, for the trademark MONSTER MOBILE for Class 9, namely electrical equipment for recharging batteries.

o. Federal Trademark Registration No. 1,759,527, for the trademark MONSTER SOUND for Class 9, for audio equipment, namely electrical cables and connectors and parts thereof.

p. Federal Trademark Registration No. 1,428,215, for the trademark MONSTER VIDEO for Class 9, for video cables.

q. Federal Trademark Registration No. 1,351,414, for the trademark MONSTER TIPS for Class 9, for electrical audio connectors for connecting of home stereo and video components.

r. Federal Trademark Registration No. 1,812,892, for the trademark MONSTER CONNECTION for Class 16, for newsletters about consumer electronics.

s. Federal Trademark Registration No. 1,414,284, for the trademark I AM A MONSTER for Class 25, namely t-shirts and jackets.

t. Federal Trademark Registration No. 2,220,851, for the trademark MONSTER CENTRAL for Class 9, namely electrical signals distribution panels.

u. Federal Trademark Registration No. 2,185,607, for the trademark MONSTER COMPUTER for Class 9, namely computer cables.

v. Federal Trademark Registration No. 2,211,670, for the trademark MONSTER MOUNTS for Class 9, namely loudspeaker mounting units.

w. Federal Trademark Registration No. 2,153,562, for the trademark MONSTER MULTIMEDIA for Class 9, for Audio and video products, namely, cable switch boxes, and junction boxes.

x. Federal Trademark Registration No. 2,227,322, for the trademark MONSTER NETWORKING for Class 9, namely, connectors and cables for the transmission of data signals.

y. Federal Trademark Registration No. 2,330,194, for the trademark MONSTER LOCK for Class 9, namely electrical connectors.

z. Federal Trademark Registration No. 2,728,729, for the trademark MONSTER POWER for Class 9, electrical power control products, namely batteries, power strip type electrical outlets, power line conditioners and electrical power extension cords.

aa. Federal Trademark Registration No. 2,639,223, for the trademark MONSTER USB for Class 9, namely USB cables and connector devices for computers and components.

bb. Federal Trademark Registration No. 2,213,346, for the trademark MONSTER POWER for Class 9, namely batteries, power strips, power line conditioners, and electrical power extension cords.

cc. Federal Trademark Registration No. 2,083,506, for the trademark MONSTER SATELLITE for Class 9, namely satellite disk-to-receiver interconnect, electrical cables, electrical connectors and amplifiers, satellite receiver connection kit comprised of electrical cables and electrical connectors, amplifier, and satellite finder.

dd. Federal Trademark Registration No. 2,381,247, for the trademark MONSTER DIGITAL for Class 9, namely electrical signal transmitting cable and connectors.

ee. Federal Trademark Registration No. 2,381,246, for the trademark MONSTER STANDARD for Class 9, namely electrical signal transmitting cable and connectors.

ff. Federal Trademark Registration No. 2,724,015, for the trademark MONSTER (and design) for Class 9, namely electrical cables, connectors and control devices for use with audio and video components.

gg. Federal Trademark Registration No. 2,617,706, for the trademark IMONSTER for Class 35, namely promoting the goods and services of others by providing hypertext links to web sites of others.

hh. Federal Trademark Registration No. 2,627,042, for the trademark MONSTER for Class 25, clothing, namely sweatshirts, T-shirts, pants, jackets, and caps.

ii. Federal Trademark Registration No. 2,774,858, for the trademark MONSTER for Class 9, namely electrical and optical cables, wires and connectors for use with audio and video components.

jj. Federal Trademark Registration No. 2,623,566, for the trademark MONSTER BUCKS for Class 35, marketing and product promotion services for others; namely by distribution of product reward coupons to sales representatives for redemption and/or redistribution to clients.

kk. Federal Trademark Registration No. 3,093,850, for the trademark MONSTER ROCK for Class 09, electrical and electromagnetic signal transmitting amplifying, receiving and converting devices, namely, cables, wires, connectors, and control devices for use with electrical, electronic and computer devices; loudspeakers; stereo amplifiers; audio equipment and accessories, namely, electronically amplified musical instruments, amplifiers for musical instruments and control devices for musical instruments.

8. Opposer's Federal Trademark Registrations related to its MONSTER Family of Marks are valid, subsisting, and in full force and effect.

9. On August 10, 2005, Applicant filed the ITU application at issue to register in International Classes 1, 3, 25 and 36 the mark “MONSTER INDUSTRIAL” (“Applicant’s Mark”) for use with “chemical compositions in the nature of a lifting agent and emulsifier for use in the manufacture of cleaning preparations; adhesives for general industrial, commercial and household use”; “chemical compositions in the nature of a lifting agent and emulsifier for use in cleaning; cleaners and chemicals, namely, preparations for cleaning and washing vehicle, motorcycle and watercraft surfaces and general purpose preparations for cleaning, waxing, restoring, protecting and shining finished surfaces for use on vehicles, motorcycles and watercrafts”; “clothing, namely, shirts, polo shirts, jerseys, head wear, beanies and coats”; and “financial sponsorship of racing events”, respectively.

10. The intended trademark MONSTER INDUSTRIAL is confusingly similar to Opposer’s above-stated individual trademarks and the MONSTER family of marks, and registration of Applicant’s proposed mark and continued use by Applicant on its goods is likely to cause confusion, deception, and mistake. Applicant’s use of said intended trademark interferes with Opposer’s use of its above-stated trademarks and family of marks, and use or registration of its mark by Applicant will seriously damage Opposer. Furthermore, Opposer’s MONSTER and family of MONSTER marks are famous and became famous before Applicant’s date of application for Application Serial No.78/689,661, and Applicant’s use is likely to dilute the distinctive quality of Opposer’s famous MONSTER and family of MONSTER marks.


WHEREFORE, Opposer MONSTER CABLE PRODUCTS, INC. prays that Application Serial No. 78/689,661 be rejected, and that the registration of the mark therein shown for the goods therein specified be refused and denied.

Respectfully submitted,

LARIVIERE, GRUBMAN & PAYNE, LLP

Dated: December 14, 2006

By



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