

ESTTA Tracking number: **ESTTA148955**

Filing date: **07/02/2007**

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	Delphi Technologies, Inc.
Granted to Date of previous extension	07/01/2007
Address	PO Box 5052 5825 Delphi Drive Troy, MI 48098 UNITED STATES

Attorney information	Linda E. Sudzina Rader, Fishman & Grauer PLLC 39533 Woodward Avenue Suite 140 Bloomfield Hills, MI 48304 UNITED STATES les@raderfishman.com, mdf@raderfishman.com, interpartesparalegals@raderfishman.com Phone:248-594-0600
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Applicant Information

Application No	78949303	Publication date	01/02/2007
Opposition Filing Date	07/02/2007	Opposition Period Ends	07/01/2007
Applicant	Audyssey Laboratories, Inc. 350 S. Figueroa St., Suite 196 Los Angeles, CA 90071 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 009. All goods and services in the class are opposed, namely: Software for acoustic correction, namely, software to control and improve audio equipment sound quality; televisions; plasma monitors; rear projection televisions; audio video receivers; surround sound processors; surround sound preamplifiers; home theater-in-a-box systems, namely, DVD player, a preamplifier, a multi-channel amplifier, loud speakers and a subwofer; audio video DVD receivers; cable TV set top boxes; satellite set top boxes; DVD players; DVD recorders; VHS players and recorders; DVHS players and recorders; HDTV tuners; digital video recorders; loudspeakers; in-wall loudspeakers; in-ceiling loudspeakers; multi-room audio processors; wireless loudspeakers; professional sound processors; professional loudspeakers; cinema loudspeakers; cinema processors; mixing consoles; audio editing workstations; digital equalizers; matrix audio processors; CD players; AM/FM radios; cassette players; DVD players; digital music players; portable DVD players; portable CD players; portable minidisks, portable cassette players; portable digital music players, portable loudspeakers; headphones; portable digital assistants; cell phones; speaker phones; teleconference phones</p>

Applicant Information

Application No	78949316	Publication date	01/02/2007
Opposition Filing Date	07/02/2007	Opposition Period Ends	
Applicant	Audyssey Laboratories, Inc. 350 S. Figueroa St., Suite 196 Los Angeles, CA 90071 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 009. All goods and services in the class are opposed, namely: Software for acoustic correction, namely, software to control and improve audio equipment sound quality; televisions; plasma monitors; rear projection televisions; audio video receivers; surround sound processors; surround sound preamplifiers; home theater-in-a-box systems, namely, DVD player, a preamplifier, a multi-channel amplifier, loud speakers and a subwoofer; audio video DVD receivers; cable TV set top boxes; satellite set top boxes; DVD players; DVD recorders; VHS players and recorders; DVHS players and recorders; HDTV tuners; digital video recorders; loudspeakers; in-wall loudspeakers; in-ceiling loudspeakers; multi-room audio processors; wireless loudspeakers; professional sound processors; professional loudspeakers; cinema loudspeakers; cinema processors; mixing consoles; audio editing workstations; digital equalizers; matrix audio processors; CD players; AM/FM radios; cassette players; DVD players; digital music players; portable DVD players; portable CD players; portable minidisks, portable cassette players; portable digital music players, portable loudspeakers; headphones; portable digital assistants; cell phones; speaker phones; teleconference phones</p>
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	1702989	Application Date	08/26/1991
Registration Date	07/28/1992	Foreign Priority Date	NONE
Word Mark	AUDYSSEY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1989/11/30 First Use In Commerce: 1989/11/30 automotive sound systems; namely, compact disc players, audio amplifiers, and subwoofer loudspeakers		

Attachments	SDOC0149.pdf (4 pages)(187801 bytes)
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Signature	/Linda E. Sudzina/
Name	Linda E. Sudzina
Date	07/02/2007

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

DELPHI TECHNOLOGIES, INC.)	
)	
Opposer,)	
)	Opposition No. _____
v.)	Mark: AUDYSSEY EQ
)	App. Serial No. 78/949,303
AUDYSSEY LABORATORIES, INC.)	Mark: AUDYSSEY EQ WITH BASS XT
)	App. Serial No. 78/949,316
Applicant.)	
_____)	

NOTICE OF OPPOSITION

Opposer, Delphi Technologies, Inc., a Delaware corporation at 5825 Delphi Drive, Troy, Michigan 48098 (“Opposer”), believes that it will be damaged by registration of the marks of Application Serial Nos. 78/949,303 and 78/949,316 by Audyssey Laboratories, Inc., Applicant herein (“Applicant”), and hereby opposes the same on the grounds that the marks are likely to cause confusion, or to cause mistake or to deceive with respect to Opposer’s prior use and registration of the mark AUDYSSEY (“Opposer’s AUDYSSEY Mark”), Registration No. 1,702,989 (“Opposer’s AUDYSSEY Registration”) and that registration of the marks in Application Serial Nos. 78/949,303 and 78/949,316 will dilute the distinctiveness of Opposer’s famous AUDYSSEY Mark by tarnishing the mark and by blurring the distinctiveness of the mark.

1. Opposer has been and continues to be extensively engaged in the business of manufacturing, marketing and selling a broad range of electronic products and automotive components and systems under a variety of trademarks.

2. For example, Opposer has used Opposer’s AUDYSSEY Mark in connection with automotive sound systems, namely, compact disc players, audio amplifiers and subwoofer loudspeakers (“Opposer’s Goods”).

3. The AUDYSSEY Registration has achieved incontestable status and thus, constitutes conclusive evidence of the validity of Opposer's AUDYSSEY Mark, the registration therefor, Opposer's ownership of the mark and Opposer's exclusive right to use the mark in commerce.

4. On information and belief, Applicant, Audyssey Laboratories, Inc., is a Delaware corporation at 350 S. Figueroa Street, Suite 196, Los Angeles, California 90071.

5. Notwithstanding Opposer's prior use of Opposer's AUDYSSEY Mark and Opposer's AUDYSSEY Registration, Applicant filed, on August 10, 2006, Application Serial No. 78/949,303 for the mark AUDYSSEY EQ covering:

"Software for acoustic correction, namely, software to control and improve audio equipment sound quality; televisions; plasma monitors; rear projection televisions; audio video receivers; surround sound processors; surround sound preamplifiers; home theater-in-a-box systems, namely, DVD player, a preamplifier, a multi-channel amplifier, loud speakers and a subwoofer; audio video DVD receivers; cable TV set top boxes; satellite set top boxes; DVD players; DVD recorders; VHS players and recorders; DVHS players and recorders; HDTV tuners; digital video recorders; loudspeakers; in-wall loudspeakers; in-ceiling loudspeakers; multi-room audio processors; wireless loudspeakers; professional sound processors; professional loudspeakers; cinema loudspeakers; cinema processors; mixing consoles; audio editing workstations; digital equalizers; matrix audio processors; CD players; AM/FM radios; cassette players; DVD players; digital music players; portable DVD players; portable CD players; portable minidisks, portable cassette players; portable digital music players, portable loudspeakers; headphones; portable digital assistants; cell phones; speaker phones; teleconference phones," in International Class 9; and

Application Serial No. 78/949,316 for the mark AUDYSSEY EQ WITH BASS XT covering:

"Software for acoustic correction, namely, software to control and improve audio equipment sound quality; televisions; plasma monitors; rear projection televisions; audio video receivers; surround sound processors; surround sound preamplifiers; home theater-in-a-box systems, namely, DVD player, a preamplifier, a multi-channel amplifier, loud speakers and a subwoofer; audio video DVD receivers; cable TV set top boxes; satellite set top boxes; DVD players; DVD recorders; VHS players and recorders; DVHS players and recorders; HDTV tuners; digital video recorders; loudspeakers; in-wall loudspeakers; in-ceiling loudspeakers; multi-room audio processors; wireless loudspeakers; professional sound processors; professional loudspeakers; cinema loudspeakers; cinema processors; mixing consoles; audio editing workstations; digital equalizers; matrix audio processors; CD players; AM/FM radios; cassette players; DVD players; digital music players; portable DVD players; portable CD players; portable minidisks, portable cassette players; portable digital music players, portable loudspeakers; headphones; portable digital assistants; cell phones; speaker phones; teleconference phones," in International Class 9.

6. The marks in Application Serial Nos. 78/949,303 and 78/949,316 are similar to Opposer's AUDYSSEY Mark, and subsume Opposer's AUDYSSEY Mark in its entirety. Further, the goods in Application Serial Nos. 78/949,303 and 78/949,316 and Opposer's Goods are similar and related, if not identical.

7. In view thereof, purchasers are likely to mistakenly assume that the goods in Application Serial Nos. 78/949,303 and 78/949,316 originate from, are sponsored by or are in some way associated with Opposer. The mark in Application Serial Nos. 78/949,303 and 78/949,316 so resembles Opposer's AUDYSSEY Mark as to be likely to cause confusion, or to cause mistake or to deceive. Accordingly, Opposer is likely to be damaged by registration of the marks in Application Serial Nos. 78/949,303 and 78/949,316.

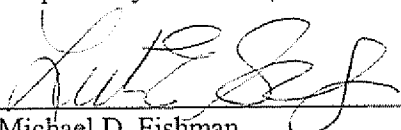
8. Moreover, Opposer's AUDYSSEY Mark is famous. Registration of the marks in Application Serial Nos. 78/949,303 and 78/949,316 will dilute the distinctiveness of Opposer's AUDYSSEY Mark by tarnishing the mark and by blurring the distinctiveness of the mark.

WHEREFORE, Opposer prays that Application Serial Nos. 78/949,303 and 78/949,316 be refused registration, that no registration be issued thereon to Applicant and that this Opposition be sustained in favor of Opposer.

A filing fee for the Notice of Opposition in the amount of \$600US should be charged to Deposit Account No. 18-0013. Any additional fees required should be charged to the same account.

Respectfully submitted,

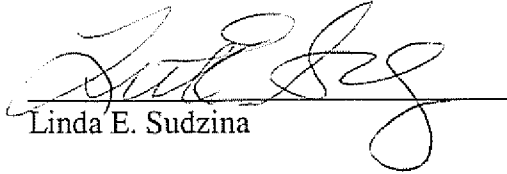
Dated: July 1, 2007

By: 
Michael D. Fishman
Linda E. Sudzina
RADER FISHMAN & GRAUER PLLC
Attorneys for Opposer
39533 Woodward Avenue, Suite 140
Bloomfield Hills, Michigan 48304
Telephone: (248) 594-0600
Facsimile: (248) 594-0610

CERTIFICATE OF TRANSMITTAL

I hereby certify that this correspondence is being electronically transmitted in PDF format to the Trademark Trial and Appeal Board through the Electronic System for Trademark Trial and Appeals (ESTTA) on the following date:

Date: July 1, 2007


Linda E. Sudzina