

ESTTA Tracking number: **ESTTA171230**

Filing date: **10/26/2007**

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	The Audio Revolution Inc.
Granted to Date of previous extension	10/28/2007
Address	9601 Wilshire Blvd.Suite 880 Beverly Hills, CA 90210 UNITED STATES
Attorney information	Jessica C. Bromall, Esq. Jeffer, Mangels, Butler & Marmaro LLP 1900 Avenue of the StarsSeventh Floor Los Angeles, CA 90067 UNITED STATES trademarkdocket@jmbm.com,bwk@jmbm.com

**Applicant Information**

Application No	78969872	Publication date	05/01/2007
Opposition Filing Date	10/26/2007	Opposition Period Ends	10/28/2007
Applicant	PRIMEDIA Specialty Group Inc. 745 Fifth Avenue New York, NY 10151 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 016. First Use: 1996/03/31 First Use In Commerce: 1996/03/31 All goods and services in the class are opposed, namely: MAGAZINES IN THE FIELD OF AUDIO AND VIDEO COMPONENTS
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**Grounds for Opposition**

The mark is merely descriptive	Trademark Act section 2(e)(1)
Genericness	Trademark Act section 23

Attachments	The Audio Revolution v Primedia Notice of Opposition.pdf ( 3 pages )(68849 bytes )
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Signature	/jessica c. bromall/
Name	Jessica C. Bromall, Esq.
Date	10/26/2007

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THE AUDIO REVOLUTION, INC,  Opposer,  v.  PRIMEDIA SPECIALTY GROUP, INC.,  Applicant.	Opposition No.: _____  Application Serial No.: 78/969,872 Mark: HOME THEATER Published for Opposition: May 1, 2007  Atty. Ref. No.: 68482-0002
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Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

**NOTICE OF OPPOSITION**

Opposer The Audio Revolution, Inc., a California corporation, having the address 9601 Wilshire Boulevard, Suite 880, Beverly Hills, California 90210, believes that it will be damaged by the registration on the Principal Register of HOME THEATER in connection with "magazines in the field of audio and visual components" in International Class 16. The mark HOME THEATER is the subject of federal Trademark Application Serial No. 78/969,872, allegedly owned by Primedia Specialty Group, Inc. ("Applicant"), and Opposer hereby opposes registration thereof.

As grounds for this Opposition, it is alleged that:

1. Opposer is the owner of the trademark and trade name MODERN HOME THEATER, as well as all of the business and goodwill connected therewith. Opposer has been continuously using the trademark MODERN HOME THEATER in commerce since at least as

early as 2004 in connection with on-line publications including, without limitation, its on-line informational website MODERNHOMETHEATER.COM.

2. Opposer is the owner of federal Trademark Application Serial No. 76/683,102, in which Opposer has applied for registration of its MODERN HOME THEATER mark in connection with "[o]n-line publications; publications directed to audio products, video products, and consumer electronics; [and] information services provided over a global computer network directed to consumer and professional electronics" in International Class 41.

3. On information and belief, Applicant is a Delaware corporation with a principal address of 745 Fifth Avenue, New York, New York 10151.

4. On information and belief, Applicant is the owner of record of Trademark Application Serial No. 78/969,872 for registration of the mark HOME THEATER ("Applicant's Mark") for use in connection with "magazines in the field of audio and visual components" in International Class 16 ("Applicant's Goods").

5. Applicant's HOME THEATER mark is generic and/or is merely descriptive of a magazine in the field of audio and visual components which comprise home theaters. Applicant uses the term HOME THEATER to describe the subject matter of its magazine – the audio and visual components of which a home theater is comprised. The term HOME THEATER is thus either generic for, or merely descriptive of, the goods.

6. The merely descriptive term HOME THEATER has not achieved secondary meaning and has not acquired distinctiveness, and thus is unregistrable.

7. If Applicant is granted the registration herein opposed, Applicant would thereby obtain at least a prima facie exclusive right to use of the mark HOME THEATER in connection

with the goods identified in application Serial No. 78/969,872. Such registration would be a source of damage and injury to Opposer.

WHEREFORE, in accordance with Section 13 of the Trademark Act (15 U.S.C. § 1063), Opposer prays that this Opposition be sustained and that application Serial No. 78/879,802 be refused.

Respectfully submitted,



Dated: October 26, 2007

Bernard R. Gans  
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