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Filing date: **11/12/2009**

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

Proceeding	91192606
Party	Plaintiff Tissot SA
Correspondence Address	Jess M. Collen Collen IP, Intellectual Property Law, P.C. The Holyoke-Manhattan Building80 South Highland Avenue Ossining, NY 10562 UNITED STATES jcollen@collenip.com, pmulhern@collenip.com, dewen@collenip.com, docket@collenip.com
Submission	Other Motions/Papers
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Signature	/David Ewen/
Date	11/12/2009
Attachments	J1080_NOTICE OF RE-FILING NOTICE OF OPPOSITION_091112.PDF (9 pages)(381268 bytes)

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

_____)
Tissot S.A.,)
)
Opposer,)
)
v.)
)
Silent Call Corporation,)
)
Applicant.)
_____)

Opposition No.: 91192606
Mark: SILENT TOUCH
Serial No.: 77/687,007

NOTICE OF RE-FILING NOTICE OF OPPOSITION AND
AMENDED CERTIFICATE OF SERVICE

Opposer, Tissot S.A. timely filed a Notice of Opposition, including the appropriate fee, in the above-captioned matter on November 10, 2009. Opposer’s Notice of Opposition included a certificate of service indicating that Applicant would be served by first class mail on November 10, 2009. However, service was inadvertently not effected on that date. Accordingly, Tissot hereby re-files its Notice of Opposition with an Amended Certificate of Service. See Exhibit A.

With the present Notice, and per the Amended Certificate of Service attached hereto, Opposer will serve on Applicant the Opposer’s Notice of Opposition via Federal Express overnight delivery on November 12, 2009. Opposer also notes that a courtesy copy of the Notice of Opposition was previously provided by email to Applicant’s counsel on November 11, 2009.¹

Opposer sought Applicant’s consent for this filing by phone on November 12, 2009. Applicant’s counsel indicated that it would first need to consult its client.

¹ Notwithstanding the error described above, Applicant contacted Opposer’s counsel on November 11, 2009 by phone and email to discuss the Notice of Opposition, indicating that Applicant was already aware of Opposer’s filing.

This Notice of Re-filing, and the attached Notice of Opposition and Amended Certificate of Service are being filed and served prior to the deadline to file a Notice of Opposition. Opposer respectfully requests that this amended filing be considered in connection with the earlier filed Notice of Opposition, and that the Board deem filing and service as timely.

Respectfully submitted for
Opposer, Tissot S.A.

By: 

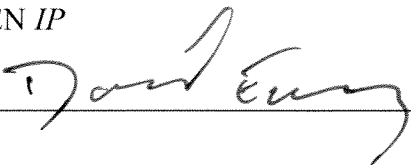
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Attorneys for Opposer

Date: November 12, 2009
Encl.: Exhibit A

SHOULD ANY OTHER FEE BE REQUIRED, THE PATENT AND TRADEMARK OFFICE IS HEREBY REQUESTED TO CHARGE SUCH FEE TO OUR DEPOSIT ACCOUNT 03-2465.

I HEREBY CERTIFY THAT THIS CORRESPONDENCE AND/OR FEE IS BEING ELECTRONICALLY FILED WITH THE UNITED STATES PATENT AND TRADEMARK OFFICE'S TRADEMARK TRIAL AND APPEAL BOARD.

COLLEN IP

By: 

Date: November 12, 2009

CERTIFICATE OF SERVICE AND FILING

I hereby certify that on November 12, 2009 this Notice of Re-Filing Notice of Opposition and Amended Certificate of Services being filed through the electronic system for the Trademark Trial and Appeal Board of the United States Patent and Trademark Office and that a copy is being served via Federal Express on the applicant's attorney of record, at the following address:

Bryant E. Wade & Jessica S. Sachs
Harness, Dickey & Pierce, P.L.C.
5445 Corporate Drive, Suite 200
Troy, Michigan 48098-2683

COLLEN IP

A handwritten signature in black ink, appearing to read "David Ewen", is written over a horizontal line.

David Ewen

Exhibit A

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

Applicant : Silent Call Corporation
Serial No. : 77/687,007
Mark : SILENT TOUCH
Filed : March 10, 2009
Published : July 14, 2009

United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, Virginia 22313-1451

NOTICE OF OPPOSITION

Opposer, Tissot S.A., 17, chemin des Tourelles, CH-2400 Le Locle, Switzerland (hereafter, "Tissot"), through its attorneys believes that it would be damaged by the registration of the mark shown in the above-identified application, and hereby opposed same, pursuant to 15 U.S.C. § 1063 and 37 C.F.R. § 2.104.

As grounds for opposition, it is alleged that:

1. Tissot is and has been engaged in the sale and marketing of identical and highly related goods to those recited by Applicant in its application to register since a time prior to the date of first use alleged by Applicant in its application for registration.
2. Tissot is the owner of the following valid and subsisting United States Trademark Registration Nos. 3,308,017 (SILEN-T) and 3,653,565 (T TOUCH & Design).
3. Tissot is and has been engaged in the sale and marketing in the United States of watches and parts thereof; jewelry," in Class 14 under its SILEN-T trademark since at least 2003.

4. Tissot is and has been engaged in the sale and marketing in the United States of “horological and chronometric instruments” in Class 14 under its T TOUCH & Design mark since at least 2002.

5. Tissot has used its SILEN-T and T TOUCH & Design marks in commerce extensively and has acquired a considerable and valuable goodwill and wide-scale recognition for its marks. The public has come to associate the SILEN-T and T TOUCH & Design marks with Tissot and Tissot’s watches and related goods.

6. Tissot’s registrations are *prima facie* proof of ownership and use of the marks from the original date of filing of the applications, pursuant to 15 U.S.C. § 1057(b), and of Tissot’s exclusive rights to use the registered marks in commerce.

7. Applicant’s SILENT TOUCH mark is confusingly similar to Tissot’s registered SILEN-T and T TOUCH & Design trademarks and is likely, when applied to Applicant’s goods, to cause confusion, or to cause mistake or to deceive. 15 U.S.C. § 1052(d). Applicant’s mark creates a highly similar commercial impression to Tissot’s marks due to its similar sound and appearance. The overall commercial impression of Applicant’s mark, when applied to the same or similar goods, would cause confusion or be likely to cause confusion, mistake, or deception.

8. On information and belief, Applicant applies its confusingly similar mark to watches in Class 14.

9. On information and belief, Applicant’s use of SILENT TOUCH on goods in Class 14 will cause confusion, mistake and deception with respect to those goods, by virtue of Tissot’s prior use of its SILEN-T and T TOUCH & Design marks, and by virtue of the Opposer’s renown as a manufacturer of watches and parts thereof.

10. On information and belief, both the Applicant's mark and Tissot's marks are applied to highly related, if not identical, goods and are likely to be sold to the same or similar channels of distribution.

WHEREFORE, OPPOSER Tissot S.A. prays that United States Trademark Application Serial No. 77/687,007 be refused, that no registration be issued thereon to Applicant, and that this Opposition be sustained in favor of Tissot.

Respectfully submitted for
Opposer, Tissot S.A.

By: /Jess M. Collen/
Jess M. Collen
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jcollen@collenip.com

Date: November 10, 2009


Encl.: Opposition fee of \$300.00/class (\$300.00)

SHOULD ANY OTHER FEE BE REQUIRED, THE PATENT AND TRADEMARK OFFICE IS HEREBY REQUESTED TO CHARGE SUCH FEE TO OUR DEPOSIT ACCOUNT 03-2465.

I HEREBY CERTIFY THAT THIS CORRESPONDENCE AND/OR FEE IS BEING ELECTRONICALLY FILED WITH THE UNITED STATES PATENT AND TRADEMARK OFFICE'S TRADEMARK TRIAL AND APPEAL BOARD.

COLLEN *IP*

By: _____




Date: November 10, 2009

AMENDED CERTIFICATE OF SERVICE AND FILING

I hereby certify that on November 12, 2009 this Notice of Opposition is being filed through the electronic system for the Trademark Trial and Appeal Board of the United States Patent and Trademark Office, and that a copy is being served via Federal Express on the applicant's attorney of record, at the following address:

Bryant E. Wade & Jessica S. Sachs
Harness, Dickey & Pierce, P.L.C.
5445 Corporate Drive, Suite 200
Troy, Michigan 48098-2683

COLLEN *IP*



David Ewen

JMC/DE