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

In the matter of Application Serial No. 77/679,379
Published for Opposition in the OFFICIAL GAZETTE of July 27, 2010

Our Reference: 37356-00045

MEGATRAX PRODUCTION MUSIC, INC.

Opposer

Opposition No.:

:
:
:

v.

MEGAMEDIA, LTD.

Applicant

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 MEGABOX as shown in Application Serial No. 77/679,379 filed by Megamedia, Ltd. ("Applicant") and hereby opposes same.

As grounds for this opposition it is alleged:

1. On or before February 26, 2009, Applicant filed an application with the United States Patent & Trademark Office to register the mark MEGABOX for goods and services in International Classes 9, 35, 38, 41 and 42. The Class 9 goods which are covered in the application are "Apparatus for recording, transmission or reproduction of sound and images; digital audio player and recorder; computer software for backup and recovery of data; computer

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600.00 DP



09-30-2010

software for electronic data management; data sharing, file uploads, file downloads, and browsing; backup drives for computers; computer servers”. The Class 41 services which are covered by the application “entertainment services, namely, providing an on-line computer database in the field of pre-recorded music; providing an Internet website portal in the field of music”.

2. Opposer has been using the mark MEGATRAX for publications, namely, pre-recorded compact discs featuring music and 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 and 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 MEGABOX 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 goods and services in Classes 9 and 41 of the application for which Applicant seeks

to register the MEGABOX 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 MEGABOX are highly similar.

9. Use by Applicant of the mark MEGABOX for the goods and services as identified in Classes 9 and 41 of the application would be likely to cause confusion, mistake or deception with Opposer's aforesaid MEGATRAX trademarks and result in the belief that Applicant or its goods and services as identified in Classes 9 and 41 of the application are in some manner legitimately connected with, sponsored by, or approved by Opposer.

10. Any use Applicant has made or may make of the mark MEGABOX as to the goods and services identified in Classes 9 and 41 is and will be without Opposer's consent or permission.

WHEREFORE registration by Applicant of the aforesaid trademark for the aforesaid goods will be damaging to Opposer and Opposer, therefore, requests that the Opposition be sustained.

Opposer submits herewith the requisite \$600.00 filing fee to cover the cost of opposing the goods and services covered by Classes 9 and 41 of the application. Please charge any additional fees or credit overpayment to Deposit Account No. 13-3735.

Please address all correspondence to Lucy B. Arant, Esq., Mitchell, Silberberg & Knupp, LLP, 11377 West Olympic Boulevard, Suite 603, Los Angeles, California 90064.

This Request is being submitted in triplicate as required by 37.C.F.R. § 2.102(d).

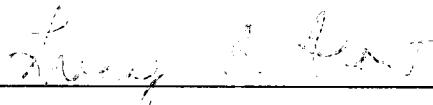
Respectfully submitted,



Lucy B. Arant, Esq.
Mitchell, Silberberg & Knupp, LLP
11377 W. Olympic Boulevard
Los Angeles, CA 90064
310-312-3253
Attorneys for Opposer

Date of Deposit: September 27, 2010

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, Box TTAB Fee, P.O. Box 1451, Alexandria, Virginia 22313-1451.



(Signature)-

CERTIFICATE OF SERVICE

The undersigned, an Attorney, hereby certifies that a copy of the foregoing NOTICE OF OPPOSITION was served upon the attorney of record by depositing a copy of the same with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to Philip R. Zender, Esq., Squire, Sanders & Dempsey LLP, 275 Battery Street, Suite 2600, San Francisco, California 94111, on this 27th day of September, 2010.



Lucy B. Arant
Attorney for Opposer

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the county of Los Angeles, State of California. I am over the age of 18
4 and not a party to the within action. My business address is Mitchell Silberberg & Knupp LLP,
11377 West Olympic Boulevard, Los Angeles, California 90064-1683.

5 On September 27, 2010, I served a copy of the foregoing document(s) described as
6 **NOTICE OF OPPOSITION** on the interested parties in this action at their last known address as
set forth below by taking the action described below:

7 Philip R. Zender, Esq.
8 Squire, Sanders & Dempsey LLP
275 Battery Street, Suite 2600
9 San Francisco, CA 94111
10 Attorney for Applicant Megamedia, Ltd.

The President
Megamedia Ltd.
Room A, 7/F, China Overseas Building
139 Hennessy Road
Wanchai
Hong Kong
Applicant

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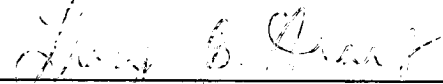
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States Postal Service. Under that practice it would be deposited with the U.S. Postal Service
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Angeles, California 90064-1683 in the ordinary course of business.

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28 machine, and a copy of that report is attached hereto.

1 I declare under penalty of perjury under the laws of the State of California that the above is
2 true and correct.

3 Executed on September 27, 2010, at Los Angeles, California.

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6 Lucy B. Arant
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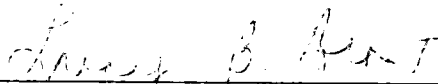
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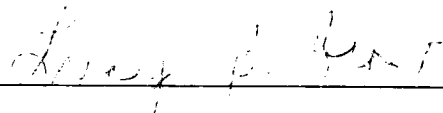
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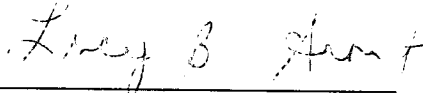
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- 26 **BY FAX:** On _____, at _____ am/pm, from facsimile number (310) _____,
before placing the above-described document(s) in sealed envelope(s) addressed as set forth
27 above, I sent a copy of the above-described document(s) to each of the individuals set forth
above at the facsimile numbers listed above. The transmission was reported as complete and
without error. The transmission report was properly issued by the transmitting facsimile
28 machine, and a copy of that report is attached hereto.

1 I declare under penalty of perjury under the laws of the State of California that the above is
2 true and correct.

3 Executed on September 27, 2010, at Los Angeles, California.

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5 _____
6 Lucy B. Arant

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