

ESTTA Tracking number: **ESTTA507723**

Filing date: **11/27/2012**

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	Strange Music, Inc.
Granted to Date of previous extension	02/06/2013
Address	PO Box 1114 Blue Springs, MO 64013 UNITED STATES

Attorney information	Michael P. Martin Fischbach, Perlstein, Lieberman & Almond, LLP 1925 Century Park East, Suite 2050 Los Angeles, CA 90067 UNITED STATES mmartin@fpllaw.com Phone:3105561956
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**Applicant Information**

Application No	77864372	Publication date	10/09/2012
Opposition Filing Date	11/27/2012	Opposition Period Ends	02/06/2013
Applicant	MUNITIO 302 WASHINGTON STREET, #151 SAN DIEGO, CA 92103 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 009. First Use: 2009/12/21 First Use In Commerce: 2009/12/21 All goods and services in the class are opposed, namely: Earphones
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**Grounds for Opposition**

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

**Marks Cited by Opposer as Basis for Opposition**

U.S. Registration No.	3721948	Application Date	05/12/2009
Registration Date	12/08/2009	Foreign Priority Date	NONE
Word Mark	TECH N9NE		

Design Mark	<h1>TECH N9NE</h1>		
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2001/07/31 First Use In Commerce: 2001/07/31 MUSICAL VIDEO RECORDINGS, SOUND RECORDINGS FEATURING MUSIC, VIDEO RECORDINGS FEATURING MUSIC, AUDIO RECORDINGS FEATURING MUSIC, DOWNLOADABLE MP3 RECORDINGS FEATURING MUSIC, AND SOUND RECORDINGS FEATURING MUSIC		

U.S. Registration No.	3941634	Application Date	12/11/2009
Registration Date	04/05/2011	Foreign Priority Date	NONE

Word Mark	TECH N9NE		
Design Mark	<h1>TECH N9NE</h1>		
Description of Mark	NONE		
Goods/Services	Class 014. First use: First Use: 2007/05/18 First Use In Commerce: 2007/05/18 Bracelets; Charms; Jewelry; Jewelry cases; Jewelry chains; Rings; Watches and jewelry		

U.S. Registration No.	4092729	Application Date	12/11/2009
Registration Date	01/31/2012	Foreign Priority Date	NONE
Word Mark	TECH N9NE		

Design Mark	<b>TECH N9NE</b>
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2001/07/01 First Use In Commerce: 2001/07/01 Belts; Bottoms; Gloves as clothing; Hats; Headbands for clothing; Jackets; Jerseys; Leather belts; Short-sleeved or long-sleeved t-shirts; Sports jerseys; Tops; Underwear; Wearable garments and clothing, namely, shirts Class 041. First use: First Use: 2001/02/28 First Use In Commerce: 2001/02/28 Entertainment services in the nature of live musical performances

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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Michael P. Martin/
Name	Michael P. Martin
Date	11/27/2012

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

In the Matter of Trademark Application

Serial No.: 77/864,372  
Mark: TEKNINES  
Filed: November 3, 2009  
Published: October 9, 2012  
Int'l Class: 9

STRANGE MUSIC, INC., a California  
corporation,

Opposer,

v.

MUNITIO CORPORATION, a California  
Corporation,

Applicant.

Opposition No.:

NOTICE OF OPPOSITION

Assistant Commissioner of Trademarks  
PO Box 1451  
Alexandria, VA 22313-1451

Sir:

Opposer Strange Music, Inc., a California corporation, (hereinafter "Opposer") believes that it will be damaged by registration of the mark shown in the above identified application, and hereby opposes the same in accordance with the provisions of Section 13 of the Lanham Act. (15 U.S.C. 1063) and Section 2(d) of the Lanham Act (15 U.S.C. 1052(d)).

The grounds for opposition are as follows:

1. Opposer owns the following U.S. Federally Registered trademarks, among others: 3,721,948 for the mark TECH N9NE in Class 9; and 3,941,634 for the mark TECH N9NE in class 14; No. 4092729 for the mark TECH N9NE for clothing in Class 25 and entertainment services in the nature of live musical performances in Class 41. Opposer has been using said marks since at least July, 2001 and has been using said marks in interstate commerce since at least July, 2001.

2. Opposer sells, distributes, advertises, and licenses musical sound recordings and merchandise, including clothing and promotional items under its well-known STRANGE MUSIC and TECH N9NE trademarks. TECH N9NE is the stage name of world renowned recording rap artist, and co-principal of Opposer, Aaron Yates. Opposer has for nearly a decade sold records and clothing under the TECH N9NE name, having amassed well over 1 million records sold under the TECH N9NE name. Opposer utilizes the above-referenced TECH N9NE marks in various combinations on its products, in sales catalogs and in advertising to identify them as originating from Opposer. Opposer has even licensed the TECH N9NE mark for use on earphones in September, 2009.

3. Opposer has developed extensive goodwill with respect to its TECH N9NE marks, individually and in composite. Opposer has expended substantial sums in the advertising and promotion of its products and services, and by its efforts and its

considerable expenditures for promotional activities, Opposer has developed an extensive and valuable reputation for its marks.

4. By virtue of its efforts, and the expenditures of considerable sums for promotional activities as well as the excellence of the quality of its products and services, Opposer has gained a valuable reputation through its above-identified TECH N9NE Marks.

5. Opposer's marks are inherently distinctive, have acquired substantial goodwill and secondary meaning, and are famous within the meaning of 15 U.S.C. § 1125(c)(1).

6. On November 3, 2009, Munitio Corporation (hereinafter "Applicant") filed an application to register the mark TEKNINES which is confusingly similar in sight and virtually indistinguishable in sound from Opposer's TECH N9NE marks for: "earphones" in International Class 9. This application was assigned Serial No. 77/864372 and proceeded to publication in the Official Gazette of the United States Patent and Trademark Office on October 9, 2012.

7. Opposer is informed and believes that Applicant's proposed mark is likely to confuse Opposer's customers and potential customers, and the public generally in relation to its own marks.

9. Opposer is informed and believes that Applicant's use or intended use of the proposed mark began after Opposer's marks became famous and will and/or may dilute the strength of Opposer's marks by lessening the capacity of Opposer's marks to identify and distinguish Opposer's goods and services.

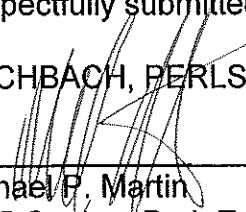
10. Opposer has not and does not consent in any way to Applicant's proposed use of the mark referenced herein.

WHEREFORE, Opposer respectfully requests that registration of Applicant's mark under the above identified application be refused and that this opposition be sustained.

Respectfully submitted,

FISCHBACH, PERLSTEIN, LIEBERMAN & ALMOND

Dated: November 27, 2012

By:   
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Attorneys for Opposer Amcor Industries, Inc.

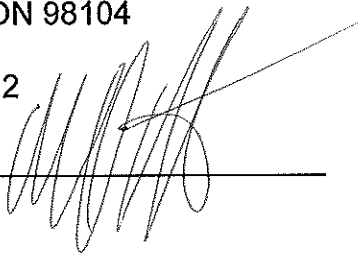
CERTIFICATE OF MAILING AND SERVICE

The undersigned hereby certifies that NOTICE OF OPPOSITION is being filed electronically with the U.S. Patent & Trademark Office, Trademark Trial and Appeal Board; and a true and correct copy of this document is being served by e-mail and first class mail on attorney for Opposer on the date indicated below to:

Kevin S. Costanza  
Seed Intellectual Property Law Group LLC  
701 Fifth Avenue Ste 5400  
SEATTLE, WASHINGTON 98104

Date: November 27, 2012

/Michael P. Martin/  
Michael P. Martin

A handwritten signature in black ink, appearing to read 'Michael P. Martin', is written over a horizontal line. The signature is stylized and somewhat cursive.