

ESTTA Tracking number: **ESTTA590798**

Filing date: **03/05/2014**

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	Navis, Inc.
Granted to Date of previous extension	03/05/2014
Address	31029 Center Ridge Road Cleveland, OH 44145 UNITED STATES

Attorney information	Thomas A. Walsh Ice Miller LLP One American Square, Suite 2900 Indianapolis, IN 46282-0200 UNITED STATES ipdocket@icemiller.com, maurine.knutsson@icemiller.com, thomas.walsh@icemiller.com Phone:317-236-2100
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Applicant Information

Application No	86012986	Publication date	11/05/2013
Opposition Filing Date	03/05/2014	Opposition Period Ends	03/05/2014
Applicant	Qualcomm Incorporated 5775 Morehouse Drive San Diego, CA 921211714 GERMANY		

Goods/Services Affected by Opposition

Class 009. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Downloadable software in the nature of a mobile application for connecting smart phones with smart watches and for configuring settings for smart watches

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	TOQ		
Goods/Services	watches and jewelry		

Attachments	NoticeofOpposition.pdf(26350 bytes)
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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	/thomasawalsh/
Name	Thomas A. Walsh
Date	03/05/2014

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

In the Matter of Trademark Serial No. 86/012,986
For the Mark QUALCOMM TOQ
Filed on March 5, 2014

Navis, Inc.,)	
)	
Opposer)	
)	
v.)	Opposition No.: _____
)	
Qualcomm Incorporated,)	
)	
Applicant)	

NOTICE OF OPPOSITION

Navis, Inc., an Ohio corporation, having a place of business at 31029 Center Ridge Rd., Westlake, OH 44145 ("Opposer"), believes that it will be damaged by the registration of the above-identified QUALCOMM TOQ mark, and hereby opposes the same. The application for the QUALCOMM TOQ mark is owned by Qualcomm Incorporated, which is a Delaware corporation, having a place of business at 5775 Morehouse Drive, San Diego, California 92121-1714 ("Applicant"). The grounds for opposition are as follows:

1. Opposer produces and sells a variety of incentive products including watches and jewelry. Opposer's products are sold throughout the United States.
2. Opposer is the owner of the TOQ trademark, which Opposer uses in connection with several products, including watches and jewelry.
3. Opposer is the owner of U.S. Trademark Application Serial No. 86/211,724, which Opposer filed with the United States Patent and Trademark Office on March 5, 2014, for the trademark TOQ in Class 14 for "watches and jewelry."

4. Opposer has been using the TOQ mark to identify the source of its products in commerce since at least as early as January 2013. Since that time, Opposer has established substantial goodwill in the TOQ mark.

5. The TOQ mark has come to indicate and stand for the high quality products offered by Opposer.

6. As a result of the extensive use of the TOQ mark by Opposer, the TOQ mark has become, and continues to be, a valuable property right of Opposer.

7. The description of services for the QUALCOMM TOQ application indicates that Applicant has a bona fide intent to sell “downloadable software in the nature of a mobile application for connecting smart phones with smart watches and for configuring settings for smart watches sells a variety of automotive parts.”

8. The QUALCOMM TOQ application was filed by Applicant under Section 1(b) and Applicant did not provide the USPTO with evidence of its use of the QUALCOMM TOQ mark in commerce. However, upon information and belief, Applicant is currently using the QUALCOMM TOQ mark in commerce.

9. Upon information and belief, Opposer's actual, continuous, and continuing use of the TOQ mark began before Applicant began using its QUALCOMM TOQ mark in commerce.

10. Because of the similarities between the TOQ mark and the QUALCOMM TOQ mark (as well as the similarities between Opposer's and Applicant's products and target markets), the use and registration of the QUALCOMM TOQ mark is likely to result in confusion and substantial damage and injury to Opposer. Persons familiar with Opposer's TOQ mark are likely to buy Applicant's products under the mistaken belief that they originate with, or are licensed,

sponsored or approved by Opposer. Any such confusion would inevitably result in loss of sales to Opposer, and tarnish Opposer's goodwill and reputation established in the TOQ mark.

WHEREFORE, Opposer prays that the application for Trademark Serial No. 86/012,986 be rejected.

Dated this 5th day of March 2014.

Respectfully submitted,

By: s/Thomas A. Walsh
Attorney for Opposer
Thomas A. Walsh
ICE MILLER LLP
One American Square
Suite 2900
Indianapolis, Indiana 46282-0200
(317) 236-2100

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on March 5, 2014 the foregoing Notice of Opposition was served by first-class United States mail, postage prepaid, and by electronic mail upon the following:

N. Christopher Norton
Arent Fox LLP
1717 K St NW
Washington, District Of Columbia 20036-5342

By: s/Thomas A. Walsh
Thomas A. Walsh
Attorney for Opposer