ESTTA Tracking number: **ESTTA686930**

Filing date: **07/31/2015**

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	Shure Incorporated
Granted to Date of previous extension	08/01/2015
Address	5800 W Touhy Avenue Niles, IL 60714 UNITED STATES

Attorney information	Katherine Laatsch Fink Banner & Witcoff, Ltd. 10 South Wacker DriveSuite 3000 Chicago, IL 60606 UNITED STATES bwptotm@bannerwitcoff.com, bwlitdocket@bannerwitcoff.com, pvanes@bannerwitcoff.com, kfink@bannerwitcoff.com, sdease@bannerwitcoff.com Phone:312-463-5000

Applicant Information

Application No	86457032	Publication date	06/02/2015
Opposition Filing Date	07/31/2015	Opposition Period Ends	08/01/2015
Applicant	Downright Entertainment Enterprises 319 Mederia Circle Newark, DE 19702 UNITED STATES		

Goods/Services Affected by Opposition

Class 041. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Entertainment services, namely, a multimedia program series featuring comedy, action and adventure distributed via various platforms across multiple forms of transmission media

Grounds for Opposition

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

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2163185	Application Date	05/20/1996
Registration Date	06/09/1998	Foreign Priority	NONE

		Date	
Word Mark	NONE		
Design Mark			
Description of Mark	The mark consists of a design of a microphone, specifically, the housing havingan arrangement of eight generally horizontal parallel slots around the middle portion of the housing and six generally vertical parallel slots on the top and bottom of the housing.		
Goods/Services	Class 009. First use: First Use: 1951/00/00 First Use In Commerce: 1951/00/00 microphones		

Attachments	75106877#TMSN.png(bytes) 010886.01705 Notice of Opposition.pdf(640027 bytes) 010886.01705 Exhibit 1.pdf(53071 bytes)

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	/helen hill minsker/
Name	Helen Hill Minsker
Date	07/31/2015

Attorney Docket:
010886.01705

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

In the Matter of Trademark Applicant Downright Entertainment Enterprises Mark: RAW AKADEMIX EST 2015 and Design Serial No.: 86/457,032 Filed: November 18, 2014 Published in the Official Gazette dated June 2, 2015	)	
SHURE INCORPORATED, Opposer, vs. DOWNRIGHT ENTERTAINMENT ENTERPRISES, Applicant.	)	Opposition No. _____

NOTICE OF OPPOSITION

Sir:

Opposer, Shure Incorporated, whose address is 5800 West Touhy Avenue, Niles, Illinois, 60714-4608, believes it will be damaged by registration of the above-identified mark (hereinafter "Applicant's Mark") and hereby opposes the same.

The grounds for the opposition are as follows:

1. Opposer is the owner of U.S. Trademark Registration No. 2,163,185, issued on June 9, 1998, for a mark consisting of "…a design of a microphone, specifically, the housing having an arrangement of eight generally horizontal parallel slots around the middle portion of the housing and six generally vertical parallel slots on the top and bottom of the housing." A copy of Registration No. 2,163,185 is attached as Exhibit 1, and the mark as shown in the registration is as follows:

Reg. No. 2,163,185

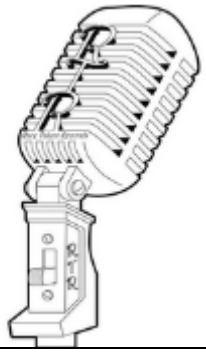
2. The mark shown in Registration No. 2,163,185 (hereinafter "Opposer's Mark") is the configuration of goods known by Opposer's trademark "55SH," and said configuration mark has been in use continuously in interstate commerce since at least as early as 1951.

3. Shure has brought other successful oppositions based on Opposer's Mark, including the following:

	SN 78440605 Opp. No. 91172313
	SN 76438405 Opp. No. 91157778
	SN 78802022 Opp. No. 91175285
	SN 78967404 Opp. No. 91179026
	SN 77145347 Opp. No. 91182265
	SN 77178685 Opp. No. 91182264
	SN 77352323 Opp. No. 91185874

	SN 78794202 Opp. No. 91187658
	SN 77759438 Opp. No. 91193922
	SN 85016660 Opp. No. 91196595
	SN 85033789 Opp. No. 91197079
	SN 85118278 Opp. No. 91200070
	SN 85009106 Opp. No. 91200695

	SN 85474646 Opp. No. 91204982
	SN 85551009 Opp. No. 91206540
	SN 85675053 Opp. No. 91208376
	SN 85356371 Opp. No. 91203951
	SN 85807737 Opp. No. 91211046

	SN 85759290 Opp. No. 91212880
	SN 85850814 Opp. No. 91211903
	SN 86268453 Opp. No. 91218383
LectureCaptions	SN 85841098 Opp. No. 91218551
	SN 86360067 Opp. No. 91221331

Opposition Nos. 91172313, 91179026, 91182264, 91193922, and 91197079 were terminated

with the voluntary withdrawal of the application by the Applicant; Opposition Nos. 91157778, 91175285, 91182265, 91185874, 91196595, 91200070, 91200695, 91204982, 91206540, 91208376, 91203951, 91211046, 91212880, 91211903, 91218383, 91218551, and 91221331 resulted in decisions sustaining the oppositions; and Opposition No. 91187658 was terminated with the voluntary amendment of the application by the Applicant.

4. Applicant seeks to register a mark for RAW AKADEMIX EST 2015 and design that includes designs of microphones that are virtually identical to Opposer's Mark. Applicant's Mark incorporates Opposer's Mark, without Opposer's permission, as shown below:

86/457,032

5. The opposed application, No. 86/457,032, was filed on November 18, 2014, pursuant to Section 1(b) of the Trademark Act.

6. Applicant seeks to register its mark for "Entertainment services, namely, a multimedia program series featuring comedy, action and adventure distributed via various platforms across multiple forms of transmission media" in International Class 041.

7. Opposer's Mark is known and widely used in the entertainment and music industry and widely recognized by the general public.

8. As a result of Opposer's and its predecessors' long use and registration of Opposer's Mark, Opposer has developed substantial goodwill in said mark, and the public has come to associate Opposer's Mark with the microphones of Opposer.

9. Applicant's Mark, which contains microphones that are virtually identical to Opposer's Mark, so nearly resembles Opposer's Mark, that when the mark is applied to the services identified in Applicant's application in International Class 041, it is likely to be confused with Opposer's Mark. Applicant's Mark is deceptively similar to Opposer's Mark, so as to cause confusion and to lead to deception as to the origin of Applicant's services bearing Applicant's Mark. As such, Applicant's use and registration of its mark will inevitably lead to confusion, to mistake, or to deception of the public within the meaning of Section 2(d) of the Trademark Act of 1946, as amended, all to Opposer's grave and irreparable damage.

10. As a further ground for opposition, Opposer's Mark, which has been in use in commerce for more than fifty years, is famous within the meaning of Lanham Act Section 43(c), 15 USC 1125(c). Opposer's Mark became famous prior to the date when Applicant commenced any use of Applicant's Mark, and prior to the filing date of the application for Applicant's Mark. Applicant's use of its mark, which incorporates Opposer's famous mark in its entirety, causes

dilution by lessening the capacity of Opposer's Mark to identify and distinguish Opposer's goods, in violation of Section 43(c), 15 USC 1125(c) of the Lanham Act.

11. If Applicant is permitted to register its mark, the registration would give Applicant a prima facie exclusive right to the use of Applicant's Mark for the services set forth in the application. Such registration would damage and injure Opposer.

12. By reason of the foregoing, Applicant's registration of the design mark herein opposed will cause injury and damage to Opposer's rights to Opposer's Mark and to its use thereof described above.

WHEREFORE, Opposer respectfully prays that the present opposition be sustained and that the registration sought by the Applicant be refused.

Please charge the statutory fee of $300 to our firm's deposit account, No. 19-0733. Please also charge any additional fees, or credit any overpayments, to our firm's deposit account, No. 19-0733.

Respectfully submitted,
BANNER & WITCOFF, LTD.
Attorneys for Opposer

/helen hill minsker/

Date: July 31, 2015 By: _____

Helen Hill Minsker
J. Pieter van Es
Katherine Laatsch Fink
10 South Wacker Drive, Suite 3000
Chicago, Illinois 60606
Telephone: 312-463-5000

Enclosure: Exhibit 1
Copy of Reg. No. 2,163,185

CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of July 2015, a copy of the foregoing Notice of Opposition was served on counsel of record for the Applicant, by first class mail, postage prepaid, addressed as follows:

DOWNRIGHT ENTERTAINMENT ENTERPRISES
319 MEDERIA CIR
NEWARK, DELAWARE 19702-1563
UNITED STATES

/helen hill minsker/

Exhibit 1

Int. Cl.: 9

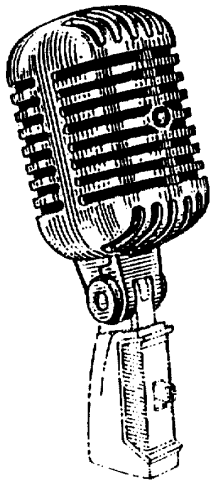
Prior U.S. Cls.: 21, 23, 26, 36 and 38

Reg. No. 2,163,185

United States Patent and Trademark Office

Registered June 9, 1998

TRADEMARK
PRINCIPAL REGISTER



SHURE BROTHERS, INC. (ILLINOIS CORPORATION)
222 HARTREY AVENUE
EVANSTON, IL 602043696

FOR: MICROPHONES, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 0-0-1951; IN COMMERCE 0-0-1951.

THE LINING IN THE DRAWING IS USED TO INDICATE SHADING TO SHOW THE MARK IN THREE DIMENSIONAL FORM.

THE MARK CONSISTS OF A DESIGN OF A MICROPHONE, SPECIFICALLY, THE HOUSING HAVING AN ARRANGEMENT OF EIGHT GENERALLY HORIZONTAL PARALLEL SLOTS AROUND THE MIDDLE PORTION OF THE HOUSING AND SIX GENERALLY VERTICAL PARALLEL SLOTS ON THE TOP AND BOTTOM OF THE HOUSING.

SEC. 2(F).

SER. NO. 75-106,877, FILED 5-20-1996.

ANDREW LAWRENCE, EXAMINING ATTORNEY