

ESTTA Tracking number: **ESTTA750558**

Filing date: **06/06/2016**

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	Padraic C. McFreen		
Entity	Individual	Citizenship	UNITED STATES
Address	13357 Dumbarton Street Carmel, IN 46032 UNITED STATES		

Attorney information	Matthew H. Swyers, Esq. The Trademark Company, PLLC 344 Maple Avenue West, Suite 151 Vienna, VA 22180 UNITED STATES mswyers@thetrademarkcompany.com Phone:8009068626		
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Applicant Information

Application No	86786555	Publication date	05/24/2016
Opposition Filing Date	06/06/2016	Opposition Period Ends	06/23/2016
Applicant	MITAC INTERNATIONAL CORP. 1, R & D Road 2, Hsinchu Science-Based Hsinchu Hsien, R.O.C. TAIWAN		

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: Camcorders; cameras; time recording devices; radar detectors; computer software for planning travel routes; hand-free handsets for navigational devices; holders for navigational devices; belts for fixing navigational devices; covers for protecting navigational devices; satellite navigational system, namely, a global positioning system GPS; auto-electronic navigational system, namely, a global positioning system and handheld computers; satellite global positioning receivers; GPS tracking device for tracking and tracing vehicles and ships; portable multimedia players; multimedia players; digital media adaptors; pedometers; speedometers; altimeters; barometers; directional compasses; velocimeters; stabilizers; gradient indicators; software and apparatus for measuring distance; software and apparatus for finding location; software and apparatus for measuring altitude; software for measuring speed; software for indicating direction

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. Registration No.	4539050	Application Date	01/23/2013
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Registration Date	05/27/2014	Foreign Priority Date	NONE
Word Mark	MIVU		
Design Mark			
Description of Mark	<p>The mark consists of the term "MIVU" in a stylized font. The letters "M" and "V" are presented in capital letters in a navy blue font and are outlined in a light blue color. The left side of the letter "V", next to the letter "I", appears in lighter blue. The letters "I" and "U" are presented in lower case form. The letter "I" is presented in a red font and the vertical portion of the letter "I" is outlined in a light blue color. The letter "U" is presented in a navy blue font and is outlined in light blue. There are three stylized curved lines that intersect through the term "MIVU" and the curved portion is to the left of the term "MIVU". The outer and middle curved lines are light red and the inner curved line is red.</p>		
Goods/Services	<p>Class 009. First use: First Use: 2013/12/15 First Use In Commerce: 2013/12/15 Computer software and hardware for use with associated network of Internet connected devices, to collect, aggregate, analyze, transform, prioritize, and distribute content of any type across electronic systems or Internet systems</p>		

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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	/Matthew H. Swyers/
Name	Matthew H. Swyers, Esq.
Date	06/06/2016

network of Internet connected devices, to collect, aggregate, analyze, transform, prioritize, and distribute content of any type across electronic systems or Internet systems,” in International Class 9. This registration maintains a priority date of January 23, 2013.

3. Opposer is the also owner of the Intent-to-Use Federal Trademark Application Serial No. 86/393,035 which was filed on September 12, 2014 for the mark MIVU PPCV, to be used in connection with “Computer hardware and software for use with mobile devices on associated computing networks, namely, short-range wireless networks, local area networks, wide area networks and the Internet, composed primarily of stationary and mobile computing devices, for use to collect, aggregate, analyze, transform, prioritize, store and distribute content across electronic communication systems, computer networks and Internet-based networks” in International Class 9.

4. Opposer is the also owner of the Intent-to-Use Federal Trademark Application Serial No. 86/393,078 which was filed on September 12, 2014 for the mark MIVU ESCAPEVELOCITY, to be used in connection with “Computer hardware and software for use with mobile devices on associated computing networks, namely, short-range wireless networks, local area networks, wide area networks and the Internet, composed primarily of stationary and mobile computing devices, for use to collect, aggregate, analyze, transform, prioritize, store and distribute content across electronic communication systems, computer networks and Internet-based networks” in International Class 9.

5. Opposer is the also owner of the Intent-to-Use Federal Trademark Application Serial No. 86/393,087 which was filed on September 12, 2014 for the mark MIVU MOGOBILE (hereinafter, in conjunction with the marks above, “Opposer’s Marks), to be used in connection with “Computer hardware and software for use with mobile devices on associated computing

networks, namely, short-range wireless networks, local area networks, wide area networks and the Internet, composed primarily of stationary and mobile computing devices, for use to collect, aggregate, analyze, transform, prioritize, store and distribute content across electronic communication systems, computer networks and Internet-based networks” (hereinafter, in conjunction with the goods above, “Opposer’s Goods”) in International Class 9.

6. Opposer has spent large sums of money and expended tremendous effort in promoting its goods under Opposer’s Marks which has become well known and associated exclusively with Opposer and its goods. The goodwill of the business connected with the use of, and symbolized by, the Opposer’s Marks are an asset of incalculable value.

7. As a result of Opposer’s continuous use of Opposer’s Marks and the high quality of its goods, Opposer has established an excellent quality in identifying and distinguishing Opposer’s Goods.

8. On or about October 13, 2015 Applicant filed an Application to register the mark **MiVue**, for use in connection with the following goods: “Camcorders; cameras; time recording devices; radar detectors; computer software for planning travel routes; hand-free handsets for navigational devices; holders for navigational devices; belts for fixing navigational devices; covers for protecting navigational devices; satellite navigational system, namely, a global positioning system GPS; auto-electronic navigational system, namely, a global positioning system and handheld computers; satellite global positioning receivers; GPS tracking device for tracking and tracing vehicles and ships; portable multimedia players; multimedia players; digital media adaptors; pedometers; speedometers; altimeters; barometers; directional compasses; velocimeters; stabilizers; gradient indicators; software and apparatus for measuring distance; software and apparatus for finding location; software and apparatus for measuring altitude;

software for measuring speed; software for indicating direction” (hereinafter “Applicant’s Goods”) in International Class 9.

9. Applicant’s Application for Applicant’s Mark was assigned Serial No. 86/786,555.

10. Upon information and belief, Applicant’s Application for Applicant’s Mark was filed on an Intent-to-Use basis and has not established a date of first use in commerce.

11. Upon information and belief, the Applicant is MiTAC International Corp., a Taiwanese corporation, having a principal business mailing address of 1, R & D Road 2, Hsinchu Science-Based, Industrial Park, Hsinchu Hsien TAIWAN R.O.C.

12. Applicant’s mark published for opposition on or about May 24, 2016.

13. Upon information and belief, Applicant has not sold or offered any goods and/or services under Applicant’s Mark.

14. There is no issue of priority. Upon information and belief, Applicant has not acquired rights in Applicant’s Mark before Opposer acquired rights in Opposer’s Marks.

15. Applicant’s applied-for mark is confusingly similar to Opposer’s Marks as more fully-identified in U.S. Registration No. 4,539,050 and U.S. Ser. Nos. 86/393,035, 86/393,078, and 86/393,087.

16. Upon information and belief, Applicant’s Goods will be offered to the same classes of consumers and at least through some of the same channels of trade as Opposer’s Goods. As applied to Applicant’s Goods, Applicant’s Mark so resembles Opposer’s Marks that it is likely to cause confusion, or cause to mistake, or to deceive as to the source of the goods.

17. Upon information and belief, registration of Applicant's Mark will diminish and dilute the distinctive qualities of Opposer's Marks. One viewing Applicant's Mark will associate the mark with Opposer's Goods, resulting in damage to Opposer.

18. Opposer will be damaged by the registration of Applicant's Mark for the goods identified in Federal Trademark Application Serial No. 86/786,555 as a result of the aforementioned confusion, mistake, and deception.

19. By reason of the foregoing, Applicant is not entitled to the registration of Applicant's Mark, Serial No. 86/786,555 for goods in International Class 9.

WHEREFORE, Opposer respectfully requests that the Application, Serial No. 86/786,555 be rejected, that no registration be issued thereon to Applicant and that this opposition be sustained in favor of the Opposer.

Respectfully submitted this 6th day of June, 2016.

THE TRADEMARK COMPANY, PLLC

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