

ESTTA Tracking number: **ESTTA759378**

Filing date: **07/20/2016**

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	Minnesota Public Radio		
Entity	non-profit corporation	Citizenship	Minnesota
Address	480 Cedar Street Saint Paul, MN 55101 UNITED STATES		

Attorney information	Peter M. Routhier Faegre Baker Daniels LLP 90 South Seventh Street 2200 Wells Fargo Center Minneapolis, MN 55402 UNITED STATES peter.routhier@faegrebd.com, tmmpls@faegrebd.com Phone:612.766.7000		
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Applicant Information

Application No	86892123	Publication date	06/21/2016
Opposition Filing Date	07/20/2016	Opposition Period Ends	07/21/2016
Applicant	Kurt Schemers 40001 N Curie Ct Phoenix, AZ 85086 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 041. First Use: 2005/01/21 First Use In Commerce: 2005/01/21 All goods and services in the class are opposed, namely: Educational and entertainment services, namely, a continuing program about stock market, financial, and lifestyle information accessible by radio, television, satellite, audio, video and computer networks; Educational and entertainment services, namely, providing motivational and educational speakers; Educational services, namely, providing a continuing prerecorded audio program in the field of stock market, financial, and lifestyle information accessible over the internet; Production and distribution of radio programs; Production and distribution of television shows and movies; Production and distribution of videos in the field of stock market, financial, and lifestyle information; Production and distribution of radio programs; Syndication of television programs featuring stock market, financial, and lifestyle information; Entertainment services, namely, production and distribution of ongoing television programs in the field of stock market, financial, and lifestyle information; News syndication for the broadcasting industry; News syndication reporting; Providing information regarding the production and distribution of ongoing television programs in the field of stock market, financial, and lifestyle information; Radioprogram syndication; Television programsyndication</p>
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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.	2581025	Application Date	07/03/2000
Registration Date	06/18/2002	Foreign Priority Date	NONE
Word Mark	MARKETPLACE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1995/10/01 First Use In Commerce: 1995/10/01 Providing information in the field of business news and information by means of a global computer information network Class 041. First use: First Use: 1989/01/02 First Use In Commerce: 1989/01/02 Entertainment services, namely, a continuing program series in the field of business news and information, provided through radio		

Attachments	76083663#TMSN.png(bytes) MARKET FLASH opposition.pdf(19131 bytes) 2581025 - Exhibit A.pdf(34975 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	/Peter M Routhier/
Name	Peter M. Routhier
Date	07/20/2016

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

In the Matter of Serial No. 86/892,123
For the Mark: MARKET FLASH
Filed: January 30, 2016
Published: June 21, 2016

Minnesota Public Radio,

Opposer,

v.

Kurt Schemers,

Applicant.

Opposition No. _____

Notice of Opposition

Opposer Minnesota Public Radio (“MPR”), a Minnesota non-profit corporation with offices at 480 Cedar Street, St. Paul, Minnesota 55101, believes it will be damaged by registration of the mark MARKET FLASH as set forth in Application Serial Number 86/892,123 (“the ’123 Application”) and hereby opposes registration of the ’123 Application on the following grounds:

1. Opposer MPR is one of the nation’s premier public radio stations, producing programming for radio, digital, and live audiences and operating a 45-station radio network as well as an online distribution system.
2. Since at least as early as 1989, Opposer MPR has continuously used (and is today using) the mark MARKETPLACE in connection with a variety of goods and services, including but not limited to entertainment services, namely, a continuing program series in the field of business news and information, provided through radio.

3. Since at least as early as 1995, Opposer MPR has continuously used (and is today using) the mark MARKETPLACE in connection with a variety of goods and services, including but not limited to providing information in the field of business news and information by means of a global computer information network.

4. MPR is the owner of a valid and subsisting federal registration for the mark MARKETPLACE. MPR owns U.S. Trademark Registration No. 2,581,025, registered June 18, 2002, for use in connection with the services recited in paragraphs 2 and 3. This registration is incontestable within the meaning of 15 U.S.C. § 1065. A true and correct copy of the TSDR record for Registration No. 2,581,025 is attached as Exhibit A to this Complaint.

5. MPR has invested great sums of money and substantial effort in establishing, promoting, and protecting the MARKETPLACE mark.

6. Through extensive use and promotion of the MARKETPLACE mark, substantial and valuable goodwill and public recognition has been built in the MARKETPLACE mark.

7. On information and belief, Applicant Kurt Schemers is an individual residing at 40001 N Curie Ct, Phoenix, Arizona 85086.

8. On January 30, 2016, Mr. Schemers filed the '123 Application to register the mark MARKET FLASH, claiming a January 21, 2005 date of first use, in International Class 41, in connection with Educational and entertainment services, namely, a continuing program about stock market, financial, and lifestyle information accessible by radio, television, satellite, audio, video and computer networks; Educational and entertainment services, namely, providing motivational and educational speakers; Educational services, namely, providing a continuing prerecorded audio program in the field of stock market, financial, and lifestyle information accessible over the internet; Production and distribution of radio programs; Production and distribution of television shows and movies; Production and distribution of videos in the field of stock market,

financial, and lifestyle information; Production and distribution of radio programs; Syndication of television programs featuring stock market, financial, and lifestyle information; Entertainment services, namely, production and distribution of ongoing television programs in the field of stock market, financial, and lifestyle information; News syndication for the broadcasting industry; News syndication reporting; Providing information regarding the production and distribution of ongoing television programs in the field of stock market, financial, and lifestyle information; Radio program syndication; Television program syndication.

9. On information and belief, MPR's use and registration of the MARKETPLACE mark predates any use or application for registration of the MARKET FLASH mark by Mr. Schemers.

10. The services for which Mr. Schemers seeks registration of the MARKET FLASH mark are identical or closely related to the goods on which MPR has used its MARKETPLACE mark and for which MPR owns a valid federal trademark registrations.

11. The MARKET FLASH mark so resembles MPR's MARKETPLACE mark as to be likely, when used in connection with the goods identified in the '123 Application, to cause confusion, mistake, and/or deception, causing harm to MPR.

12. Mr. Shemers's '123 Application for the mark MARKET FLASH cannot be registered consistent with Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

WHEREFORE, MPR believes that it would be damaged by registration of the MARKET FLASH mark, prays that the '123 Application be rejected, that no registration be issued thereon, and that this opposition be sustained in favor of MPR.

MPR submits with this Notice of Opposition a filing fee of \$300. If the amount submitted is determined to be incorrect, the Commissioner may charge any additional fees or credit any overpayment to Deposit Account No. 06-0029.

Dated: July 20, 2016

FAEGRE BAKER DANIELS LLP

By /s/ Peter M. Routhier/

Peter M. Routhier

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90 South Seventh Street

Minneapolis, Minnesota 55402

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tmmpls@faegrebd.com

Attorney for the Opposer

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

In the Matter of Serial No. 86/892,123
For the Mark: MARKET FLASH
Filed: January 30, 2016
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Minnesota Public Radio,

Opposer,

v.

Kurt Schemers,

Applicant.

Opposition No. _____

CERTIFICATE OF SERVICE

I, Peter M. Routhier, do hereby certify that on July 19, 2016, a true and correct copy of MPR's **Notice of Opposition** has been forwarded by United States and electronic mail, first class, postage prepaid, to the Kurt Schemers at the correspondent address as listed below:

Kurt Schemers
40001 N Curie Ct
Phoenix, AZ 85086

/s Peter M. Routhier/
Peter M. Routhier

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Mark: MARKETPLACE

MARKETPLACE

US Serial Number: 76083663

Application Filing Date: Jul. 03, 2000

US Registration Number: 2581025

Registration Date: Jun. 18, 2002

Register: Principal

Mark Type: Service Mark

TM5 Common Status Descriptor:



LIVE/REGISTRATION/Issued and Active

The trademark application has been registered with the Office.

Status: The registration has been renewed.

Status Date: Aug. 31, 2011

Publication Date: Mar. 26, 2002

Mark Information

Mark Literal Elements: MARKETPLACE

Standard Character Claim: No

Mark Drawing Type: 1 - TYPESET WORD(S) /LETTER(S) /NUMBER(S)

Acquired Distinctiveness Claim: In whole

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Providing information in the field of business news and information by means of a global computer information network

International Class(es): 035 - Primary Class

U.S Class(es): 100, 101, 102

Class Status: ACTIVE

Basis: 1(a)

First Use: Oct. 01, 1995

Use in Commerce: Oct. 01, 1995

For: Entertainment services, namely, a continuing program series in the field of business news and information, provided through radio

International Class(es): 041 - Primary Class

U.S Class(es): 100, 101, 107

Class Status: ACTIVE

Basis: 1(a)

First Use: Jan. 02, 1989

Use in Commerce: Jan. 02, 1989

Basis Information (Case Level)

Filed Use: Yes

Currently Use: Yes

Amended Use: No

Filed ITU: No

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No
Filed 66A: No
Filed No Basis: No

Currently 44E: No
Currently 66A: No
Currently No Basis: No

Amended 44E: No

Current Owner(s) Information

Owner Name: Minnesota Public Radio
Owner Address: 480 Cedar Street
St. Paul, MINNESOTA UNITED STATES 55101
Legal Entity Type: NONPROFIT CORPORATION
State or Country Where Organized: MINNESOTA

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Mitzi T Gramling
Attorney Primary Email Address: legal@mpr.org
Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: Mitzi T Gramling
Minnesota Public Radio
Office of General Counsel
480 Cedar Street
Saint Paul, MINNESOTA UNITED STATES 55101
Phone: 651-290-1259
Fax: 651-290-1243
Correspondent e-mail: legal@mpr.org
Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Aug. 31, 2011	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	73376
Aug. 31, 2011	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	73376
Aug. 30, 2011	TEAS SECTION 8 & 9 RECEIVED	
Oct. 11, 2007	CASE FILE IN TICRS	
Jul. 21, 2007	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	73376
Jul. 17, 2007	ASSIGNED TO PARALEGAL	73376
Jun. 22, 2007	REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED	
Jun. 22, 2007	TEAS SECTION 8 & 15 RECEIVED	
Jun. 20, 2007	ATTORNEY REVOKED AND/OR APPOINTED	
Jun. 20, 2007	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Jan. 26, 2006	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Jun. 18, 2002	REGISTERED-PRINCIPAL REGISTER	
Mar. 26, 2002	PUBLISHED FOR OPPOSITION	
Mar. 06, 2002	NOTICE OF PUBLICATION	
Nov. 30, 2001	APPROVED FOR PUB - PRINCIPAL REGISTER	
Aug. 03, 2001	CORRESPONDENCE RECEIVED IN LAW OFFICE	
Feb. 13, 2001	NON-FINAL ACTION MAILED	
Jan. 05, 2001	ASSIGNED TO EXAMINER	76585
Dec. 21, 2000	ASSIGNED TO EXAMINER	76582
Dec. 14, 2000	ASSIGNED TO EXAMINER	70729
Dec. 13, 2000	ASSIGNED TO EXAMINER	78060

Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Section 15 - Accepted
Incontestability:

Renewal Date: Jun. 18, 2012

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: GENERIC WEB UPDATE

Date in Location: Aug. 31, 2011

Proceedings

Summary

Number of 1
Proceedings:

Type of Proceeding: Opposition

Proceeding [91156674](#)
Number:

Filing Date: Jun 10, 2003

Status: Terminated

Status Date: Nov 03, 2003

Interlocutory ANDREW P BAXLEY
Attorney:

Defendant

Name: Marketplace Television, Inc.

Correspondent PAMELA HAUGHTON-DENNISTON
Address: ARENT FOX KINTNER & PLOTKIN
1050 CONNECTICUT AVE NW STE 400
WASHINGTON DC UNITED STATES , 20036-5339

Associated marks

Mark	Application Status	Serial Number	Registration Number
MARKETPLACE TELEVISION	Abandoned - After Inter-Partes Decision	75936115	

Plaintiff(s)

Name: Minnesota Public Radio

Correspondent LINDA M. BYRNE
Address: MERCHANT & GOULD PC
PO BOX 2910
MINNEAPOLIS MN UNITED STATES , 55402-0910

Associated marks

Mark	Application Status	Serial Number	Registration Number
MARKETPLACE	Renewed	76083663	2581025

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Jun 10, 2003	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Jun 17, 2003	Jul 27, 2003
3	PENDING, INSTITUTED	Jun 17, 2003	
4	NOTICE OF DEFAULT	Aug 30, 2003	
5	BOARD'S DECISION: SUSTAINED	Nov 03, 2003	
6	TERMINATED	Nov 03, 2003	