

ESTTA Tracking number: **ESTTA790045**

Filing date: **12/19/2016**

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	Zound Industries International AB
Granted to Date of previous extension	12/18/2016
Address	Centralplan 15 SE-111 20 Stockholm, SWEDEN

Attorney information	MOLLY MACK CRANDALL BROOKS KUSHMAN P.C. 1000 TOWN CENTER 22ND FLOOR SOUTHFIELD, MI 48075 UNITED STATES mcrandall@brookskushman.com, ejanda@brookskushman.com, ejbrooks@brookskushman.com, lsavage@brookskushman.com Phone:248-358-4400
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**Applicant Information**

Application No	86892871	Publication date	06/21/2016
Opposition Filing Date	12/19/2016	Opposition Period Ends	12/18/2016
Applicant	SP Marketing, Inc. 232 Westridge Blvd. Bartlett, IL 60103 UNITED STATES		


**Goods/Services Affected by Opposition**

<p>Class 009. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Audio amplifiers; Audio headphones; Audio speakers; Bass speakers; Broadband radios; Consumer electronic products, namely, audio amplifiers, audio speakers, audio receivers, electrical audio and speaker cables and connectors, audio decoders, video decoders, speakers, power conversion devices, power converters, and power inverters; Devices for wireless radiotransmission; Ear phones; Earphone accessories, namely, earphone cushions, earphone pads, cord management systems, earphone cases, and earphone extension cords; Earphones; Earphones and headphones; Emergency position-indicating radio beacons; Headphones; Headsets for cellular or mobile phones; Loudspeakers, headphones, microphones and CD players; Mobile radios; Personal headphones for sound transmitting apparatuses; Personal headphones for use with sound transmitting systems; Portable radios; Radio transmitters and receivers; Radio receivers; Radio sets; Radio transceivers; Radio transmitters; Radios; Radios for vehicles; Short range radios; Weather radios; Wireless broadband radios; Wireless cellular phone headsets; Wireless headsets for smartphones; Wireless indoor and outdoor speakers; Wireless narrowband radios; Music headphones; Stereo headphones</p>
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## Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
False suggestion of a connection with persons, living or dead, institutions, beliefs, or national symbols, or brings them into contempt, or disrepute	Trademark Act Section 2(a)
Deceptiveness	Trademark Act Section 2(a)

## Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3752589	Application Date	03/26/2009
Registration Date	02/23/2010	Foreign Priority Date	09/27/2008
Word Mark	COLOUD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 0 First Use In Commerce: 0 Headphones Class 018. First use: First Use: 0 First Use In Commerce: 0 [ Sports bags ]		

Attachments	79072913#TMSN.png( bytes ) Notice of Opposition - GOLOUD.pdf(812886 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	/molly crandall/
Name	MOLLY MACK CRANDALL
Date	12/19/2016



As grounds for opposition, the Opposer alleges as follows:

1. The Applicant, SP MARKETING, INC. ("SP Marketing"), a corporation organized under the laws of the state of Illinois with an address of 232 Westridge Blvd., Bartlett, Illinois 60103, is seeking to register the mark "GOLOUD" as a trademark for the following goods in Class 9:

Audio amplifiers; Audio headphones; Audio speakers; Bass speakers; Broadband radios; Consumer electronic products, namely, audio amplifiers, audio speakers, audio receivers, electrical audio and speaker cables and connectors, audio decoders, video decoders, speakers, power conversion devices, power converters, and power inverters; Devices for wireless radio transmission; Ear phones; Earphone accessories, namely, earphone cushions, earphone pads, cord management systems, earphone cases, and earphone extension cords; Earphones; Earphones and headphones; Emergency position-indicating radio beacons; Headphones; Headsets for cellular or mobile phones; Loudspeakers, headphones, microphones and CD players; Mobile radios; Personal headphones for sound transmitting apparatuses; Personal headphones for use with sound transmitting systems; Portable radios; Radio transmitters and receivers; Radio receivers; Radio sets; Radio transceivers; Radio transmitters; Radios; Radios for vehicles; Short range radios; Weather radios; Wireless broadband radios; Wireless cellular phone headsets; Wireless headsets for smartphones; Wireless indoor and outdoor speakers; Wireless narrowband radios; Music headphones; Stereo headphones

This is evidenced by the publication of the mark in the June 21, 2016 issue of the *Official Gazette*. SP Marketing filed this application based on "intent-to-use" under Section 1(b) on February 1, 2016, and it was assigned U.S. Serial No. 86892871.

2. Opposer Zound is the owner of U.S. Trademark Registration No. 3752589 for the mark "COLOUD" for "Headphones" in Class 9. This registration issued February 23, 2010, is based on International Registration No. 1013303, and has a priority date of September 27, 2008.

3. Opposer Zound is known for its research, development, marketing, and sale of headphones and speakers. Although based in Sweden, Zound has an office in New York, New York and markets its products in the U.S. and around the world.

4. Opposer Zound has expended considerable effort and expense in promoting its "COLOUD" brand and the goods associated with that brand, with the result that the purchasing public has come to know and recognize the products of the Opposer by its "COLOUD" mark. Zound has an exceedingly valuable goodwill established in its "COLOUD" mark.

5. There is no issue as to priority. The priority date for Zound's U.S. trademark registration for the mark "COLOUD" is September 27, 2008, long prior to the Applicant's intent-to-use application filing date of February 1, 2016 for its mark "GOLOUD." Further, Zound has used its mark "COLOUD" in connection with its goods in the U.S. since at least as early as 2009.

6. The Applicant's mark, "GOLOUD," is substantially similar to Zound's mark "COLOUD" in appearance, sound, connotation, and commercial impression. The marks only differ by one letter – a G and a C – which are similar in appearance and sound as well.

7. The Applicant's "GOLOUD" goods are the same as and/or related to Zound's "COLOUD" goods. The goods of each are also marketed to the same consumers and/or travel in the same channels of trade.

8. Since Applicant's mark and goods as described in the "GOLOUD" Application are the same as and/or related to Zound's "COLOUD" mark and goods, confusion and deception as to the origin of the Applicant's goods bearing the applied-for mark would occur, all to the damage and detriment of the Opposer. Such use would cause confusion in the trade resulting in damage and injury to the Opposer.

9. The Applicant's use or registration of the mark "GOLOUD" in connection with its designated goods so resembles Opposer's earlier-used and first-registered "COLOUD" mark as to be likely to cause confusion, or to cause mistake, or to deceive under Section 2(d) of the Lanham Act, as amended 15 U.S.C. § 1052(d).

10. The Applicant's mark "GOLOUD" consists of matter which falsely suggests an affiliation, connection, or association with the Opposer under Section 2(a) of the Lanham Act, as amended, 15 U.S.C. § 1052(a).

11. For the foregoing reasons, the Opposer will be damaged by the registration of Applicant's "GOLOUD" mark.

WHEREFORE, the Opposer Zound prays that Application Serial No. 86892871 for the mark "GOLOUD" be refused and this Opposition be sustained.

Respectfully submitted,

ZOUND INDUSTRIES INTERNATIONAL AB

By:   
Molly M. Crandall  
Attorney/Agent for Opposer

Date: December 19, 2016  
(Filed electronically via USPTO.ESTTA)

**BROOKS KUSHMAN P.C.**  
1000 Town Center, 22nd Floor  
Southfield, MI 48075  
Phone: 248-358-4400  
Fax: 248-358-3351  
email: [mcrandall@brookskushman.com](mailto:mcrandall@brookskushman.com)

**CERTIFICATE OF SERVICE**

I certify that I served:


**NOTICE OF OPPOSITION**

on December 19, 2016 by:

       delivering  
  X   mailing (via First Class Mail)  
  X   emailing (to **briecrawford@crawfordpatents.com**)

a copy to the Applicant's Attorney of Record at:

Brie A. Crawford  
Crawford Intellectual Property Law LLC  
1095 Pingree Rd., Ste. 204  
Crystal Lake, IL 60014  
**briecrawford@crawfordpatents.com**  
Ph: 815-893-8149  
Fx: 815-261-4350

  
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Cathy Nikkila