

ESTTA Tracking number: **ESTTA966048**

Filing date: **04/10/2019**

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	ATI Technologies ULC
Granted to Date of previous extension	04/10/2019
Address	1600, 421 - 7th Avenue SW Calgary, T2P4K9 CANADA

Attorney information	Belinda J. Scrimenti Pattishall, McAuliffe, Newbury, Hilliard & Geraldson LLP 200 South Wacker Drive, Suite 2900 Chicago, IL 60606 UNITED STATES bscrimenti@pattishall.com, jrp@pattishall.com, kep@pattishall.com, docket-mail@pattishall.com, sm@pattishall.com 312-554-8000
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**Applicant Information**

Application No	88038791	Publication date	12/11/2018
Opposition Filing Date	04/10/2019	Opposition Period Ends	04/10/2019
Applicant	V-Moda, LLC 5100 S. Eastern Avenue Los Angeles, CA 90040 UNITED STATES		


**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: Headphones, Gaming headsets for virtualreality games, Computer speakers, namely, audio speakers, wireless speakers, Microphones, Mouse Pads, Desktop Mousepads
Class 028. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Gaming headsets adapted for use in playing video games

**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.	3319980	Application Date	05/04/2005
Registration Date	10/23/2007	Foreign Priority Date	NONE
Word Mark	CROSSFIRE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2005/10/31 First Use In Commerce: 2005/10/31 Semiconductors, circuit boards, peripheral graphics boards, and driver software-for operating the foregoing, all for enhancing the visual experience of those using applications with high-end visual graphics and video such as gaming, animation, or playback		

Attachments	78622982#TMSN.png( bytes ) Notice of Opposition Against CROSSFIRE -Serial No. 88038791.pdf(89493 bytes )
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Signature	/Jacquelyn R. Prom/
Name	Jacquelyn R. Prom
Date	04/10/2019

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

In the Matter of Application Serial No. 88/038,791: CROSSFIRE  
Published on December 11, 2018, in International Classes 9 and 28

ATI TECHNOLOGIES ULC,	)	
	)	
Opposer,	)	
	)	
v.	)	Opp. No. _____
	)	
V-MODA, LLC,	)	
	)	
Applicant.	)	

**NOTICE OF OPPOSITION**

ATI Technologies ULC, a Canada unlimited liability corporation located at 421 7th Avenue SW, Calgary, Alberta, Canada, believes it will be damaged by registration of the mark CROSSFIRE shown in Application Serial No. 88/038,791 (the “Opposed Application”) and hereby opposes the same. The grounds for the opposition are as follows:

1. Since long before the application filing date of the Oppose Application, Opposer has manufactured, distributed, advertised and sold computer hardware and software designed to enhance the visual experience of those using computer applications with high-end visual graphics and video such as video gaming, virtual reality, animation, or playback, under the trademark CROSSFIRE (“CROSSFIRE Mark”).

2. Since long before the filing date of the Opposed Application, Opposer, itself and through its parent company, Advanced Micro Devices, Inc. (“AMD”), has used the CROSSFIRE Mark in interstate commerce for semiconductors, circuit boards, peripheral graphics boards, and driver software that are extensively used for computer gaming.

3. Opposer owns the U.S. federal registration for its CROSSFIRE Mark, Reg. No. 3,319,980, based on first use on October 31, 2005, registered October 23, 2007, for “semiconductors, circuit boards, peripheral graphics boards, and driver software for operating the foregoing, all for enhancing the visual experience of those using applications with high-end visual graphics and video such as gaming, animation, or playback” in Class 9. A print-out from the United States Patent and Trademark Office records showing the current status of this registration is attached hereto as Exhibit A.

4. Opposer has sold millions of dollars’ worth of computer-related products under its CROSSFIRE Mark referenced above and has spent substantial sums advertising and promoting its CROSSFIRE Mark throughout the United States.

5. By virtue of its extensive sales, advertising and promotion, in addition to its registration of CROSSFIRE as noted above, Opposer now owns common law rights and valuable goodwill symbolized by its CROSSFIRE Mark. Further, by virtue of Opposer’s and AMD’s extensive use and promotion of the CROSSFIRE Mark, the CROSSFIRE mark has become a strong mark, readily associated with a wide variety of computer hardware and software and other computer-related products, including those used for computer gaming.

6. On July 16, 2018, Applicant V-Moda, LLC (“Applicant”) filed Application Serial No. 88/038,791 (“the Opposed Application”) to register the mark CROSSFIRE for “Headphones, Gaming headsets for virtual reality games, Computer speakers, namely, audio speakers, wireless speakers, Microphones, Mouse Pads, Desktop Mousepads” in International Class 9 and “Gaming headsets adapted for use in playing video games” in International Class 28. Applicant’s application was filed based on intent to use the mark under Section 1(b) of the Lanham Act.

7. Upon information and belief, neither Applicant nor any predecessor or related company of Applicant has any basis for claiming rights in the trademark CROSSFIRE earlier than the application filing date of the Opposed Application.

8. Applicant's application to register the mark CROSSFIRE is without Opposer's consent.

9. The goods covered by the Opposed Application are highly related to the Opposer's CROSSFIRE goods in that Opposer's CROSSFIRE goods, as well as its and AMD's other computer hardware and software, are used in computer and gaming platforms and consoles, alongside gaming headsets, speakers, headphones, microphones, and mousepads. Further, Opposer's CROSSFIRE goods are designed for and used in connection with gaming, particularly for video games and virtual reality games. The gaming industry and media readily associate computer and gaming platforms and consoles containing graphics cards with computer-related accessories. Moreover, Opposer has naturally begun expanding its goods and services to cover video game and virtual reality accessories, including virtual reality headsets and glasses, as well as planned virtual reality game services provided on-line from a computer network and virtual reality game software design and development. As such, Opposer's goods are related to Applicant's goods identified in the Opposed Application.

10. Given the fact that Opposer's CROSSFIRE Mark and the Opposed Application are identical, and the fact that the goods covered by the Opposed Application are highly related to Opposer's CROSSFIRE goods, Applicant's proposed use of and application to register CROSSFIRE is likely to result in confusion, mistake or deception with Opposer's CROSSFIRE mark, or in the mistaken belief that Applicant or its CROSSFIRE products are in some way

legitimately connected with, licensed or approved by Opposer or related to CROSSFIRE products.

11. Accordingly, registration of the Opposed Application would be damaging to Opposer.

**WHEREFORE**, Opposer prays that its opposition be sustained and registration of Application Serial No. 88/038,791 be refused.

Opposer submits the requisite filing fee of \$800. Please debit any deficiency or credit any overpayment to Deposit Account No. 16-0650. Please address all correspondence to Belinda J. Scrimenti, Pattishall, McAuliffe, Newbury, Hilliard & Geraldson LLP, 200 South Wacker Drive, Suite 2900, Chicago, Illinois 60606.

PATTISHALL, McAULIFFE, NEWBURY,  
HILLIARD & GERALDSON LLP

Dated: April 10, 2019


By: /Belinda J. Scrimenti/  
Belinda J. Scrimenti  
Jacquelyn R. Prom  
200 South Wacker Drive, Suite 2900  
Chicago, Illinois 60606

*Attorneys for Opposer,  
ATI Technologies ULC*

# **EXHIBIT A**

Due to high-volume usage, you may experience intermittent issues on the Trademark Status and Document Retrieval (TSDR) system between 6 – 8 a.m. ET. Refreshing your web browser should resolve the issue. If you still need assistance accessing a document, email [teas@uspto.gov](mailto:teas@uspto.gov) and include your serial number, the document you are looking for, and a screenshot of any error messages you have received.

Starting Oct. 4, 2018, bulk data customers should no longer obtain direct access to TSDR data through [tsdrsec.uspto.gov](http://tsdrsec.uspto.gov). [There are two alternative ways to receive bulk data from TSDR.](#)

STATUS	DOCUMENTS	MAINTENANCE	<a href="#">Back to Search</a>	Print
<b>Generated on:</b> This page was generated by TSDR on 2019-04-10 15:11:18 EDT				
<b>Mark:</b> CROSSFIRE		<h1>CROSSFIRE</h1>		
<b>US Serial Number:</b>	78622982	<b>Application Filing Date:</b>	May 04, 2005	
<b>US Registration Number:</b>	3319980	<b>Registration Date:</b>	Oct. 23, 2007	
<b>Register:</b>	Principal			
<b>Mark Type:</b>	Trademark			
<b>TM5 Common Status Descriptor:</b>		LIVE/REGISTRATION/Issued and Active		
<b>Status:</b>	The registration has been renewed.			
<b>Status Date:</b>	Nov. 08, 2017			
<b>Publication Date:</b>	Oct. 03, 2006	<b>Notice of Allowance Date:</b>	Dec. 26, 2006	
<b>▼ Mark Information</b> <span style="float: right;"><a href="#">▲ Collapse All</a></span>				
<b>Mark Literal Elements:</b>	CROSSFIRE			
<b>Standard Character Claim:</b>	Yes. The mark consists of standard characters without claim to any particular font style, size, or color.			
<b>Mark Drawing Type:</b>	4 - STANDARD CHARACTER MARK			
<b>▼ Goods and Services</b>				
<b>Note:</b> The following symbols indicate that the registrant/owner has amended the goods/services:				
<ul style="list-style-type: none"> <li>• Brackets [...] indicate deleted goods/services;</li> <li>• Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and</li> <li>• Asterisks *..* identify additional (new) wording in the goods/services.</li> </ul>				
<b>For:</b>	Semiconductors, circuit boards, peripheral graphics boards, and driver software for operating the foregoing, all for enhancing the visual experience of those using applications with high-end visual graphics and video such as gaming, animation, or playback			
<b>International Class(es):</b>	009 - Primary Class	<b>U.S Class(es):</b>	021, 023, 026, 036, 038	
<b>Class Status:</b>	ACTIVE			
<b>Basis:</b>	1(a)			
<b>First Use:</b>	Oct. 31, 2005	<b>Use in Commerce:</b>	Oct. 31, 2005	
<b>▼ Basis Information (Case Level)</b>				
<b>Filed Use:</b>	No	<b>Currently Use:</b>	Yes	
<b>Filed ITU:</b>	Yes	<b>Currently ITU:</b>	No	
<b>Filed 44D:</b>	No	<b>Currently 44E:</b>	No	
<b>Filed 44E:</b>	No	<b>Currently 66A:</b>	No	
<b>Filed 66A:</b>	No	<b>Currently No Basis:</b>	No	
<b>Filed No Basis:</b>	No			
<b>▼ Current Owner(s) Information</b>				



<b>Owner Name:</b>	ATI TECHNOLOGIES ULC		
<b>Owner Address:</b>	1600, 421 - 7th Avenue SW CALGARY, ALBERTA CANADA T2P 4K9		
<b>Legal Entity Type:</b>	UNLIMITED LIABILITY CORPORATION	<b>State or Country Where Organized:</b>	CANADA

### ▼ Attorney/Correspondence Information

#### Attorney of Record

<b>Attorney Name:</b>	Belinda J. Scrimenti	<b>Docket Number:</b>	444-00554
<b>Attorney Primary Email Address:</b>	<a href="mailto:BJS@pattishall.com">BJS@pattishall.com</a>	<b>Attorney Email Authorized:</b>	Yes

#### Correspondent

<b>Correspondent Name/Address:</b>	Belinda J. Scrimenti PATTISHALL, MCAULIFFE, NEWBURY, HILLIARD & GERALDS 200 South Wacker Drive, Suite 2900 CHICAGO, ILLINOIS UNITED STATES 60606		
<b>Phone:</b>	(312) 554-8000	<b>Fax:</b>	(312) 554-8015
<b>Correspondent e-mail:</b>	<a href="mailto:BJS@pattishall.com">BJS@pattishall.com</a> <a href="mailto:kep@pattishall.com">kep@pattishall.com</a> <a href="mailto:docket@pattishall.com">docket@pattishall.com</a>	<b>Correspondent e-mail Authorized:</b>	Yes

#### Domestic Representative

<b>Domestic Representative Name:</b>	Belinda J. Scrimenti	<b>Phone:</b>	(312) 554-8000
<b>Fax:</b>	(312) 554-8015		
<b>Domestic Representative e-mail:</b>	<a href="mailto:BJS@pattishall.com">BJS@pattishall.com</a>	<b>Domestic Representative e-mail Authorized:</b>	Yes

### ▼ Prosecution History

Date	Description	Proceeding Number
Nov. 08, 2017	NOTICE OF ACCEPTANCE OF SEC. 8 & 9 - E-MAILED	
Nov. 08, 2017	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	67110
Nov. 08, 2017	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	67110
Nov. 08, 2017	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	67110
Oct. 12, 2017	TEAS SECTION 8 & 9 RECEIVED	
Oct. 23, 2016	COURTESY REMINDER - SEC. 8 (10-YR)/SEC. 9 E-MAILED	
Sep. 26, 2013	NOTICE OF ACCEPTANCE OF SEC. 8 & 15 - E-MAILED	
Sep. 26, 2013	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	75461
Sep. 20, 2013	REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED	75461
Sep. 26, 2013	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	75461
Sep. 20, 2013	TEAS SECTION 8 & 15 RECEIVED	
Jul. 24, 2013	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Jul. 17, 2013	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Dec. 21, 2007	CERTIFICATE OF CORRECTION ISSUED	
Dec. 12, 2007	ASSIGNED TO PARALEGAL	71378
Oct. 30, 2007	SEC 7 REQUEST FILED	
Oct. 30, 2007	FAX RECEIVED	
Oct. 23, 2007	REGISTERED-PRINCIPAL REGISTER	
Sep. 20, 2007	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	88888
Sep. 20, 2007	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Sep. 19, 2007	LAW OFFICE REGISTRATION REVIEW COMPLETED	66121
Sep. 19, 2007	ASSIGNED TO LIE	66121
Aug. 15, 2007	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Aug. 02, 2007	STATEMENT OF USE PROCESSING COMPLETE	76985
May 25, 2007	USE AMENDMENT FILED	76985

May 25, 2007	TEAS STATEMENT OF USE RECEIVED	
Apr. 25, 2007	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY	
Apr. 20, 2007	ATTORNEY/DOM.REP.REVOKED AND/OR APPOINTED	
Apr. 20, 2007	TEAS REVOKE/APP/CHANGE ADDR OF ATTY/DOM REP RECEIVED	
Dec. 26, 2006	NOA MAILED - SOU REQUIRED FROM APPLICANT	
Oct. 03, 2006	PUBLISHED FOR OPPOSITION	
Sep. 13, 2006	NOTICE OF PUBLICATION	
Aug. 17, 2006	LAW OFFICE PUBLICATION REVIEW COMPLETED	78287
Aug. 11, 2006	ASSIGNED TO LIE	78287
Aug. 05, 2006	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jul. 28, 2006	ASSIGNED TO EXAMINER	81096
Jun. 29, 2006	AMENDMENT FROM APPLICANT ENTERED	66121
Jun. 15, 2006	CORRESPONDENCE RECEIVED IN LAW OFFICE	66121
Jun. 15, 2006	PAPER RECEIVED	
Dec. 15, 2005	NON-FINAL ACTION E-MAILED	6325
Dec. 15, 2005	NON-FINAL ACTION WRITTEN	81844
Dec. 01, 2005	ASSIGNED TO EXAMINER	81844
May 12, 2005	PAPER RECEIVED	
May 12, 2005	NEW APPLICATION ENTERED IN TRAM	

#### ▼ Maintenance Filings or Post Registration Information

<b>Affidavit of Continued Use:</b>	Section 8 - Accepted
<b>Affidavit of Incontestability:</b>	Section 15 - Accepted
<b>Renewal Date:</b>	Oct. 23, 2017
<b>Change in Registration:</b>	Yes
<b>Correction made to Registration:</b>	Issue New Certificate to: ATI TECHNOLOGIES ULC (CANADA CORPORATION) 700 2ND STREET SW, SUITE 1200 CALGARY, ALBERTA, CANADA T2P 4V5

#### ▼ TM Staff and Location Information

TM Staff Information - None

#### File Location

<b>Current Location:</b>	GENERIC WEB UPDATE	<b>Date in Location:</b>	Nov. 08, 2017
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#### ▲ Assignment Abstract Of Title Information

#### ▲ Proceedings