

ESTTA Tracking number: **ESTTA1331618**  
Filing date: **01/02/2024**

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 parties oppose registration of the indicated application.

### Opposers information

Name	Echostar Corporation
Granted to date of previous extension	01/03/2024
Address	100 INVERNESS TERRACE EAST ENGLEWOOD, CO 80112 UNITED STATES

Name	Echostar Technologies International Corporation		
Entity	Corporation	Incorporated or registered in	Colorado
Address	100 INVERNESS TERRACE EAST ENGLEWOOD, CO 80112 UNITED STATES		

Attorney information	MICHAEL T. MURPHY GLOBAL IP COUNSELORS, LLP 1233 TWENTIETH STREET NW SUITE 600 WASHINGTON, DC 20036 UNITED STATES Primary email: MMURPHY@GIPLAW.COM Secondary email(s): dhwang@giplaw.com, docketdc@giplaw.com, lbayley@giplaw.com, eenglish@giplaw.com 2022930585
Docket no.	HNS-US245026

### Applicant information

Application no.	97631644	Publication date	09/05/2023
Opposition filing date	01/02/2024	Opposition period ends	01/03/2024
Applicant	Xiong, Guobin NO.089, FAVOURITE FAMILY GROUP, SHUANGQIAO VILLAGE, ZHENDOU TOWN LIUYANG, HUNAN, 410319 CHINA		

### Goods/services affected by opposition

Class 009. First Use: Oct 5, 2022 First Use In Commerce: Oct 5, 2022  
All goods and services in the class are opposed, namely: Adjustable smartphone and PC tablet stabilizers and mounts; Cases for eyeglasses and sunglasses; Cases for smartphones; Covers for smartphones; Covers for tablet computers; Electronic devices for locating and tracking lost articles,

people, pets using radio frequency, global positioning systems, cellular communication networks; Eyeglass cases; Keypads for use with computers, tablet computers, cell phones; Laptop carrying cases; Memory card readers; Microphones; Mouth guards for sports; PC tablet mounts; Protective covers and cases for tablet computers; Sleeves for laptops; Smartphone mounts; Smartwatch bands

## Grounds for opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
Dilution by blurring	Trademark Act Sections 2 and 43(c)

## Marks cited by opposer as basis for opposition

U.S. registration no.	2795008	Application date	02/04/2003
Register	Principal		
Registration date	12/16/2003	Foreign priority date	NONE
Word mark	ECHOSTAR		
Design mark			
Description of mark	NONE		
Goods/services	Class 009. First use: First Use: Mar 31, 1988 First Use In Commerce: Mar 31, 1988 satellite television receivers		

U.S. registration no.	4126015	Application date	02/12/2009
Register	Principal		
Registration date	04/10/2012	Foreign priority date	NONE
Word mark	ECHOSTAR		
Design mark			
Description of mark	NONE		
Goods/services	Class 009. First use: First Use: Mar 31, 1988 First Use In Commerce: Mar 31, 1988 Communications equipment, namely, digital video recorders, audio-video receivers, signal frequency receivers and antennae for receiving signal frequencies; communications software, namely, system application and operating software for residential and commercial television receiver systems and place shifting devices; software reflecting the on-screen listing of available programming; receivers for receiving audio, video and data signals distributed via satellite; satellite television receivers; terrestrial television receivers; internet television receivers; programmable digital television recorders; place shifting devices; [ home audio and video servers; ] digital media adapters; video transmitters; storage devices for storing audio, video, image and data information; [ electronic apparatus and devices for controlling access to pay-television services; ] communications software, namely, networking software for audio, video and data distribution systems; computer hardware and software for controlling the operation of audio and video devices and for viewing, searching and playing audio, video, television, movies, photographs and other digital images; computer software for use in organizing, transmitting, receiving, manipulating, playing and reviewing text, data, image, audio, and video files; distribution systems for transmitting audio, video and data signals from a receiver to presentation client devices; com-		

	puter hardware and software for streaming audio, video, image and data information to a variety of client devices, namely, televisions, personal computers, mobile phones, [ personal digital assistants (PDA) ] and stand-alone hardware decoders; parts and fittings of the aforementioned goods; operator maintenance and instructional manuals distributed therewith
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U.S. registration no.	4320936	Application date	08/22/2012
Register	Principal		
Registration date	04/16/2013	Foreign priority date	NONE
Word mark	EHOSTAR		
Design mark			
Description of mark	The mark consists of the word "EchoStar" in a stylized format.		
Goods/services	Class 009. First use: First Use: Dec 2009 First Use In Commerce: Dec 2009 Communications equipment, namely, digital video recorders, audio-video receivers and signal frequency receivers; communications software, namely, system application and operating software for residential and commercial television receiver systems and place shifting devices; programming and media content display software; receivers for receiving audio, video and data signals ; satellite television receivers; internet television receivers; digital media content recorders; place shifting devices; home audio and video servers; and storage devices for storing audio, video, image and data information; electronic apparatus and devices for controlling access to pay-television services; distribution systems for transmitting audio, video and data signals from a receiver to presentation client devices; computer hardware and software for streaming audio, video, image and data information to a variety of client devices, namely, televisions, personal computers, mobile phones, personal digital assistants (PDA) and stand-alone hardware decoders		

U.S. registration no.	3877536	Application date	02/12/2009
Register	Principal		
Registration date	11/16/2010	Foreign priority date	NONE
Word mark	EHOSTAR		
Design mark			
Description of mark	NONE		
Goods/services	Class 038. First use: First Use: Jan 1, 2008 First Use In Commerce: Jan 1, 2008 Transmitting video, image, audio and data information via satellite, cable, wireless, internet, fiber optics, and computer networks; streaming of audio and video material on the internet; information transmission via electronic communications networks; audio and video broadcasting services over the internet or other communications networks; satellite television broadcasting; satellite transmission services; telecommunication services, namely, transmission of video, image, audio, and data information via television, satellite, cable, wireless, fiber optics, audio and video media, and global computer networks; transmission of television broadcasting services via communication satellites; television transmission services; television broadcasting; broadcasting of television programs; broadcast of cable television programs		

U.S. registration	3861572	Application date	02/12/2009
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no.			
Register	Principal		
Registration date	10/12/2010	Foreign priority date	NONE
Word mark	EHOSTAR		
Design mark			
Description of mark	NONE		
Goods/services	Class 041. First use: First Use: Jan 1, 2008 First Use In Commerce: Jan 1, 2008 Distribution of television scheduling and programming to television reception systems; [ entertainment services in the nature of ongoing IPTV (Internet Protocol Television); distribution of television programming to cable television systems; ] distribution of television programs for others		

Attachments	Notice of Opposition - Serial No. 97631644.pdf(178915 bytes )
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Signature	/Lydia Bayley/
Name	Lydia Bayley
Date	01/02/2024

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

*In the matter of:*

Application Serial No. 97/631,644

Mark: ECOSTAR

Filing Date: October 13, 2022

Published: September 5, 2023

Echostar Corporation and Echostar Technologies International Corporation	)	
	)	
Opposers,	)	
	)	
v.	)	Opposition No. _____
	)	
Guobin Xiong,	)	
	)	
Applicant.	)	
	)	

**NOTICE OF OPPOSITION**

Opposers Echostar Corporation, a corporation organized under the laws of Nevada, and Echostar Technologies International Corporation, a corporation organized under the laws of Colorado, (collectively “Echostar”) both having a principal place of business at 100 Inverness Terrace East, Englewood, CO 80112, believe that they will be damaged by registration of the above-identified mark filed by Applicant Guobin Xiong and hereby oppose the same pursuant to 15 U.S.C. § 1063(a) and TBMP § 303.01.

Echostar opposes Application Serial No. 97/631,644 for the mark ECOSTAR (the “Opposed Mark”) because it has established extensive rights in its famous ECHOSTAR marks in connection with goods and services similar to those claimed for the Opposed Mark. Registration of the Opposed Mark is therefore likely to impair the distinctiveness of the ECHOSTAR marks and confuse consumers into believing that Applicant’s products and services are associated with

or sponsored by Echostar, or that Applicant's use of the Opposed Mark is otherwise authorized by Echostar. As any of these circumstances would damage Opposers, registration of the Opposed Mark would violate 15 U.S.C. §§ 1052(d), 1125(a), and 1125(c).

The grounds for opposition are as follows:

1. Opposers own multiple trademark registrations for ECHOSTAR in various forms and classes, including:

- a. U.S. Registration No. 2,795,008 for ECHOSTAR for satellite television receivers in Class 009.
- b. U.S. Registration No. 4,126,015 for ECHOSTAR for Communications equipment, namely, digital video recorders, audio-video receivers, signal frequency receivers and antennae for receiving signal frequencies; communications software, namely, system application and operating software for residential and commercial television receiver systems and place shifting devices; software reflecting the on-screen listing of available programming; receivers for receiving audio, video and data signals distributed via satellite; satellite television receivers; terrestrial television receivers; internet television receivers; programmable digital television recorders; place shifting devices; digital media adapters; video transmitters; storage devices for storing audio, video, image and data information; communications software, namely, networking software for audio, video and data distribution systems; computer hardware and software for controlling the operation of audio and video devices and for viewing, searching and playing audio, video, television, movies, photographs and other digital images; computer software for use in organizing,

transmitting, receiving, manipulating, playing and reviewing text, data, image, audio, and video files; distribution systems for transmitting audio, video and data signals from a receiver to presentation client devices; computer hardware and software for streaming audio, video, image and data information to a variety of client devices, namely, televisions, personal computers, mobile phones, and stand-alone hardware decoders; parts and fittings of the aforementioned goods; operator maintenance and instructional manuals distributed therewith in Class 009.

- c. U.S. Registration No. 4,320,936 for EHOSTAR for Communications equipment, namely, digital video recorders, audio-video receivers and signal frequency receivers; communications software, namely, system application and operating software for residential and commercial television receiver systems and place shifting devices; programming and media content display software; receivers for receiving audio, video and data signals ; satellite television receivers; internet television receivers; digital media content recorders; place shifting devices; home audio and video servers; and storage devices for storing audio, video, image and data information; electronic apparatus and devices for controlling access to pay-television services; distribution systems for transmitting audio, video and data signals from a receiver to presentation client devices; computer hardware and software for streaming audio, video, image and data information to a variety of client devices, namely, televisions, personal computers, mobile phones, personal digital assistants (PDA) and stand-alone hardware decoders in Class 009.

- d. U.S. Registration No. 3,877,536 for ECHOSTAR for Transmitting video, image, audio and data information via satellite, cable, wireless, internet, fiber optics, and computer networks; streaming of audio and video material on the internet; information transmission via electronic communications networks; audio and video broadcasting services over the internet or other communications networks; satellite television broadcasting; satellite transmission services; telecommunication services, namely, transmission of video, image, audio, and data information via television, satellite, cable, wireless, fiber optics, audio and video media, and global computer networks; transmission of television broadcasting services via communication satellites; television transmission services; television broadcasting; broadcasting of television programs; broadcast of cable television programs in Class 038.
- e. U.S. Registration No. 3,861,572 for ECHOSTAR for Distribution of television scheduling and programming to television reception systems; distribution of television programs for others in Class 041.

2. Opposers' trademark registrations are valid and subsisting and constitute *prima facie* evidence and constructive notice of Opposers' rights in the ECHOSTAR trademarks. The registrations also evidence the wide scope of protection to which the ECHOSTAR trademarks are entitled. Moreover, all of the registrations listed above are incontestable pursuant to 15 U.S.C. § 1065, thus constituting Opposers' exclusive right to use the ECHOSTAR trademarks in commerce for the products and services specified in the registrations pursuant to 15 U.S.C. §§ 1065 and 1115(b).

3. Opposers have extensively marketed and sold ECHOSTAR services and products



bearing the ECHOSTAR trademarks throughout the United States since as early as 1988. Due in part to Opposers' fame, products and services bearing the ECHOSTAR trademark, as well as the ECHOSTAR trademark itself, have garnered significant press coverage.

4. Opposers' ECHOSTAR trademarks have brought, and continue to bring, significant goodwill to Opposers by virtue of domestic and global sales, advertising, and press coverage.

5. Applicant filed Application Serial No. 97/631,644 for ECOSTAR on October 13, 2022 for Adjustable smartphone and PC tablet stabilizers and mounts; Cases for eyeglasses and sunglasses; Cases for smartphones; Covers for smartphones; Covers for tablet computers; Electronic devices for locating and tracking lost articles, people, pets using radio frequency, global positioning systems, cellular communication networks; Eyeglass cases; Keypads for use with computers, tablet computers, cell phones; Laptop carrying cases; Memory card readers; Microphones; Mouth guards for sports; PC tablet mounts; Protective covers and cases for tablet computers; Sleeves for laptops; Smartphone mounts; Smartwatch bands in Class 009.

6. Applicant's use of the Opposed Mark is likely to (a) cause confusion, mistake or deception with Opposers' ECHOSTAR trademarks, (b) result in the incorrect perception or belief that Applicant or its ECOSTAR products and services are in some way associated with or sponsored by Opposers, and (c) impair the distinctiveness of the ECHOSTAR trademarks. The Opposed Mark is nearly identical in sounds, appearance, meaning, and commercial impression to Opposers' ECHOSTAR trademarks.

7. Applicant's use of the term ECOSTAR constitutes wrongful appropriation of Opposers' valuable goodwill associated with their ECHOSTAR trademarks.

8. Applicant's use of the term ECOSTAR for the goods and services set forth in

Application Serial No. 97/631,644 threatens Opposers' right to expand the scope of use of the ECHOSTAR trademarks to related, analogous, or equivalent goods or services.

9. Upon information and belief and according to the date of first use alleged by Applicant in Application Serial No. 97/631,644, neither Applicant nor a predecessor or related company made commercial use of the Opposed Mark before the date of any of the ECHOSTAR registrations owned by Opposers.

10. Applicant's application to register the Opposed Mark is without the Opposers' consent or permission.

11. Opposers will be damaged by registration of Applicant's ECOSTAR mark for goods in Class 009 in Application Serial No. 97/631,644 and request that the present opposition be sustained, and that the registration sought by Applicant be refused.

#### **LIKELIHOOD OF CONFUSION**

12. Opposers repeat and reallege the allegations set forth in paragraphs 1-11.

13. Opposers have used and registered the ECHOSTAR trademarks noted in paragraph 1 long before the filing date of Application Serial No. 97/631,644, and the date of first use alleged by Applicant.

14. The Opposed Mark so closely resembles Opposers' ECHOSTAR trademarks that such use is likely to cause confusion, mistake, or deception as to the origin, sponsorship, or approval of Applicant with Opposers and is likely to continue to do so in the future, in violation of 15 U.S.C. §§ 1052(d) and 1125(a).

#### **DILUTION**

15. Opposers repeat and reallege the allegations set forth in paragraphs 1-14.

16. Opposers' ECHOSTAR trademark is famous and became famous prior to the

filing date of Application Serial No. 97/631,644, and the date of first use alleged by Applicant.

17. The Opposed Mark so closely resembles Opposers' ECHOSTAR trademarks as to dilute or is likely to cause dilution of the distinctive quality of Opposers' famous ECHOSTAR trademarks in violation of 15 U.S.C. § 1125(c).

18. By reason of the foregoing, Opposers would be damaged by registration of the Opposed Mark for the goods identified in Application Serial No. 97/631,644.

WHEREFORE, Opposers Echostar Corporation and Echostar Technologies International Corporation respectfully request that the present opposition be sustained, and that the registration sought by Applicant be refused.

Dated: January 2, 2024

Respectfully submitted,

/s/Michael T. Murphy

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Lydia Bayley  
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***Attorneys for Opposers***

**CERTIFICATE OF SERVICE**

The undersigned certifies that a true copy of the foregoing **NOTICE OF OPPOSITION** was served on representatives for the Applicant shown below via **ELECTRONIC MAIL**:

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Executed on January 2, 2024, in Chicago, Illinois.

*/s/Lydia Bayley*  
Lydia Bayley