

ESTTA Tracking number: **ESTTA1378535**  
Filing date: **08/20/2024**

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 party opposes registration of the indicated application.

### Opposer information

Name	Japan Tobacco Inc.		
Entity	Corporation	Incorporated or registered in	Japan
Address	1-1 TORANOMON, 4-CHOME, MINATO-KU TOKYO, 0 JAPAN		

Attorney information	GREGG A. PARADISE LERNER DAVID LLP 20 COMMERCE DRIVE CRANFORD, NJ 07016 UNITED STATES Primary email: gparadise@lernerdavid.com Secondary email(s): litigation@lernerdavid.com 9085186323		
Docket no.	JTI-184		

### Applicant information

Application no.	98309163	Publication date	08/13/2024
Opposition filing date	08/20/2024	Opposition period ends	09/12/2024
Applicant	ZOVOO (Shenzhen) Technology Co., Ltd. INDUSTRY PARK, SONGGANG, BAO'AN DISTRICT ROOM 301, BLOCK A, SHAPUYANGYONG SHENZHEN, GUANGDONG, 518100 CHINA		

### Goods/services affected by opposition

Class 034. First Use: None First Use In Commerce: None


All goods and services in the class are opposed, namely: Cigarettes; Tobacco; Electronic cigarette atomizers sold empty; Electronic cigarette refill cartridges sold empty; Electronic cigarettes; Oral vaporizers for smoking purposes; Boxes for electronic cigarettes and electronic cigarette accessories; Cases for electronic cigarettes; Chewing tobacco; Devices for heating tobacco for the purpose of inhalation; Electronic smoking pipes; Flavourings, other than essential oils, for use in electronic cigarettes; Liquid nicotine solutions for use in electronic cigarettes

### 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	1068686	Application date	11/04/1976
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no.			
Register	Principal		
Registration date	06/28/1977	Foreign priority date	NONE
Word mark	WAVE		
Design mark			
Description of mark	NONE		
Goods/services	Class 034. First use: First Use: Oct 26, 1976 First Use In Commerce: Oct 26, 1976 CIGARETTES		

Attachments	73105959#TMSN.png( bytes ) Notice of Opposition - FLOWAVE - 98309163.pdf(16868 bytes )
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Signature	/Gregg A. Paradise/
Name	Gregg A. Paradise
Date	08/20/2024

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

JAPAN TOBACCO INC.,	:	
	:	
Opposer,	:	Serial No. 98/309,163
	:	
	:	Filed: December 11, 2023
v.	:	
	:	Published: August 13, 2024
ZOVOO (SHENZHEN)	:	
TECHNOLOGY CO., LTD.,	:	Opposition No. _____
	:	
Applicant.	:	
_____	:	x

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

**NOTICE OF OPPOSITION**

Japan Tobacco Inc., a Japanese corporation with an address of 1-1 Toranomom, 4-chome, Minato-ku, Tokyo, Japan, believes it will be damaged by the registration of the mark shown in application Serial No. 98/309,163 (the “Application”) and hereby opposes registration of such mark. The specific grounds for such opposition are as follows:

1. Opposer owns and uses the mark WAVE in connection with goods offered in interstate commerce in the United States.
2. Opposer has been using the mark WAVE since at least as early as October 26, 1976, long before ZOVOO (Shenzhen) Technology Co., Ltd. (“Applicant”) filed the Application for registration of the FLOWAVE & Design mark on December 11, 2023.
3. Opposer is the owner of, *inter alia*, United States Trademark Registration No. 1,068,686 for the mark WAVE, for use in connection with cigarettes.

4. As a result of extensive promotion of its goods throughout the United States, Opposer has built up highly valuable goodwill in its WAVE mark. Such goodwill has become closely and uniquely identified and associated with Opposer prior to the filing of the Application by Applicant and prior to any use of the FLOWAVE & Design mark in the United States by Applicant.

5. Given the strength and renown of Opposer's mark in the United States, Applicant's FLOWAVE & Design mark so resembles Opposer's WAVE mark as to result in a likelihood of confusion.

6. Applicant's FLOWAVE & Design mark will be used for identical, related, and confusingly similar goods in the United States such that the marks are likely to be confused.

7. Opposer will suffer harm as a result of the confusion likely to arise from the registration of the Application and from Opposer's prior and ongoing use of the WAVE mark.

8. Accordingly, Applicant's mark should be denied registration under Section 2(d) of the Trademark Act (15 U.S.C. § 1052(d)).

9. This opposition is timely given that the publication date of the Application was August 13, 2024.

10. The fee of \$600.00 for a Notice of Opposition in one class has been charged to counsel's credit card. The undersigned is authorized to make charges to said credit card.

WHEREFORE, Opposer requests that the Board refuse registration of Application Serial No. 98/309,163, and that this Opposition be sustained.

Respectfully submitted,

LERNER DAVID LLP  
*Attorneys for Opposer*  
*Japan Tobacco Inc.*

20 Commerce Drive  
Cranford, NJ 07016  
Tel: 908.654.5000  
Fax: 908.654.7866

Dated: August 20, 2024

By           /Gregg A. Paradise/            
Gregg A. Paradise