

ESTTA Tracking number: **ESTTA159337**

Filing date: **08/28/2007**

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	Authentec, Inc.
Granted to Date of previous extension	08/29/2007
Address	709 S. Harbor City Blvd Suite 400 Melbourne, FL 32901 UNITED STATES
Attorney information	David L. Sigalow Allen, Dyer, Doppelt, Milbrath & Gilchrist, P.A. 255 S. Orange Avenue Suite 1401 Orlando, FL 32801 UNITED STATES dsigalow@addmg.com Phone:4078412330

### Applicant Information

Application No	78973389	Publication date	05/01/2007
Opposition Filing Date	08/28/2007	Opposition Period Ends	08/29/2007
Applicant	Middleware Associates, LLC 1697 E Classical Blvd Delray Beach, FL 33445 UNITED STATES		

### Goods/Services Affected by Opposition

Class 009. All goods and services in the class are opposed, namely: Facilities management software, namely, software to control building environmental, access and security systems
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### Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2670775	Application Date	08/19/1999
Registration Date	01/07/2003	Foreign Priority Date	NONE
Word Mark	AUTHENTEC		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 1996/01/00 First Use In Commerce: 1996/01/00 Authentication and identification products, namely, computer software, biometric matching software, biometric indexing software, and cryptographic protection software, and related hardware, namely, fingerprint sensors and associated computer chips and electronic circuitry for use in determining the identity of unknown persons and to verify the claimed identity of persons

U.S. Application No.	77226868	Application Date	07/11/2007
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	AUTHENTEC		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1996/00/00 First Use In Commerce: 1996/00/00 Authentication and identification products, namely, computer software, biometric matching software, biometric indexing software, and cryptographic protection software, and related hardware, namely, fingerprint sensors and associated computer chips and electronic circuitry for use in determining the identity of unknown persons and to verify the claimed identity of persons; and graphical user interface display software for linking biometric devices with software applications and functions		

U.S. Registration No.	2470452	Application Date	08/19/1999
Registration Date	07/17/2001	Foreign Priority Date	NONE
Word Mark	PERSONAL SECURITY FOR THE REAL WORLD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2000/08/20 First Use In Commerce: 2000/08/20 authentication and identification products, namely, computer software, biometric matching software, biometric indexing software, and cryptographic protection software, and related hardware, namely, fingerprint sensors and associated computer chips and electronic circuitry for use in determining the identity of unknown persons and to verify the claimed identity of persons		

U.S. Registration No.	2740918	Application Date	11/16/1999
Registration Date	07/29/2003	Foreign Priority Date	NONE
Word Mark	TRUEPRINT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1999/12/00 First Use In Commerce: 2001/09/00 Authentication and identification products, namely, computer software, biometric matching software, biometric indexing software, and cryptographic protection		

	software, and related hardware, namely, fingerprint sensors and associated computer chips and electronic circuitry for use in determining the identity of unknown persons and to verify the claimed identity of persons
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U.S. Registration No.	3105183	Application Date	12/20/2004
Registration Date	06/13/2006	Foreign Priority Date	NONE
Word Mark	THE POWER OF TOUCH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2005/08/00 First Use In Commerce: 2005/08/00 Authentication and identification products, namely, computer software, biometric matching software, biometric indexing software, and cryptographic protection software, and related hardware, namely, fingerprint sensors and associated computer chips and electronic circuitry for use in determining the identity of unknown persons and to verify the claimed identity of persons		

U.S. Registration No.	2801537	Application Date	10/07/2000
Registration Date	12/30/2003	Foreign Priority Date	NONE
Word Mark	ENTREPAD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2001/02/00 First Use In Commerce: 2001/02/00 Authentication and identification products, namely, biometric fingerprint sensors and electronic circuitry, namely, computer chips for use in determining the identity of unknown persons and to verify the claimed identity of persons		

Attachments	75780793#TMSN.gif ( 1 page )( bytes ) 77226868#TMSN.jpeg ( 1 page )( bytes ) 75779001#TMSN.gif ( 1 page )( bytes ) 75850660#TMSN.gif ( 1 page )( bytes ) 78535432#TMSN.jpeg ( 1 page )( bytes ) 76142343#TMSN.gif ( 1 page )( bytes ) HQ1330.PDF ( 4 pages )(74749 bytes )
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Signature	/David L. Sigalow/
Name	David L. Sigalow
Date	08/28/2007

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

In the matter of Application Serial No. 78/973,389  
Published in the Official Gazette on May 1, 2007

AuthenTec, Inc.,

Opposer,

v.

Opposition No: \_\_\_\_\_

Middleware Associates, LLC

Applicant.

\_\_\_\_\_ /

**NOTICE OF OPPOSITION**

Opposer AuthenTec, Inc., a Delaware corporation whose address is 709 S. Harbor City Blvd., Suite 400, Melbourne, Florida, 32901, believes it will be damaged by registration of the mark **AUTHENTIGO**, shown in Serial No. 78/973,389, in International Classes 9 for “facilities management software, namely, software to control building environmental, access and security systems,” and hereby opposes registration of the application in Class 9, pursuant to an Extension of Time allowed on May 22, 2007.

As grounds for opposition it is alleged that:

1. Applicant seeks to register the mark **AUTHENTIGO** as a trademark for the above-described goods, as evidenced by the publication of the mark in the Official Gazette on May 1, 2007.
  
2. Applicant filed its application on September 13, 2006, based on its intent to use the mark in commerce and has not yet filed an Amendment to Allege Use.

3. Opposer is the owner of the U.S. Trademark Registration No. 2,670,775 for the mark **AUTHENTEC (Stylized)**, which registered on the Principal Register on January 7, 2003.

4. Opposer is also the owner of the U.S. Application Serial No. 77/226,868 for the standard character mark **AUTHENTEC**, which was filed on July 16, 2007 but has not yet been assigned to an Examining Attorney.

5. Opposer is also the owner of various other trademarks directed to goods and services within the biometric security industry, including **PERSONAL SECURITY FOR THE REAL WORLD** (U.S. Registration No. 2,470,452), **TRUEPRINT** (U.S. Registration No. 2,740,918), **ENTREPAD** (U.S. Registration No. 2,801,537), and **THE POWER OF TOUCH** (U.S. Registration No. 3,105,183).

6. Opposer has used its marks **AUTHENTEC (Stylized)** and **AUTHENTEC** in commerce in connection with “authentication and identification products, namely, computer software, biometric matching software, biometric indexing software, and cryptographic protection software, and related hardware, namely, fingerprint sensors and associated computer chips and electronic circuitry for use in determining the identity of unknown persons and to verify the claimed identity of persons” in International Class 9 since at least as early as January of 1996.

7. Opposer has extensively promoted and continuously used its marks throughout the U.S., and has made significant sales of products under each of its marks and, as a result, Opposer’s marks have developed and represent valuable goodwill to Opposer.

8. Opposer has exclusive rights to use its federally registered mark **AUTHENTEC (Stylized)** in the U.S. in connection with those goods identified in its registration.

9. Opposer used the marks **AUTHENTEC (Stylized)** and **AUTHENTEC** in commerce prior to Applicant’s filing of its application and, on information and belief, before Applicant’s first use of its mark in connection with its goods.

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