

ESTTA Tracking number: **ESTTA191149**

Filing date: **02/06/2008**

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	Namsung America, Inc.
Granted to Date of previous extension	02/06/2008
Address	250 International ParkwaySuite 230 Heathrow, FL 32746 UNITED STATES
Attorney information	David L. Sigalow Allen, Dyer, Doppelt, Milbrath & Gilchrist, P.A. 255 S. Orange AvenueSuite 1401 Orlando, FL 32801 UNITED STATES dsigalow@addmg.com, bheffernan@addmg.com Phone:407-841-2330

Applicant Information

Application No	78350777	Publication date	10/09/2007
Opposition Filing Date	02/06/2008	Opposition Period Ends	02/06/2008
Applicant	DUALIT LIMITED COUNTY OAK WAY CRAWLEY WEST SUSSEX, RH11 7ST UNITED KINGDOM		

Goods/Services Affected by Opposition

Class 009.

All goods and services in the class are opposed, namely: RADIOS, CAMERAS, TIME CLOCKS, COMPUTERS, TELEVISIONS; HOUSEHOLD OR KITCHEN ITEMS NOT OF PRECIOUS METALS OR COATED THEREWITH, NAMELY, WEIGHING SCALES

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.	2527705	Application Date	03/14/1996
Registration Date	01/08/2002	Foreign Priority Date	NONE
Word Mark	DUAL		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2000/07/01 First Use In Commerce: 2000/07/01 phonograph record players, phonograph record changers, and parts thereof, audio tape recorders and tape players and parts thereof; CD players, CD changers and parts thereof; stereo and mono tuners; stereo amplifiers; loudspeakers; television and video equipment, namely, television sets, video cameras, video monitors, video tape recorders and video tape players and parts thereof and computers

Attachments	75072991#TMSN.gif (1 page)(bytes) Notice of Opp.pdf (5 pages)(87734 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	/David L. Sigalow/
Name	David L. Sigalow
Date	02/06/2008

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

In re the matter of Application Serial No. 78/350,777
Published in the Official Gazette on October 9, 2007

Namsung America, Inc.

v. Opposer,

Opposition No: _____
Mark: **DUALIT**

Dualit Limited

Applicant.
_____ /

NOTICE OF OPPOSITION

Opposer Namsung America, Inc., a corporation organized under the laws of the State of Florida, whose address is 250 International Parkway, Suite 230, Heathrow, Florida 32746, believes it will be damaged by registration of the mark **DUALIT**, shown in Serial No. 78/350,777, in International Class 9 for “radios, cameras, time clocks, computers, televisions,” and hereby opposes registration of the application for the referenced goods in International Class 9, only, pursuant to an Extension of Time allowed on November 7, 2007.

As grounds for opposition it is alleged that:

1. Applicant seeks to register the mark **DUALIT** as a trademark for “radios, cameras, time clocks, computers, televisions,” in International Class 9, *inter alia*, as evidenced by the publication of the mark in the Official Gazette on October 9, 2007.

2. Applicant filed its application on January 12, 2004, based on its intent to use the mark in commerce, and has not yet filed an Amendment to Allege Use.
3. Opposer is affiliated with Namsung Corporation (“Namsung Korea”), a corporation organized under the laws of the Republic of Korea, whose address is 197-22 Koolo-Dong, Koolo-Ku Seoul, Republic of Korea.
4. Namsung Korea is the owner of the mark **DUAL (Stylized)**, shown in U.S. Trademark Registration No. 2,527,705, which registered on the Principal Register on January 8, 2002 for use on “phonograph record players, phonograph record changers, and parts thereof, audio tape recorders and tape players and parts thereof; CD players, CD changers and parts thereof; stereo and mono tuners; stereo amplifiers; loudspeakers; television and video equipment, namely, television sets, video cameras, video monitors, video tape recorders and video tape players and parts thereof and computers,” in International Class 9.
5. U.S. Trademark Registration No. 2,527,705 attained incontestable status on January 14, 2008.
6. Opposer has used the mark **DUAL (Stylized)** in interstate commerce in the United States on goods in International Class 9 since at least as early as July 1, 2000, pursuant to an exclusive license granted to it by Namsung Korea.
7. Opposer has extensively promoted and continuously used the mark throughout the United States, and has made significant sales of products under the mark, and as a result, the mark has developed favorable acceptance and recognition for Opposer in the relevant industry.
8. The mark **DUAL (Stylized)** is distinctive and is a valuable asset of Opposer.

9. Opposer used the mark **DUAL (Stylized)** in commerce prior to the filing of Applicant's application Serial No. 78/350,777 and, upon information and belief, before Applicant's first use of its mark **DUALIT** in connection with the referenced goods in International Class 9.
10. Applicant's mark **DUALIT** is confusingly and deceptively similar to the mark **DUAL (Stylized)**. Applicant's mark is very similar in sight, sound, connotation, and commercial impression to Opposer's mark.
11. Applicant's goods in International Class 9, as listed in ¶1, *supra*, are consumer electronic products that are very similar and closely related to Opposer's goods in International Class 9, as listed in ¶4, *supra*.
12. Upon information and belief, Applicant's channels of trade and class of purchasers are likely to be very similar to those of Opposer.
13. Due to the similarities between the marks and goods, and the likely similarity of the respective channels of trade and classes of purchasers, the registration of Applicant's mark will cause great damage and injury to Opposer. Persons familiar with the mark **DUAL (Stylized)** and the goods offered under this mark would likely confuse Applicant's goods with those provided by Opposer. Any defect, objection or fault found with Applicant's goods under the mark **DUALIT** may reflect upon and expose Opposer to liability, and seriously injure the reputation that Opposer has established.
14. If Applicant is granted the registration herein opposed, it would obtain at least a *prima facie* exclusive right to use the mark **DUALIT** in the United States, thereby causing damage and injury to Opposer.

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