

ESTTA Tracking number: **ESTTA1106053**

Filing date: **01/06/2021**

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	Apple Inc.
Granted to Date of previous extension	01/06/2021
Address	ONE APPLE PARK WAY CUPERTINO, CA 95014 UNITED STATES
Attorney information	J. DAVID MAYBERRY KILPATRICK TOWNSEND & STOCKTON LLP 1114 AVENUE OF THE AMERICAS, 21ST FLOOR NEW YORK, NY 10036 UNITED STATES Primary Email: DMayberry@kilpatricktownsend.com Secondary Email(s): DMayberry@kilpatricktownsend.com, sstadler@kilpatricktownsend.com, Agarcia@kilpatricktownsend.com, tmad- min@kilpatricktownsend.com 212-775-8700
Docket Number	

**Applicant Information**

Application No.	88652398	Publication date	09/08/2020
Opposition Filing Date	01/06/2021	Opposition Period Ends	01/06/2021
Applicant	Pod Shedz LLC 12041 E GOLD DUST AVE SCOTTSDALE, AZ 85259 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 009. First Use: 2019/09/24 First Use In Commerce: 2019/09/24  
All goods and services in the class are opposed, namely: Earphone accessories, namely, earphone cases; Protective cases for audio equipment in the nature of wireless headphone cases

**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.	2835698	Application Date	10/18/2001
Registration Date	04/27/2004	Foreign Priority Date	08/31/2001
Word Mark	IPOD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2001/10/23 First Use In Commerce: 2001/10/23 portable and handheld digital electronic devices for recording, organizing, transmitting, manipulating, and reviewing audio files; computer software for use in organizing, transmitting, manipulating, and reviewing audio files on portable and handheld digital electronic devices		

U.S. Registration No.	3089360	Application Date	10/18/2001
Registration Date	05/09/2006	Foreign Priority Date	08/31/2001
Word Mark	IPOD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2001/10/23 First Use In Commerce: 2001/10/23 Portable and handheld digital electronic devices for recording, organizing, transmitting, manipulating, and reviewing text, data, and audio files; computer software for use in organizing, transmitting, manipulating, and reviewing text, data, and audio files on portable and handheld digital electronic devices		

U.S. Registration No.	3341191	Application Date	06/18/2005
Registration Date	11/20/2007	Foreign Priority Date	NONE
Word Mark	IPOD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2001/10/23 First Use In Commerce: 2001/10/23 full line of electronic and mechanical parts and fittings for portable and handheld digital electronic devices for recording, organizing, transmitting, manipulating, and reviewing text, data, audio and video files; electronic docking stations; stands specially designed for holding portable and handheld digital electronic devices; battery chargers; battery packs; electrical connectors, wires, cables, and adaptors; [ wired and wireless remote controls for portable and handheld digital electronic devices; ] headphones and earphones; stereo amplifier and speaker base stations; [ automobile stereoadapters;] audio recorders; radio receivers; radio transmitters; [ video viewers, namely, video monitors for portable and handheld digital electronic devices; ] and computer software for portable and handheld digital electronic devices for recording, organizing, transmitting, manipulating, and reviewing text, data, audio, image, and video files; computer application software for recording and organizing calendars and schedules, to-do lists, and contact information; computer game software; and, computer software for clock and alarm clock functionality; carrying cases, all for use with portable and handheld digital electronic devices for recording, organizing, transmit-		

	ting, manipulating, and reviewing text, data, audio, image, and video files		
U.S. Registration No.	3497047	Application Date	06/18/2005
Registration Date	09/02/2008	Foreign Priority Date	NONE
Word Mark	IPOD		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 2002/07/17 First Use In Commerce: 2002/07/17 [ full line of holders, straps, armbands, and clips for portable and handheld digital electronic devices for recording,organizing, transmitting, manipulating,and reviewing text, data, audio, image,and video files ] * [ holders, ] straps, [ and armbands ] for portable and handheld digital electronic devices for recording, organizing, transmitting, manipulating, and reviewing text, data, audio, image, and video files[ ; clips sold as a component feature of portable and handheld digital electronic devices for organizing, manipulating and reviewing data and audio files * ]</p> <p>Class 022. First use: First Use: 2004/10/19 First Use In Commerce: 2004/10/19 Lanyards for portable and handheld digital electronic devices for recording, organizing, transmitting, manipulating, and reviewing text, data, audio, image, and video files</p>		

U.S. Registration No.	3741470	Application Date	10/03/2006
Registration Date	01/26/2010	Foreign Priority Date	NONE
Word Mark	IPOD		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 0 First Use In Commerce: 0 (Based on 44(d) Priority Application) (Based on 44(e)) Portable and handheld digital electronic devices for recording, organizing, transmitting, receiving, manipulating, playing and reviewing text, data, image, audio and video files; computer software for use in organizing, transmitting, receiving, manipulating, playing and reviewing text, data, image, audio, and video files on portable and handheld digital electronic devices; a full line of electronic and mechanical parts and fittings for portable and handheld digital electronic devices for recording, organizing, transmitting, receiving, manipulating, playing and reviewing text, data, image, audio and video files; electronic docking stations; stands speciallydesigned for holding portable and handheld digital electronic devices; battery chargers; battery packs; electrical connectors, wires, cables, and adaptors; wired and wireless remote controls for portable and handheld digital electronic devices; headphones and earphones; stereo amplifier and speaker base stations; automobile stereo adapters; audio recorders;radio receivers; radio transmitters; image scanners; [ video viewers, namely, video monitors for portable and handheld digital electronic devices; electronic memory card readers; ] a full line of computer software for portable and handhelddigital electronic devices for recording, organizing, transmitting, receiving, manipulating, playing and reviewing text, data, audio, image, and video files; computer application software for recording and organizing calendars and schedules, to-do lists, and contact information;computer game software; computer software for clock and alarm clock functionality; [ car-</p>		

rying cases, sacks, and bags, all for use with portable and handheld digital electronic devices; a full line of holders, straps, armbands, and clips for portable and handheld digital electronics; computers, computer peripherals, hand held computers, computer terminals, personal digital assistants, electronic organizers, electronic notepads, apparatus for recording, transmission and reproduction of text, data, image, audio, and video; [ blank magnetic data carriers;] microprocessors, memory boards, computer and video monitors, liquid crystal displays, keyboards, electrical cables, [modems, printers, ] digital disk drives; cameras; computer software and prerecorded computer programs for personal information management, database management software, electronic mail and messaging software; paging software; database synchronization software, computer programs for accessing, browsing and searching online databases; computer software and firmware for operating system programs; data synchronization programs; [ computer software application development tool programs; ] adapters, [ computer card adapters, ] cable and electric connectors and computer hard drives; blank random access electronic memory, read only electronic memory; solid state electronic memory; user manuals in electronically readable, machine readable or computer readable form for use with, and sold as a unit with, all the aforementioned goods; downloadable electronic publications in the nature of books, [ magazines, pamphlets,] brochures [ , newsletters, journals and magazines ] in the fields of [ sporting and cultural events, ] computer hardware and software applications, [ K-12 education and university-level subjects, ] and a wide range of topics of general interest

Class 016. First use: First Use: 0 First Use In Commerce: 0

[ (Based on 44(d) Priority Application) (Based on 44(e)) Printed materials and publications, namely, books, magazines, newsletters, brochures, booklets, pamphlets, manuals, journals, leaflets, greeting cards, and catalogues all relating to computer software, computer hardware, consumer electronics, digital technology, telecommunications, on-line retailing, entertainment, music, movies and video, and multimedia apparatus and instruments; pens and pencils, clipboards, posters, memo pads, binders ]

Class 028. First use: First Use: 0 First Use In Commerce: 0

(Based on 44(d) Priority Application) (Based on 44(e)) Hand-held unit for playing electronic games

Class 035. First use: First Use: 0 First Use In Commerce: 0

(Based on 44(d) Priority Application) (Based on 44(e)) Retail store services and retail store services provided via communications networks featuring computers, computer software, computer peripherals and consumer electronics, [ and prerecorded music, ] audio-visual and music-related products; product demonstrations provided [ in-store and ] via communications networks; providing information and consultation in connection with all of the foregoing

Class 038. First use: First Use: 0 First Use In Commerce: 0

(Based on 44(d) Priority Application) (Based on 44(e)) Telecommunication access services; communication by computer; transmission of data and of information by electronic means, [ broadcasting or transmission of radio and television programs; ] provision of telecommunications connections to computer databases and the Internet; electronic transmission of streamed and downloadable audio and video files via computer and other communications networks; [ web casting services; ] delivery of messages by electronic transmission; provision of telecommunications connections to electronic communications networks, for transmission or reception of audio, video or multimedia content [ ; streaming of video content, streaming and subscription audio broadcasting of spoken word, music, concerts, and radio programs, broadcasting prerecorded videos featuring music and entertainment, television programs, motion pictures, news, sports, games, cultural events, and entertainment-related programs of all kinds, via computer and other communications networks; providing on-line bulletin boards for the transmission of messages among computer users concerning entertainment in

the nature of music, concerts, videos, radio, television, film, news, sports, games and cultural events; communication services, namely, providing users access to communication networks for the transfer of music, video and audio recordings; provision of information, consultancy and advisory services for all the aforesaid services ]

Class 039. First use: First Use: 0 First Use In Commerce: 0  
 (Based on 44(d) Priority Application) (Based on 44(e)) Computerized data storage and retrieval services for digital text, data, image, audio, and video works; providing information and consultation in connection therewith

Class 041. First use: First Use: 0 First Use In Commerce: 0  
 (Based on 44(d) Priority Application) (Based on 44(e)) [ Educational services in the nature of classes and training services offered in-person and over computer networks in the fields of K-12 education, university-level subjects, topics of general interest, and computer hardware and software applications; entertainment services in the nature of providing on-line, non-downloadable musical, video, audio-video, and textual materials, namely, books, plays, pamphlets, brochures, newsletters, journals, and magazines, on the subjects of sporting and cultural activities and a wide range of topics of general interest via computer networks; entertainment services, namely, providing a website and database featuring music, musical performances and concerts, videos, films and film clips, book reviews, games, sports information and other related multimedia material; ] providing on-line non-downloadable publications for browsing over computer networks, namely, books, pamphlets, brochures [ , newsletters, journals, and magazines, ] on the subjects of computer hardware and software applications and a wide range of topics of general interest; [ editing of audio-tapes; editing of video-tapes; editing of written text; editing of photographic images; videotape editing; digital imaging services; providing information, advice and consultation services relating to all the aforesaid ]

Class 042. First use: First Use: 0 First Use In Commerce: 0  
 (Based on 44(d) Priority Application) (Based on 44(e)) [ Design and development of computer hardware and software; ] computer hardware and software consulting services; multimedia and audio-visual software consulting services; [ computer programming; technical support and consultation services for developing computer systems, databases and applications; ] information relating to computer hardware or software provided on-line from a global computer network or the Internet; [ creating and maintaining web-sites for others; providing search engines for obtaining data via communications networks; providing temporary use of on-line non-downloadable software to enable users to program audio, video, text and other multimedia content, including music, concerts, videos, radio, television, news, sports, games, cultural events, and entertainment-related programs; providing on-line facilities, via a global computer network, to enable users to program audio, video, text and other multimedia content, including music, concerts, videos, radio, television, news, sports, games, cultural events, and entertainment-related programs; providing search engines for obtaining data on a global computer network; ] computer services, namely, creating indexes of information, sites and other resources available on global computer networks for others; [ providing customized on-line web pages featuring user-defined information for the purpose of identifying, locating, grouping, distributing, and managing data and links to third-party computer servers, computer processors and computer users; customized searching, browsing, organizing and retrieving services, namely, providing specific information, sites, and other resources available on global computer networks according to user preferences as requested by customers via the global computer networks; ] providing information, advisory and consultancy services relating to all the aforesaid

U.S. Registration No.	4276122	Application Date	11/23/2004
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