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

In the matter of trademark application Serial No. 77/689,769
For the mark: TRILOBITE
Published in the Official Gazette on August 18, 2009

)
Peter Turdin, Jr. (AKA Peter Bradley))
)
Opposer)
)
v.)
)
Trilobite, Ltd.)
Applicant)
)

NOTICE OF OPPOSITION

Peter Turdin Jr. (A.k.a. Peter Bradley), a U.S. Citizen and Resident of the State of Connecticut, having a place of business at Suite #8, 76 Bellevue Avenue, Bristol, Connecticut 06010 (hereinafter "Opposer") believes that he will be damaged by the registration of the trademark TRILOBITE as shown in Application Serial No. 77/689,769 filed on March 12, 2009 for "audio recording and production," in International Class 41, (hereinafter "Applicant's Services"), and hereby opposes same.

The specific grounds for opposition are as follows:

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1. On or about March 12, 2009, Applicant, Trilobite, Ltd., a corporation organized under the laws of the State of Georgia and having its place of business at 2811 Kersdale Road, Cleveland, Ohio 44124, filed an application in the U.S. Patent and Trademark Office, Serial No. 77/689,769, seeking registration on the Principal Register of the trademark TRILOBITE for “audio recording and production,” in International Class 41.
2. Applicant seeks to register TRILOBITE for “audio recording and production,” in International Class 41, as evidenced by the publication of said mark in the *Official Gazette* of August 18, 2009.
3. Opposer is the owner of United States Trademark Application Serial No. 77/706,923 for TRILOBITE PICTURES for “motion picture film production and animation services,” in International Class 41.
4. Since as early as January of 2000, Opposer has used its TRILOBITE PICTURES mark for his services, namely, “motion picture film production and animation services,” in International Class 41.
5. Since as early as January of 2000, Opposer has used his TRILOBITE PICTURES

mark for his services, namely, "motion picture film production and animation services," in International Class 41, in interstate commerce.

6. Opposer has continuously used his Trademark in the United States for Opposer's Services namely, "motion picture film production and animation services," in International Class 41.
7. Applicant never was entitled to appropriate or apply to register the designation TRILOBITE for Applicant's Services which are set forth in Application Serial No. 77689769 because Applicant only used TRILOBITE as a trade name and not a trademark or service mark.
8. Upon information and belief, Applicant has made only a token use of the mark TRILOBITE for the services listed in its application, namely, "audio recording and production" and not actual meaningful commercial use.
9. Upon information and belief, Applicant was a dissolved entity in the State of Georgia effective May 16, 2008 and was still dissolved as of the time of filing its application on March 12, 2009. (See Exhibit A)
10. Upon information and belief, Applicant is not the owner of the trademark shown in application Serial No. 77/689,769 since Applicant did not exist as the legal entity it

purported itself to be at the time of filing and therefore, Applicant did not have the right to file the application since Applicant did not exist at the time of filing, therefore the application is void ab initio. (See Exhibit A)

11. Upon information and belief, Applicant is not the true owner of the purported trademark shown in application Serial No. 77/689,769 and Applicant did not own the purported trademark TRILOBITE as of the date of filing.
12. Opposer will be damaged by the use and registration of TRILOBITE by Applicant for Applicant's Services because persons in the trade and the public will mistakenly assume that Applicant's Services are associated, endorsed by, affiliated with, or in some other way related to or sponsored by Opposer, to the detriment of Opposer. As such Applicant's mark is not entitled to registration.
13. Registration of TRILOBITE is barred by the provisions of the Lanham Act because Applicant's mark consists of or comprises a mark which so resembles a mark or trade name previously used in the United States by another and not abandoned, as to be likely, when used on or in connection with Applicant's Services, to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of the Applicant and the Applicant's Services with the Opposer and the Opposer's services, or alternatively, to cause dilution of Opposer's Trademark.

14. Opposer's Trademark TRILOBITE PICTURES and Applicant's alleged mark TRILOBITE are identical in sight, sound, connotation and commercial impression.
15. Opposer would be injured by the granting to Applicant of a Certificate of Registration for the mark TRILOBITE because Applicant would obtain thereby at least a prima facie exclusive right to use such mark. Such registration would be a source of damage and injury to Opposer and Opposer's clients.
16. The statutory fee of three hundred dollars (\$300) is enclosed herewith.

WHEREFORE, Opposer prays that this Opposition be sustained and that the registration sought in Application Serial No. 77/689,769 be denied.

Dated: October 16, 2009

Respectfully submitted,

By 

Julianne B. Bochinski
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