

ESTTA Tracking number: **ESTTA455042**

Filing date: **02/07/2012**

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	Hot Chaat
Granted to Date of previous extension	02/11/2012
Address	1011 Mason Ln. Lake in the Hills, IL 60156 UNITED STATES

Correspondence information	Harold J Fassnacht Attorney Miller Matthias & Hull LLP One North Franklin Street Suite 2350 Chicago, IL 60606 UNITED STATES jfassnacht@millermatthiashull.com Phone:312-235-4765
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Applicant Information

Application No	85379000	Publication date	12/13/2011
Opposition Filing Date	02/07/2012	Opposition Period Ends	02/11/2012
Applicant	DreamWorks Animation L.L.C. 1000 Flower Street Glendale, CA 91201 UNITED STATES		

Goods/Services Affected by Opposition


<p>Class 009. All goods and services in the class are opposed, namely: COMPUTER GAME SOFTWARE FOR WIRELESS AND ELECTRONIC MOBILE DEVICES; COMPUTER GAME SOFTWARE, ELECTRONIC GAME PROGRAMS, ELECTRONIC GAME SOFTWARE FOR HANDHELD ELECTRONIC DEVICES; VIDEO GAME SOFTWARE; COMPUTER GAME DISCS; VIDEO GAME CARTRIDGES, VIDEO GAME DISCS; PRERECORDED CDS FEATURING MUSIC AND MOTION PICTURE SOUND TRACKS; PRERECORDED DVDS FEATURING ANIMATED MOTION PICTURES; PRERECORDED OPTICAL AND MAGNETO-OPTICAL DISCS FEATURING MUSIC AND ANIMATED MOTION PICTURES; MULTIMEDIA SOFTWARE RECORDED ON CD ROM FEATURING MUSIC, MOTION PICTURE SOUNDTRACKS AND ANIMATED MOTION PICTURES; INTERACTIVE MULTIMEDIA SOFTWARE PROGRAMS CONTAINING ANIMATED MOTION PICTURES FOR ENTERTAINMENT; INTERACTIVE MULTI-MEDIA SOFTWARE FOR PLAYING GAMES; MAGNETS AND SUNGLASSES; HAND-HELD UNIT FOR PLAYING ELECTRONIC GAMES ADAPTED FOR USE WITH AN EXTERNAL DISPLAY SCREEN OR MONITOR, ANIMATED CARTOONS RECORDED ON DVDS; EXPOSED CINEMATOGRAPHIC FILM</p>
<p>Class 025. All goods and services in the class are opposed, namely: SHIRTS AND TOPS, DRESSES, SKIRTS,</p>

PANTS, TROUSERS, JEANS, SHORTS, ROMPERS, OVERALLS, SWEATSHIRTS AND SWEAT PANTS, SWEATSUITS, CAPS AND HATS, GLOVES, SUSPENDERS, TIES, COATS AND JACKETS, HOSIERY, SHOES, BOOTS, SLIPPERS, PAJAMAS, ROBES, SLEEPSHIRTS, SLEEPWEAR, UNDERWEAR, HALLOWEEN COSTUMES, AND CLOTH BABY BIBS

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	85384746	Application Date	07/29/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	MUMBAI MONKEY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: Prerecorded digital video disks featuring entertainment and education for children Class 025. First use: First Use: 2011/06/24 First Use In Commerce: 2011/06/24 Wearable garments and clothing, namely, shirts Class 042. First use: First Use: 2011/06/21 First Use In Commerce: 2011/06/21 Providing a secure electronic online system featuring technology which allows the sale of educational and entertaining videos and related goods, and provides educational and entertaining information for children		

Attachments	85384746#TMSN.jpeg (1 page)(bytes) Groundsforopposition.pdf (3 pages)(21465 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	/Harold J Fassnacht/
Name	Harold J Fassnacht

Date	02/07/2012
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Grounds for Opposition

Hot Chaat, LLC ("Opposer"), an Illinois limited liability company having a principal place of business at 1011 Mason Lane, Lake in the Hills, Illinois 60156, and the owner of the trademark MUMBAI MONKEY and respective United States trademark application No. 85/384,746, believes that it will be damaged by the registration of the trademark "MONKEYS OF MUMBAI" as shown in Serial No. 85/379,000, filed July 22, 2011 by Dreamworks Animation LLC ("Applicant") and hereby opposes the same.

As grounds for opposition, it is alleged that:

1. This opposition is based on actual use having priority dates earlier than the filing date of the mark opposed, and on dilution.
2. Opposer's Trademark Application. Opposer filed a trademark application to register the mark MONKEYS OF MUMBAI in Classes 9, 25 and 42 on July 29, 2011, seven days after Applicant's filing date. However, Opposer's application in classes 25 and 42 is based on use of the mark in interstate commerce since about one month prior to Applicant's filing date.
3. Opposer's Actual Use Dates. Opposer has adopted and has continuously used its trademark, MUMBAI MONKEY, on or in connection with "Wearable garments and clothing, namely, shirts" (Trademark Class 25) since at least as early as June 24, 2011 and in connection with "Providing a secure electronic online system featuring technology which allows the sale of educational and entertaining videos and related goods, and provides educational and entertaining information for children" (Trademark Class 42) since at least June 21, 2011. Moreover, Opposer's use of its mark in Class 42 is intimately connected with its planned use in Class 09 for "Prerecorded digital video disks featuring entertainment and education for children" since the electronic online system will provide a sales outlet for applicant's goods in Class 09.
4. Applicant's Filing Date. Applicant filed an intent-to-use application to register the mark MUMBAI MONKEYS in Classes 9, 16, 25 and 28 on July 22, 2011, about a month after Opposer's dates of first use.

5. Opposer will be injured and damaged by the registration by Applicant of its proposed mark, MONKEYS OF MUMBAI, for " COMPUTER GAME SOFTWARE FOR WIRELESS AND ELECTRONIC MOBILE DEVICES; COMPUTER GAME SOFTWARE, ELECTRONIC GAME PROGRAMS, ELECTRONIC GAME SOFTWARE FOR HANDHELD ELECTRONIC DEVICES; VIDEO GAME SOFTWARE; COMPUTER GAME DISCS; VIDEO GAME CARTRIDGES, VIDEO GAME DISCS; PRERECORDED CDS FEATURING MUSIC AND MOTION PICTURE SOUND TRACKS; PRERECORDED DVDS FEATURING ANIMATED MOTION PICTURES; PRERECORDED OPTICAL AND MAGNETO-OPTICAL DISCS FEATURING MUSIC AND ANIMATED MOTION PICTURES; MULTIMEDIA SOFTWARE RECORDED ON CD ROM FEATURING MUSIC, MOTION PICTURE SOUNDTRACKS AND ANIMATED MOTION PICTURES; INTERACTIVE MULTIMEDIA SOFTWARE PROGRAMS CONTAINING ANIMATED MOTION PICTURES FOR ENTERTAINMENT; INTERACTIVE MULTI-MEDIA SOFTWARE FOR PLAYING GAMES; MAGNETS AND SUNGLASSES; HAND-HELD UNIT FOR PLAYING ELECTRONIC GAMES ADAPTED FOR USE WITH AN EXTERNAL DISPLAY SCREEN OR MONITOR, ANIMATED CARTOONS RECORDED ON DVDS; EXPOSED CINEMATOGRAPHIC FILM." (Trademark Class 09) and for "SHIRTS AND TOPS, DRESSES, SKIRTS, PANTS, TROUSERS, JEANS, SHORTS, ROMPERS, OVERALLS, SWEATSHIRTS AND SWEAT PANTS, SWEATSUITS, CAPS AND HATS, GLOVES, SUSPENDERS, TIES, COATS AND JACKETS, HOSIERY, SHOES, BOOTS, SLIPPERS, PAJAMAS, ROBES, SLEEPSHIRTS, SLEEPWEAR, UNDERWEAR, HALLOWEEN COSTUMES, AND CLOTH BABY BIBS" (Trademark Class 25).

6. Through its valid and continuous use of its MONKEYS OF MUMBAI marks, the purchasing public has come to associate this trademark with Opposer and has come to recognize

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