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U.S. Patent & TMO/c/TM Mail Rcpt Dt. #22

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

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HEARST COMMUNICATIONS, INC. and	:	
HEARST MAGAZINES PROPERTY, INC.,	:	
	:	
Opposers,	:	Opposition No. 120,453
	:	
v.	:	
	:	
CHARLES BROWNING WILSON,	:	
	:	
Applicant.	:	

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OPPOSER'S NOTICE OF RELIANCE

Opposers, Hearst Communications, Inc. and Hearst Magazines Property, Inc., pursuant to Trademark Rules of Practice 2.122(d)(2) and 2.122(e), hereby give notice to Applicant, Charles Browning Wilson, that they offer and intend to rely upon the following evidence at trial:

A. Certified copies of the following registrations, dated April 16, 2003, showing both the current status of and current title to the following U.S. Trademark Registrations of Opposers and/or their related companies, marked as Exhibit A.

(1) No. 2,640,350, registered October 22, 2002, of the mark COSMOPOLITAN for "electric massager" in Class 10;

(2) No. 2,589,360, registered July 2, 2002, of the mark COSMOGIRL! for "pre-recorded CD-ROMs featuring beauty, health, friendships, relationships, school, career, family, sex, astrology, fashion, inspirational matters, stress management" in Class 9;

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(3) No. 2,518,660, registered December 11, 2001, of the mark COSMOPOLITAN.COM for “computer services, namely providing an interactive on-line computer database featuring portions of various magazines and articles and illustrative materials in the fields of personal relationships, beauty and fashion, health and fitness, personal hygiene, stars and entertainment news, and life and work, rendered by means of a global computer network” in Class 42;

(4) No. 2,304,917, registered December 28, 1999, of the mark COSMOPOLITAN for “electric hair curling irons” in Class 9 and “hand held electric hair dryers” in Class 11;

(5) No. 2,112,532, registered November 11, 1997, of the mark COSMOPOLITAN ALL ABOUT MEN for “magazines published annually and/or at other intervals about finding men, relationships with men, and men’s lifestyles” in Class 16;

(6) No. 2,459,086, registered June 12, 2001, of the mark COSMO COLLEGE for a “magazine published semi annually and/or at other intervals for young educated women entering the job market, featuring articles on job skills, appearance and relationships” in Class 16;

(7) No. 2,527,954, registered January 8, 2002, of the mark COSMO GIRL for a “general interest magazine for girls and young women” in Class 16;

(8) No. 2,407,134, registered November 21, 2000, of the mark COSMO GIRL! for “providing an interactive on-line computer database featuring portions of various magazines and articles and illustrative materials in the fields of personal relationships, beauty and fashion, health and fitness, personal hygiene, stars and entertainment news and life and work, rendered by means of a global computer network” in Class 42;

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(9) No. 2,240,684, registered April 20, 1999, of the mark COSMOPOLITAN for “fitness equipment, namely manually operated exercise equipment and exercise machines” in Class 28;

(10) No. 2,300,518, registered December 14, 1999, of the mark COSMOPOLITAN BODY BENCH for a “stationary home fitness bench” in Class 28;

(11) No. 2,202,206, registered November 3, 1998, of the mark COSMOPOLITAN BODY BIKE for “stationary exercise bicycles” in Class 28;

(12) No. 2,223,187, registered February 9, 1999, of the mark COSMOPOLITAN FLEX & TONE for a “home fitness stretching band” in Class 28;

(13) No. 2,196,639, registered October 13, 1998, of the mark COSMOPOLITAN BODY STRETCH for “home fitness extension poles, namely, poles used to provide air-resistance when exercising” in Class 28;

(14) No. 2,196,616, registered October 13, 1998, of the mark COSMOPOLITAN for “multimedia compact disks featuring entertainment and educational information on beauty makeovers” in Class 9;

(15) No. 2,137,979, registered February 17, 1998, of the mark COSMOPOLITAN for “jewelry, namely, jewelry of precious metals and stones, cuff links, tie pins and rings” in Class 14;

(16) No. 2,300,250, registered December 14, 1999, of the mark COSMOPOLITAN for “bathing suits” in Class 25;

(17) No. 2,164,522, registered June 9, 1998, of the mark COSMOPOLITAN’S BEDSIDE ASTROLOGER for “calendars” in Class 16;

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(18) No. 2,008,571, registered October 15, 1996, of the mark COSMOPOLITAN for “calendars” in Class 16;

(19) No. 2,178,873, registered August 4, 1998, of the mark COSMOPOLITAN for “hair ornaments, namely, barrettes, ribbons, bands and bows” in Class 26;

(20) No. 2,189,586, registered September 15, 1998, of the mark COSMOPOLITAN BACHELOR OF THE MONTH for “calendars and student planners” in Class 16;

(21) No. 2,235,977, registered March 30, 1999, of the mark COSMOPOLITAN for “brushes” in Class 21;

(22) No. 1,911,389, registered August 15, 1995, of the mark COSMOPOLITAN for “books of general interest” in Class 16;

(23) No. 1,823,745, registered February 22, 1994, of the mark COSMOPOLITAN for “tote bags, handbags and wallets” in Class 18;

(24) No. 1,805,381, registered November 16, 1993, of the mark COSMOPOLITAN for “women’s shoes” in Class 25;

(25) No. 1,798,559, registered October 12, 1993, of the mark COSMOPOLITAN for “prerecorded compact discs and audio cassettes featuring music” in Class 9;

(26) No. 1,685,161, registered May 5, 1992, of the mark COSMOPOLITAN for “pre-recorded video tapes and video cassettes on the subjects of exercise and beauty” in Class 9;

(27) No. 1,647,395, registered June 11, 1991, of the mark COSMOPOLITAN for “printed publications, namely, books, magazines” in Class 16;

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(28) No. 1,448,513, registered July 21, 1987, of the mark COSMOPOLITAN for “tote bags” in Class 18;

(29) No. 379,160, registered July 2, 1940, of the mark COSMOPOLITAN (Stylized) for “hosiery made of silk and synthetic fibers resembling natural silk” in U.S. Class 39;

(30) No. 630,028, registered July 3, 1956, of the mark COSMOPOLITAN (Stylized) for “magazine or periodical published monthly or at other intervals” in Class 16; and

(31) No. 1,855,579, registered September 27, 1994, of the mark COSMOPOLITAN for “eye glasses and eye glass frames” in Class 9.

B. True and correct printouts from the VeriSign “whois” records of netsol.com, relevant to show ownership of the following domain name registrations owned by Opposers and/or their related companies, marked as Exhibit B.

- (1) Domain name registration of COSMOMEDIAMAN.COM;
- (2) Domain name registration of COSMOPOLITANMAGAZINE.COM;
- (3) Domain name registration of COSMOPOLITANLATINO.COM;
- (4) Domain name registration of COSMOTEENS.COM;
- (5) Domain name registration of COSMOPOLITANGIRL.COM;
- (6) Domain name registration of COSMOPOLITANGIRL.NET;
- (7) Domain name registration of COSMOLATINO.COM;
- (8) Domain name registration of COSMOGIRLMAG.COM;
- (9) Domain name registration of COSMOTEEN.COM;
- (10) Domain name registration of COSMOPOLITANTEENS.COM;
- (11) Domain name registration of COSMOGIRL.NET;

- (12) Domain name registration of COSMOMAG.NET;
- (13) Domain name registration of COSMOPOLITANMAG.COM;
- (14) Domain name registration of COSMOGIRL.ORG;
- (15) Domain name registration of COSMO-GIRL.COM;
- (16) Domain name registration of COSMOPOLITANGIRL.ORG;
- (17) Domain name registration of COSMOPOLITANTELEVISION.COM;
- (18) Domain name registration of COSMOPOLITAN.COM;
- (19) Domain name registration of COSMOPOLITANTVLATINO.COM;
- (20) Domain name registration of THECOSMOPOLITANCHANNEL.COM;
- (21) Domain name registration of COSMOGIRL.COM;
- (22) Domain name registration of COSMOVIRTUALSALON.COM;
- (23) Domain name registration of COSMOTTEAM.COM;
- (24) Domain name registration of COSMOPOLITANWOMAN.COM;
- (25) Domain name registration of COSMOSTORE.COM;
- (26) Domain name registration of COSMOTVLATINO.COM;
- (27) Domain name registration of COSMOPOLITANTEEN.COM;
- (28) Domain name registration of COSMOMAG.ORG;
- (29) Domain name registration of COSMOCOUNTER.COM; and
- (30) Domain name registration of COSMOMAG.COM.

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C. True and correct copies and/or printouts of the following printed publications, relevant to show the use and reputation of Opposers' COSMOPOLITAN, COSMOGIRL and COSMO marks, marked as Exhibit C.

- (1) COSMOPOLITAN magazine dated August 2003, particularly pages 13, 16, 18, 22, 30, 34, 41, 64, 69, 84, 104, 122, 150, 156, 159, 160, 219, 224 and 244;
- (2) COSMOGIRL! magazine dated August 2003, particularly page 24;
- (3) The cover of the October 1895 edition of THE COSMOPOLITAN magazine;
- (4) The cover of the June 1900 edition of THE COSMOPOLITAN magazine;
- (5) The cover of the August 1911 edition of COSMOPOLITAN magazine;
- (6) The cover of the January 1949 edition of COSMOPOLITAN magazine;
- (7) The cover of the January 1950 edition of COSMOPOLITAN magazine;
- (8) The cover and Table of Contents from the April 1964 edition of COSMOPOLITAN magazine;
- (9) The cover, Table of Contents and pages 6 and 8 of the July 1965 edition of COSMOPOLITAN magazine;
- (10) The cover of the March 1967 edition of COSMOPOLITAN magazine;

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(11) The cover of the September 1978 edition of COSMOPOLITAN magazine;

(12) An article titled "The Cheeseburger," dated June 1990, from VANITY

FAIR;

(13) A copy of the Audit Bureau of Circulations report for COSMOPOLITAN magazine for the six month period ended June 30, 2000;

(14) A copy of the Audit Bureau of Circulations report for COSMOPOLITAN magazine for the six month period ended December 31, 2000;

(15) A copy of the Audit Bureau of Circulations report for COSMOPOLITAN magazine for the six month period ended June 30, 2001;

(16) A copy of the Audit Bureau of Circulations report for COSMOPOLITAN magazine for the six month period ended December 31, 2001;

(17) A copy of the Audit Bureau of Circulations report for COSMOPOLITAN magazine for the six month period ended June 30, 2002;

(18) A copy of the Audit Bureau of Circulations report for COSMOPOLITAN magazine for the six month period ended December 31, 2002;

(19) A copy of the Audit Bureau of Circulations report for COSMOGIRL! magazine for the six month period ended June 30, 2000;

(20) A copy of the Audit Bureau of Circulations report for COSMOGIRL! magazine for the six month period ended December 31, 2000;

(21) A copy of the Audit Bureau of Circulations report for COSMOGIRL! magazine for the six month period ended June 30, 2001;

(22) A copy of the Audit Bureau of Circulations report for COSMOGIRL! magazine for the six month period ended December 31, 2001;

(23) A copy of the Audit Bureau of Circulations report for COSMOGIRL! magazine for the six month period ended June 30, 2002;

(24) A copy of the Audit Bureau of Circulations report for COSMOGIRL! magazine for the six month period ended December 31, 2002;

(25) An article titled "MOST COMMONLY CARRIED: Women's Lifestyle Magazines in College Stores," dated January 2001, from College Store Executive;

(26) An article titled "KATE WHITE: With an Evolved Message of Female Empowerment and an Expanded Editorial Focus, She's Reshaping Cosmopolitan," dated March 15, 2001, from Folio;

(27) An article titled "MEMO PAD," dated July 20, 2001, from Women's Wear Daily;

(28) An article titled "CHINA TAKES CENTER STAGE," dated May 30, 2003, from Campaign;

(29) An article titled "Glam mags Launch H'w'd glitz blitz," dated March 31, 2003, from Daily Variety;

(30) An article titled "60 sec. With; Kate White Editor in Chief, Cosmopolitan," dated April 28, 2003, from MEDIAWEEK;

(31) An article titled "Media Elite; Quicktakes," dated May 26, 2003, from MEDIAWEEK;

(32) An article titled "MAGS SEE 'NET FUTURE; 34th World Magazine Conference Results," dated May 30, 2003, from Women's Wear Daily;

(33) An article titled "Cosmopolitan Television to Launch in Latin America July 1, 2002," dated June 17, 2002, from Business Wire;

(34) An article titled "US-TELEVISION (HISPANICS) NEW SPANISH-LANGUAGE CHANNEL BEAMED TO LATINAS," dated July 1, 2002, from EFE News Service;

(35) An article titled "Martha Stewart's Star Power Dims at Newsstands," dated February 20, 2003, from Newsday;

(36) An article titled "Liberties, Cosmic Girl," dated April 28, 1996, from The New York Times;

(37) An article titled "Romance, in Cosmo's World, Is Translated in Many Ways," dated May 26, 2002, from The New York Times;

(38) An article titled "MEDIA TALK; First 'Cosmopolitan Girl' Reveals a Secret," dated January 31, 2000, from The New York Times;

(39) An article titled "PUBLIC LIVES; Cosmopolitan Replaces Editors," dated February 8, 1998, from The New York Times;

(40) An article titled "Habitat/Hastings-on-Hudson, N.Y.; For the Editor of Cosmo, The Natural Look," dated January 11, 1998, from The New York Times;

(41) An article titled ONLINE SHOPPER; Struggling to Satisfy a Cool Adolescent," dated January 23, 2003, from The New York Times;

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(42) An article titled "THE MEDIA BUSINESS: ADVERTISING; Ads try to jump off the page with scents, CD's and stickers. And some leave out the product," dated November 8, 2002, from The New York Times;

(43) An article titled "The Age of Diminishing Innocence; Magazines Shift Focus as Teenage Girls Seem to be Maturing Sooner," dated April 2, 2001, from The New York Times;

(44) An article titled "Media; Fashion Site Finds Gossip is a Big Draw," dated September 25, 2000, from The New York Times;

(45) An article titled "THE MEDIA BUSINESS; Cosmo's editor moves to Glamour, heating up the competition between two ad-rich magazines," dated August 11, 1998, from The New York Times;

(46) An article titled "Cosmo v. Reality: It's Power Juggling," dated May 22, 1997, from The New York Times;

(47) An article titled "Local Pick for Cosmopolitan Chief," dated August 18, 1996, from The New York Times;

(48) An article titled "MOST COMMONLY CARRIED: Women's Lifestyle Magazines in College Stores," dated January 2001, from College Store Executive;

(49) An article titled "Atoosa, Former High School Loser, is Hearst's New Cosmogirl Queen," dated February 9, 2000, from the New York Observer;

(50) An article titled "The Magazine Scene Proves It's, Like, a Teenage World," dated April 3, 2000, from the Los Angeles Times;

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(51) An article titled "CosmoGIRL! Is More than Fashion," dated July 19, 2000, from The New York Times;

(52) An article titled "A COSMO GIRL AFTER THEIR OWN HEARTS," dated August 2, 2000, from the Chicago Tribune;

(53) An article titled "CosmoGirl's Queen of Teen," dated August 9, 2000, from the Boston Globe;

(54) An article titled "Teen Girls Find a Place to Belong: the Web," dated August 9, 2000, from the Chicago Sun Times;

(55) An article titled "Women Surf Past Men on Net," dated August 10, 2000, from the Washington Post;

(56) An article titled "Woman Now Lead in Use of Internet, Study Finds," dated August 10, 2000, from the Los Angeles Times;

(57) An article titled "Consumer Magazine report: Startup of the year - CosmoGirl!," dated March 20, 2000, from Adweek;

(58) An article titled "Cosmo's Fearless List," dated January 31, 2001, from Hartford Courant;

(59) An article titled "COSMO'S NEW CROP OF FUN FEARLESS FEMALES," dated February 5, 2001, from Cosmetic World;

(60) An article titled "MEMO PAD," dated February 2, 2001, from Women's Wear Daily;

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(61) An article titled "Cosmopolitan announces Four Finalists of Cover Girl Model search; Exclusive Broadcast Partner 'Entertainment Tonight' Gives Viewers First Look," dated June 4, 2003, from Business Wire;

(62) An article titled "Brand Central," dated March 9, 2001, from Women's Wear Daily;

(63) An article titled "Unionbay Cruises the Mall," dated June 16, 2003, from BRANDWEEK;

(64) An article titled "General Growth Properties with Pepsi and Fujifilm to Create 'The Scene' at 110 Malls; 'Back to School' Entertainment Platform Fuses Brands, Retailers and Teen Shoppers During Peak Trend setting Time," dated June 30, 2003, from PR Newswire;

(65) An article titled "THE BIZ: Cosmo Steps Up Retail Presentations," dated January 13, 2003, from BRANDWEEK;

(66) An article titled "COSMOGIRL! JOINS FORCES WITH BLUE," dated January 16, 2003, from Haymarket Publishing Services Ltd.;

(67) An article titled "REVIEW; Crazy, Sexy, Cool: Virtual Beauty Makeovers," dated the December 23, 1999, from The New York Times;

(68) An article titled "DONNA KALAJIAN IS THE 'COSMO'/'COSMOGIRL' AND 'COSMO' WEB SITE QUEEN," dated November 1, 1999, from Media Industry Newsletter;

(69) An article titled "Cosmopolitan Magazine Launches Web Advertising on HomeArts," dated March 6, 1997, from PR Newswire;

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(70) An article titled "The Cosmo Girl Goes Online - www.cosmomag.com; Cosmopolitan Magazine Launches New Web Site with 'Your Weekly Beside Astrologer,' Cosmo Quizzes, Expanded Bachelor of the Month, Beauty Giveaways and More," dated November 11, 1996, from PR Newswire;

(71) An article titled "HAIR CARE LINE TARGETS COSMO GIRLS; Cosmopolitan hair care appliances," dated April 20, 1998, from HFN The Weekly Newspaper for the Home Furnishing Network;

(72) An article titled "Cosmopolitan's software lets you try new hairstyles, hair colors and makeup without wearing out a real-live beauty consultant," dated November 9, 1997, from the Orange County Register;

(73) An article titled "SegaSoft announces the launch of Cosmopolitan Virtual Makeover," dated June 18, 1997, from Business Wire;

(74) An article titled "That 'Cosmo' woman," dated October 25, 1985, from USA WEEKEND; and

(75) An article titled "Cosmo's Sizzlin' Sound Track," dated July 21, 2001, from COSMOPOLITAN.

D. True and correct copies of Opposers' First Set of Requests for Admissions to Applicant, Request Nos. 1 and 2, and Opposers' Third Requests for Production of Documents to Applicant, and Applicant's responses thereto, contained, respectively, in Applicant's Responses to Opposers' First Set of Requests for Admissions to Applicant and Applicant's Responses and Objections to Opposers' Third Requests for Production of Documents to Applicant, marked as Exhibit D.

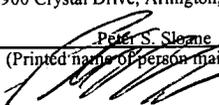
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E. True and correct copies of e-mails obtained by Opposers from Applicant under FRCP 34, as stipulated between the parties, marked as Exhibit E.

Dated: New York, New York
July 10, 2003

"Express Mail" mailing label No. EV 342509177 US
Date of Deposit: July 10, 2003

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3514.

Peter S. Sloane
(Printed name of person mailing paper or fee)

(Signature)

Respectfully submitted,


Andrew V. Galway
Peter S. Sloane

OSTROLENK, FABER, GERB & SOFFEN, LLP
1180 Avenue of the Americas
New York, New York 10036-8403
Telephone: (212) 382-0700

Attorneys for Opposers

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CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing **OPPOSERS' NOTICE OF RELIANCE (WITH EXHIBITS A-E)** was served upon counsel for Applicant this 10th day of July, 2003, by First-Class mail, postage prepaid, as follows:

James F. Gossett, Esq.
ARNSTEIN & LEHR
120 South Riverside Plaza, Suite 1200
Chicago, Illinois 60606-3910

Peter S. Sloane

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

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CHARLES BROWNING WILSON,	:	
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Applicant.	:	
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EXHIBIT C TO OPPOSERS' NOTICE OF RELIANCE