

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

_____	)	
	)	
POWER OF ATTORNEY	)	
Opposer,	)	
	)	
v.	)	Opposition No. 91151146
	)	
TWENTIETH CENTURY FOX	)	
FILM CORPORATION	)	
Applicant.	)	
_____	)	

Box TTAB  
No Fee  
United States Patent and Trademark Office  
Trademark Trial and Appeal Board  
2900 Crystal Drive  
Arlington, VA 22202

**ANSWER TO OPPOSITION**

Applicant TWENTIETH CENTURY FOX FILM CORPORATION (“Applicant” or “Fox”) responds to Opposer Power of Attorney’s (“Opposer’s”) Opposition, dated December 21, 2001 (“the Opposition”), to Fox’s Application for Registration of its “POWER OF ATTORNEY” trademark, Application No. 76-167,267, as follows:

1. In response to each and every allegation of the Opposition, Fox denies any and all allegations of the Opposition not expressly admitted in this Answer.

2. In response to the first, unnumbered paragraph of the Opposition, Fox denies knowledge or information sufficient to form a belief as to the truth of the allegation that Power of Attorney is a partnership organized and existing under the laws of the state of Connecticut, having its principal place of business at 41 Brownleigh Road, West Hartford, Connecticut, 06117; Fox denies that Opposer will be damaged by registration of the mark POWER OF ATTORNEY for “entertainment services in the nature of a television series featuring drama” in International Class 41 as shown in Application Serial No. 76-167,267; Fox admits that it has made an application for registration of its POWER OF ATTORNEY mark, which application has been assigned Serial No. 76-167,267, and Fox refers to that application for the terms, conditions and contents thereof.

3. In response to paragraph 1 of the Opposition, Fox is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 1 of the Opposition and, accordingly, denies those allegations.

4. In response to paragraph 2 of the Opposition, Fox is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 2 of the Opposition and, accordingly, denies those allegations.

5. In response to paragraph 3 of the Opposition, Fox is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 3 of the Opposition and, accordingly, denies those allegations.

6. In response to paragraph 4 of the Opposition, Fox is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 4 of the Opposition and, accordingly, denies those allegations.

7. In response to paragraph 5 of the Opposition, Fox is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 5 of the Opposition and, accordingly, denies those allegations.

8. In response to paragraph 6 of the Opposition, Fox is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 6 of the Opposition and, accordingly, denies those allegations.

9. In response to paragraph 7 of the Opposition, Fox is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 7 of the Opposition and, accordingly, denies those allegations.

10. In response to paragraph 8 of the Opposition, Fox admits that it first used its POWER OF ATTORNEY mark in August, 2000 and admits that its first use and first use in commerce date is August 28, 2000. However, in response to the remainder of the allegations set forth in paragraph 8 of the Opposition, Fox is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 8 of the Opposition and, accordingly, denies those allegations.

11. In response to paragraph 9 of the Opposition, Fox admits that its mark is visually and phonetically comparable to Opposer's mark. However, in response to the remainder of the allegations set forth in paragraph 9 of the Opposition, Fox denies the allegation that the mark conveys similar connotative meaning as applied to Opposer's and Fox's services. Furthermore, Fox denies that any similarity existing between the marks is confusing and that the similarity is likely to cause confusion, deception, and/or mistake in the minds of consumers under Section 2(d) of the Lanham Act.

12. In response to paragraph 10 of the Opposition, Fox admits that it seeks to register the mark POWER OF ATTORNEY in the specified class for the specified services. However, Fox denies knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations set forth in paragraph 10 of the Opposition. and, accordingly, denies these allegations.

13. In response to paragraph 11 of the Opposition, Fox denies that consumers who are familiar with Opposer's services and mark would believe that Opposer is offering its services through the television medium since the nature of Fox's services differ entirely from the nature of Opposer's services. Fox also denies that Its use of its mark on or in connection with entertainment services delivered through the television medium is likely to cause confusion, deception, and/or mistake in the minds of consumers that Opposer is the origin, source or sponsor of Fox's services.

14. In response to paragraph 12 of the Opposition, Fox denies that consumers who are familiar with Opposer's services and mark might reasonably believe that Opposer has expanded its services by creating and offering its mark a television series. Fox also denies that its use of its mark on or in connection with entertainment services delivered through the television medium is likely to cause confusion, deception, and/or mistake in the minds of consumers that Opposer is the origin, source or sponsor of Fox's services.

15. In response to paragraph 13, Fox denies that consumers who view or become familiar with Fox's entertainment services are likely to be confused, deceived, and/or mistaken in the belief that Fox's and Opposer's entertainment services share a common origin, source or sponsor. Fox also denies knowledge or information sufficient to form a belief as to the allegation

that any defect, objection or fault found with Fox's services would necessarily reflect on, and injure, the reputation of Opposer's entertainment services.

16. In response to paragraph 14, Fox denies that consumers who view or become familiar with Fox's entertainment services and who later become familiar with Opposer's entertainment services are likely to be confused, deceived, and/or mistaken in the belief that Opposer adopted its mark subsequent to Fox or in an attempt to establish a connection between Opposer and Fox, to the detriment of Opposer's goodwill in its mark and services.

17. In response to paragraph 15, Fox denies knowledge or information sufficient to form a belief as to the allegation that there is any overlap between the expected channels of promotion for Opposer's and Fox's entertainment services.

18. In response to paragraph 16, Fox denies that the public is likely to believe that its services originate with or are otherwise licensed, sponsored, authorized by, affiliated with or connected with Opposer.

19. In response to paragraph 17, Fox denies that Its registration of the mark will damage Opposer by prejudicing its ability to use its mark on its services.

20. In response to paragraph 18, Fox denies that registration of Its mark will damage Opposer.

#### **AFFIRMATIVE DEFENSES**

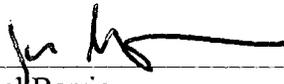
21. There is no likelihood of confusion, mistake or deception because the services associated with Opposer's mark, namely "entertainment services rendered by a vocal and instrumental group," are sufficiently different from those services associated with Fox's mark, namely "entertainment services in the nature of a television series featuring drama."

Furthermore, since Opposer's mark is associated with a musical group of attorneys, as Fox is informed and believes, whereas Fox's POWER OF ATTORNEY mark is associated with a dramatic television series about legal proceedings in a courtroom setting, there is no likelihood that a consumer would be confused between a musical group, on the one hand, and a dramatic courtroom television program, on the other hand, or believe that such services share a common source, origin, or sponsor.

WHEREFORE Applicant Twentieth Century Fox Film Corporation requests that Opposer Power of Attorney's Opposition be dismissed in all respects and that Twentieth Century Fox Film Corporation's application for registration of its POWER OF ATTORNEY mark, Serial No. 76-167267, be granted and that the registration issue.

Dated: April 30, 2002

**Applicant TWENTIETH CENTURY FOX  
FILM CORPORATION,**

by:   
Jon Del Barrio  
Assistant Secretary  
Twentieth Century Fox Film Corporation

CERTIFICATE OF MAILING BY "EXPRESS MAIL"

"Express Mail" mailing label number EL894949836US

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service in an envelope addressed to the Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513, on April 30, 2002.



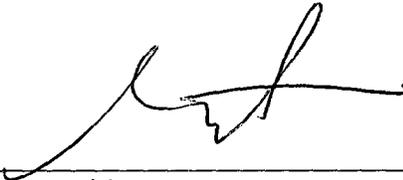
---

Margot Graysmith

CERTIFICATE OF SERVICE

I hereby certify that on April 30, 2002, a copy of the foregoing REQUEST FOR EXTENSION OF TIME TO FILE OPPOSITION was mailed by first-class mail, postage prepaid, to counsel for Opposer Power of Attorney:

Mr. Arnold Lutzker, Esq.  
Lutzker & Lutzker, LLP  
1000 Vermont Avenue, N.W.  
Suite 450  
Washington, D.C. 20005



---

Margot Graysmith



**FOX GROUP**  
A UNIT OF NEWS CORPORATION

**VIA EXPRESS MAIL**  
EL 894949836US

*JMS*

P.O. Box 900  
Beverly Hills, California 90213-0900  
Phone 310 369-5040 • Fax 310 969-3279

**Jason P. Zedeck**  
Counsel  
Intellectual Property

April 30, 2002

Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3513



04-30-2002

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #34

**BOX TTAB NO FEE**

**RE: Mark: POWER OF ATTORNEY**  
**Appl. No.: 76/167267**  
**Applicant: Twentieth Century Fox Film Corporation**  
**Opposition No.: 91151146**  
**Answer to Opposition**

Dear Assistant Commissioner:

Enclosed please find Twentieth Century Fox Film Corporation's Answer to the Opposition concerning the above-referenced trademark matter.

Please sign and return the enclosed postcard acknowledging receipt of this document. If you have any questions regarding this document, please do not hesitate to contact me.

Sincerely,

  
Jason P. Zedeck

Enclosure

cc: Jon Del Barrio, Esq.

TRADEMARK TRIAL AND  
APPEAL BOARD  
02 MAY -7 PM 9:23

9