

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

NOTICE OF OPPOSITION



08-22-2002

U.S. Patent & TMO/TM Mail Rpt Dt. #39

**OXFORD LEARNING CENTRES, INC.,
Opposer**

Opposition No. _

vs.

Application Serial No. 78/057,087

**ASLAN INC., dba POWER TOOLS FOR
LEARNING, Applicant**

**Published in the Official Gazette
on July 2, 2002**

On July 26, 2002, Opposer, OXFORD LEARNING CENTRES, INC. filed a First Request for Extension of Time to Oppose the above-referenced application, requesting a thirty day extension, extending the due date for filing the present Notice of Opposition to August 31, 2002.

Opposer, OXFORD LEARNING CENTRES, INC., a corporation organized under the laws of Canada with its principal place of business at 747, Hyde Park Rd., Suite 230, London, Ontario, CANADA, N6H 3S3, believes that it would be damaged by registration of the mark shown in Serial No. 78/057,087, and hereby opposes the same.

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TRADEMARK TRIAL AND APPEAL BOARD

Description of Applicant's Application: Filed on April 5, 2001. Published for Opposition in the Official Gazette of July 2, 2002. Mark: BEYOND TUTORING in International Class 041 for "education services, namely, providing tutoring in the field of reading, math and English"; to the Opposer's knowledge, a date of applicant's first use has not been alleged on the record.

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As grounds in support of this Opposition, Opposer asserts as follows:

1. Applicant seeks to register the mark BEYOND TUTORING for “education services, namely, providing tutoring in the field of reading, math and English” in International Class 041 in its Intent to Use application.

2. Opposer has been, and is now, using the mark BEYOND TUTORING in the United States in connection with educational services, namely, supplemental and/or remedial education services, namely, personal coaching in the field of cognitive skills to facilitate academic growth through interactive coaching; providing tutoring of students on all subjects to enhance and develop academic skills; conducting courses of instruction and learning enhancement through the development of critical thinking, problem solving and generalization cognitive skills. This use has been valid and continuous since at least as early as February 29, 2000.

3. Opposer is the owner of U.S. Trademark Registration Application No. 76/349,651, for BEYOND TUTORING used in connection with educational services, namely, supplemental and/or remedial education services, namely, personal coaching in the field of cognitive skills to facilitate academic growth through interactive coaching; providing tutoring of students on all subjects to enhance and develop academic skills; conducting courses of instruction and learning enhancement through the development of critical thinking, problem solving and generalization cognitive skills in International Class 041, filed on December 18, 2001.

4. Opposer has invested substantial time, effort and expense in advertising and promoting its mark to develop goodwill and to gain consumer recognition of BEYOND TUTORING as an indication of services originating with Opposer. As a result, Opposer has developed valuable goodwill and reputation in connection with the goods upon which its mark is

used, and consumers recognize BEYOND TUTORING as an indication that Opposer is the origin of the services in connection with which BEYOND TUTORING is used.

5. Applicant's proposed mark is identical to Opposer's previously used mark, and would be likely, when used in connection with "education services, namely, providing tutoring in the field of reading, math and English" as to cause confusion, mistake, or deception within the meaning of Section 2(d) of the Trademark Act.

6. If the Applicant were permitted to register the mark BEYOND TUTORING for the services specified in its application, confusion would likely result, thereby causing irreparable damage and injury to Opposer by reason of the similarity between the Applicant's proposed mark and Opposer's mark. Consumers familiar with Opposer's mark would be likely to believe (mistakenly) that Applicant's services derived from, are associated with, are licensed by or are affiliated with Opposer's services. Furthermore, any defect, objection, fault, or the like, found with Applicant's services marketed under its proposed mark would be likely to be understood to reflect upon and injure the reputation that Opposer has established for its services provided under its mark.

In view of the similarity of the respective marks and the related nature of the goods of the respective parties, it is alleged that Applicant's mark so resembles Opposer's mark previously used in the United States, and not abandoned, as to be likely to cause confusion or mistake, or to deceive customers and potential customers of Opposer.

WHEREFORE, Opposer prays that said Application Serial No. 78/057,087 be rejected, that no registration be issued thereon to applicant, and that this opposition be sustained in favor of Opposer. Opposer hereby appoints BURR & BROWN, a law firm composed of Stephen P. Burr and Kevin C. Brown, Nicole J. Buckner and Steven W. Caldwell, all admitted to the Bar of the State of New York, to act as attorneys for Opposer herein, with full power to prosecute said opposition, to transact all relevant business with the Patent and Trademark Office and in the United States Courts and to receive all official communications in connection with this Opposition.

Please direct all correspondence in connection with this Opposition to Kevin C. Brown at BURR & BROWN, P.O. Box 7068, Syracuse, New York 13261, (315) 233-8300.

Opposer: OXFORD LEARNING CENTRES, INC.

Dated: August 16/02

Signed:



Name:

R.N. Whitehead

Title:

PRESIDENT

TTAB

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

TRANSMITTAL LETTER

OXFORD LEARNING CENTRES, INC.,
Opposer

Opposition No. _____

vs.

Application Serial No. 78/057,087

ASLAN INC., dba POWER TOOLS FOR
LEARNING, Applicant

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Commissioner for Trademarks
Box TTAB- FEE
2900 Crystal Drive
Arlington, Virginia 22202-3513

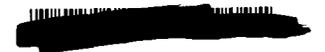
"EXPRESS MAIL" mailing label number EL 69267 1522 US.
I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 addressed to the Box TTAB, Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513, on August 22, 2002.
Janet M. Stevens
Janet M. Stevens

Sir:

Transmitted herewith are the following:

-Notice of Opposition (in duplicate)

-A check in the amount of \$300.00 (Notice of Opposition fee, one class) i. enclosed.


08-22-2002
U.S. Patent & TMO/TM Mail Rcpt Dt. #39

The Commissioner is hereby authorized to credit or debit any fees associated with this communication to Deposit Account No. 50-1446. A duplicate copy of this sheet is enclosed.

Respectfully submitted,
BURR & BROWN

Dated: August 22, 2002

By: *Kevin C. Brown*
Kevin C. Brown
Attorney for Opposer

KCB:jms
BURR & BROWN
P.O. Box 7068
Syracuse, NY 13261
Telephone: (315) 233-8300
Facsimile: (315) 233-8320

02 AUG 30 PM 8:45
TRADEMARK TRIAL AND APPEAL BOARD
Customer No.: 025191

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Opposer

Opposition No. _____

08-22-2002

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Application Serial No. 78/057,087

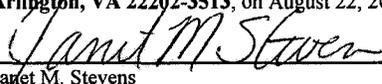
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Janet M. Stevens

NOTIFICATION OF CHANGE OF OPPOSER'S ADDRESS

Dear Sir:

Please note that the address of the Opposer, Oxford Learning Centres, Inc. has changed from "312 Commissioners Road West, London, Ontario, CANADA, N6J 1Y3" to --747, Hyde Park Rd., Suite 230, London, Ontario, CANADA N6H 3S3--.

Please continue to direct all correspondence to Opposer in connection with this Opposition to **Kevin C. Brown, BURR & BROWN, P.O. Box 7068, Syracuse, New York 13261, Telephone: (315) 233-8300, Facsimile (315) 233-8320.**

The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-1446.

Respectfully submitted,

BURR & BROWN

By 

Kevin C. Brown
Attorney for Opposer

Date: August 22, 2002

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