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



In the Matter of Application Serial No.: 76/295,515
Published in the Official Gazette of June 18, 2002

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TRADEMARK TRIAL AND APPEAL BOARD

UNIVERSAL CITY STUDIOS, INC.,

Opposer,

vs.

VALEN BROST

Applicant.

Opposition No. _____

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS EXPRESS MAIL #EL12367492/US ADDRESSED TO THE U.S. PATENT AND TRADEMARK OFFICE, 2901 CRYSTAL DRIVE, ARLINGTON, VA 22202-4313, BOX TTAB - FEE

BY: *Neilson Stepler*
DATE OF SIGNATURE: *10/14/02*

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NOTICE OF OPPOSITION

Opposer Universal City Studios, Inc. ("Opposer") believes that it will be damaged by registration of the mark shown in Application Serial No. 76/295,515, and hereby opposes the same. As grounds for opposition, Opposer alleges as follows:

1. Opposer is a corporation organized and existing under the laws of the State of Delaware, with offices at 100 Universal City Plaza, Universal City, California 91608.
2. Opposer is the world famous motion picture studio that has been, since 1912, producing and distributing motion pictures under the mark UNIVERSAL. Opposer sells a wide variety of licensed goods, including toys, under the UNIVERSAL mark.
3. Upon information and belief, applicant Valen Brost ("Applicant") is an individual and U.S. citizen with an address at 770 Southwood, #1, Incline Village, Nevada 89451.
4. On August 6, 2001, Applicant filed Application Serial No. 76/295,515 (the "Opposed Application") to register the mark UNIVERSAL TOYS on the Principal Register for "toy rockets" on the basis of Applicant's alleged use of the mark in commerce.

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5. Since a time long prior to the filing date of the Opposed Application, or any earlier dates of actual use of the mark shown in the Opposed Application upon which Applicant can rely, Opposer and/or its predecessors-in-interest, have continuously used the trademark and service mark UNIVERSAL, and other marks which incorporate the UNIVERSAL mark, on or in connection with a wide variety of entertainment, communication, marketing and development services and products, including the production, distribution and sale of motion pictures for theatrical and television display, narrated sightseeing tours of motion picture and television production facilities including exhibitions and demonstrations, presentation of musical and dramatic programs, and the licensing and sale of toys.

6. On or about September 29, 1965, a time long prior to the filing date of the Opposed Application, or any earlier dates of actual use of the mark shown in the Opposed Application upon which Applicant can rely, Opposer was incorporated and since that time has continuously operated and conducted business under the trade name Universal City Studios, Inc. or Universal City Studios.

7. Since a time long prior to the filing date of the Opposed Application, or any earlier dates of actual use of the mark shown in the Opposed Application upon which Applicant can rely, Opposer, its related companies, and/or its predecessors-in-interest, have continuously done business under and used UNIVERSAL, and other names which incorporate UNIVERSAL, as part of their trade names for businesses with a wide variety of entertainment, communication, marketing and development services and activities.

8. Opposer owns, among others, the following United States Trademark Registrations:

(a) Registration No. 1,144,545 for the mark UNIVERSAL for “entertainment services-namely, production of motion picture films for theatrical and television use and distribution of such films produced by applicant and by others.”

(b) Registration No. 1,531,018 for the mark UNIVERSAL STUDIOS for “toys and games, namely, toy watches; toy sunglasses; dolls; stuffed toy animals; puzzles; Christmas tree ornaments.”

(c) Registration No. 1,637,487 for the mark UNIVERSAL for “motion picture photoplays, motion picture and sound films.”

(d) Registration No. 1,803,468 for the mark UNIVERSAL and Globe Design for “entertainment services; namely, production and distribution of a variety of motion pictures and television programs for presentation over television and in theaters.”

(e) Registration No. 1,918,128 for the mark UNIVERSAL INTERACTIVE STUDIOS for “interactive video game programs and interactive video games of virtual reality comprised of computer hardware and software.”

All of these registrations are valid and subsisting and have become incontestible. Copies of Opposer's registrations are attached hereto as Exhibit 1 and are incorporated by reference herein.

9. Through the long, continuous and extensive use of the UNIVERSAL marks and trade names on and in connection with Opposer's goods, services, and businesses, the marks and trade names have become well-known by the consuming public in the United States. Opposer has developed an exceedingly valuable goodwill with respect to its UNIVERSAL marks and trade names, and has come to be recognized by consumers, the trade and the public at large as identifying and distinguishing Opposer as the source and origin of goods, services and businesses sold under those marks and names.

FIRST CLAIM FOR RELIEF
(Likelihood of Confusion with Opposer's Registered Marks)

10. Opposer repeats and realleges the allegations contained in preceding paragraphs 1-9, inclusive, as if fully set forth herein.

11. The mark shown in the Opposed Application so resembles Opposer's registered UNIVERSAL marks, as to be likely, when used on or in connection with the goods identified in the Opposed Application, to cause confusion, to cause mistake, or to deceive, and Applicant's mark is thus unregistrable under § 2(d) of the United States Trademark Act, 15 U.S.C. § 1052(d), as amended.

12. Opposer will be damaged by registration of the mark shown in the Opposed Application because registration of the mark would give Applicant prima facie evidence of ownership of, and exclusive right to use in commerce, a mark that is confusingly similar to Opposer's marks.

SECOND CLAIM FOR RELIEF
(Likelihood of Confusion with Previously-Used Trademarks, Service Marks and Trade Names)

13. Opposer repeats and realleges the allegations contained in preceding paragraphs 1-9, inclusive, as if fully set forth herein.

14. The mark shown in the Opposed Application so resembles Opposer's trademarks and service marks UNIVERSAL, and its other marks which incorporate the UNIVERSAL mark, as well as its trade names which incorporate UNIVERSAL, as to be likely, when used on or in connection with the goods identified in the Opposed Application, to cause confusion, to cause mistake, or to deceive, and Applicant's mark is thus unregistrable under § 2(d) of the United States Trademark Act, 15 U.S.C. § 1052(d), as amended.

15. Opposer will be damaged by registration of the mark shown in the Opposed Application because registration of the mark would give Applicant prima facie evidence of ownership of, and exclusive right to use in commerce, a mark that is confusingly similar to Opposer's marks and trade names.

WHEREFORE, Opposer prays for the entry of judgment sustaining this opposition and refusing registration to Applicant of the mark shown in the Opposed Application.

A duplicate copy of this Notice of Opposition, with exhibits, and the filing fee of \$300 are enclosed. Please charge any deficiency or credit any overpayment to Deposit Account No. 50-2291 and direct all correspondence in connection with this opposition to the undersigned.

Respectfully submitted,

SEYFARTH SHAW

Dated: October 14, 2002

By



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Int. Cl.: 41

Prior U.S. Cl.: 107

United States Patent and Trademark Office

Reg. No. 1,144,545

Registered Dec. 23, 1980

SERVICE MARK

Principal Register

UNIVERSAL

Universal City Studios, Inc. (Delaware corporation)
100 Universal City Plz.
Universal City, Calif. 91608

For: ENTERTAINMENT SERVICES—NAME-
LY, PRODUCTION OF MOTION PICTURE
FILMS FOR THEATRICAL AND TELEVISION
USE AND DISTRIBUTION OF SUCH FILMS
PRODUCED BY APPLICANT AND BY OTH-
ERS, in CLASS 41 (U.S. Cl. 107).

First use May 20, 1912; in commerce May 20,
1912.

Owner of U.S. Reg. Nos. 105.030, 947.751 and
others.

Ser. No. 203,908, filed Feb. 14, 1979.

MARC BERGSMAN, Primary Examiner

CARLISLE WALTERS, Examiner

Int. Cl.: 28

Prior U.S. Cls.: 22 and 50

United States Patent and Trademark Office

Reg. No. 1,531,018

Registered Mar. 21, 1989

**TRADEMARK
PRINCIPAL REGISTER**

UNIVERSAL STUDIOS

**UNIVERSAL CITY STUDIOS, INC. (DELA-
WARE CORPORATION)
100 UNIVERSAL CITY PLAZA
UNIVERSAL CITY, CA 91608**

**FIRST USE 1-1-1964; IN COMMERCE
1-1-1964.**

**OWNER OF U.S. REG. NOS. 1,095,505, 1,355,894
AND OTHERS.**

**FOR: TOYS AND GAMES, NAMELY, TOY
WATCHES; TOY SUNGLASSES; DOLLS;
STUFFED TOY ANIMALS; PUZZLES; CHRIST-
MAS TREE ORNAMENTS, IN CLASS 28 (U.S.
CLS. 22 AND 50).**

SER. NO. 728,725, FILED 5-16-1988.

**ESTHER A. BORSUK, EXAMINING ATTOR-
NEY**

Int. Cl.: 9

Prior U.S. Cl.: 38

United States Patent and Trademark Office

Reg. No. 1,637,487

Registered Mar. 12, 1991

**TRADEMARK
PRINCIPAL REGISTER**

UNIVERSAL

UNIVERSAL CITY STUDIOS, INC. (DELA-
WARE CORPORATION)
100 UNIVERSAL CITY PLAZA
UNIVERSAL CITY, CA 91608

FIRST USE 5-20-1912; IN COMMERCE
5-20-1912.
OWNER OF U.S. REG. NOS. 874,303, 1,394,409
AND OTHERS.

SER. NO. 74-060.226, FILED 5-17-1990.

FOR: MOTION PICTURE PHOTOPLAYS,
MOTION PICTURE AND SOUND FILMS, IN
CLASS 9 (U.S. CL. 38).

ELISSA ROSENBURGH, EXAMINING ATTOR-
NEY

Int. Cl.: 41

Prior U.S. Cl.: 107

United States Patent and Trademark Office

Reg. No. 1,803,468

Registered Nov. 9, 1993

**SERVICE MARK
PRINCIPAL REGISTER**



UNIVERSAL CITY STUDIOS, INC. (DELA-
WARE CORPORATION)
100 UNIVERSAL CITY PLAZA
UNIVERSAL CITY, CA 91608

FOR: ENTERTAINMENT SERVICES;
NAMELY, PRODUCTION AND DISTRIBUTION
OF A VARIETY OF MOTION PICTURES AND
TELEVISION PROGRAMS FOR PRESENTA-
TION OVER TELEVISION AND IN THEA-
TERS, IN CLASS 41 (U.S. CL. 107).

FIRST USE 5-25-1990; IN COMMERCE
5-25-1990.

THE LINING IN THE DRAWING IS A FEA-
TURE OF THE MARK AND DOES NOT REP-
RESENT COLOR.

SER. NO. 74-367,629, FILED 3-12-1993.

GERALD C. SEEGARS, EXAMINING ATTOR-
NEY

Int. Cl.: 28

Prior U.S. Cls.: 22, 23, 38 and 50



United States Patent and Trademark Office

Reg. No. 1,918,128

Registered Sep. 12, 1995

**TRADEMARK
PRINCIPAL REGISTER**

UNIVERSAL INTERACTIVE STUDIOS

UNIVERSAL CITY STUDIOS, INC. (DELA-
WARE CORPORATION)
100 UNIVERSAL CITY PLAZA
UNIVERSAL CITY, CA 91608

FOR: INTERACTIVE VIDEO GAME PRO-
GRAMS AND INTERACTIVE VIDEO GAMES
OF VIRTUAL REALITY COMPRISED OF COM-
PUTER HARDWARE AND SOFTWARE, IN
CLASS 28 (U.S. CLS. 22, 23, 38 AND 50).

FIRST USE 5-10-1994; IN COMMERCE
5-10-1994.

OWNER OF U.S. REG. NOS. 1,095,505, 1,646,420
AND OTHERS.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "INTERACTIVE", APART
FROM THE MARK AS SHOWN.

SER. NO. 74-530,174, FILED 5-27-1994.

ALAN ATCHISON, EXAMINING ATTORNEY