

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

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SCHLAGE LOCK COMPANY,

Opposer,

v.

Opposition No. 91 159885

Serial No. 76/493,797

ALTO PRODUCTS CORP.,

Applicant,

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**OPPOSER'S MOTION TO RESUME OPPOSITION PROCEEDINGS UNDER  
37 CFR § 2.117(a) and TBMP § 510.02(b) (2d ed. Rev. 2004)**

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Opposer, Schlage Lock Company, ("Schlage" or "Opposer") submits this motion to resume opposition proceedings. Applicant moved to stay further proceedings on the basis that pending civil action No. 00 CV 5562(RO) could be dispositive on the issue of whether Opposer has authority to oppose Applicant's mark. The Board suspended the opposition until final disposition of the federal court action. Opposer now moves to resume opposition proceedings. In support of this motion, Opposer submits herewith a copy of a Stipulation of Dismissal filed on March 23, 2006<sup>1</sup> by DC Comics and Kryptonite Corporation in the United States District Court

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<sup>1</sup> The delay in presenting this motion to the Board is inadvertent and due to Opposer's representation by different counsel in the District Court action, such that the undersigned did not immediately become aware that the Dismissal had been filed. Opposer apologizes for any inconvenience to the Board or Applicant, and respectfully submits that no prejudice will result from this delay.



06-12-2006

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for the Southern District of New York, identified as Civil Action no. 00 Civ. 5562(RO). The civil action was dismissed after DC Comics and Kryptonite Corporation settled the litigation, and entered into a Coexistence Agreement (the "Agreement") that establishes the respective parties' rights to use the KRYPTONITE and KRYPT-Formative marks in distinct product areas. The Agreement with DC Comics acknowledges Opposer Schlage's ownership and right to use and register the KRYPTONITE mark and the KRYPT-Formative Marks KRYPTO LOK and KRYPTO FLEX (the "KRYPTONITE Marks") in connection with certain goods identified in the Agreement. Specifically, the Agreement provides that Opposer owns the right to use and register the KRYPTONITE Marks in connection with all types of locking devices and accessories for two-wheeled vehicles, including bicycles and motorcycles. In addition, the Agreement provides that Opposer has authority to prevent the use of KRYPTONITE in connection with similar or related goods. As a result, the outcome of the DC Comics litigation confirms Opposer's rights in the KRYPTONITE mark, and its standing to oppose Applicant's mark.

Accordingly, Opposer respectfully requests that the opposition proceedings be resumed.

Dated: June 9, 2006

Respectfully submitted,

MICHAEL BEST & FRIEDRICH, LLP

By: Lori S. Meddings  
Lori S. Meddings  
100 East Wisconsin Avenue, Suite 3300  
Milwaukee, WI 53202

**CERTIFICATE OF SERVICE**

I hereby certify that a correct copy of the foregoing **OPPOSER'S MOTION TO RESUME PROCEEDINGS UNDER 37 CFR § 2.117(a) TBMP § 510.02 (2d ed. Rev. 2004)** have been served on Alto's attorney by fax and first-class regular United States mail:

Mr. Matthew T. Dennehy  
Law Offices of Stephen E. Feldman, P.C.  
12 East 41st Street  
New York, New York 10017

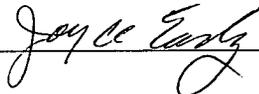
Fax: (212) 532 8598

I also hereby certify that this correspondence is being deposited with the United States Postal Service via first-class mail in an envelope addressed to:

Commissioner for Trademarks  
Attention: Box TTAB NO FEE  
P. O. Box 1451  
Alexandria, VA 22313

On the 9 day of June 2006.

Joyce Early



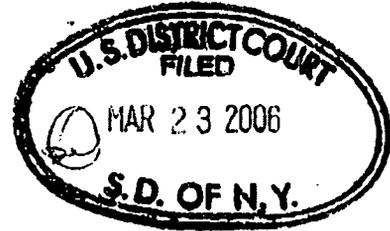
*Patrick T. Perkins*  
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*Attorney for Defendant*



**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

DC COMICS,

Plaintiff,

v.

KRYPTONITE CORPORATION,

Defendant.

Case No.: 00 Civ. 5562 (RO)

**STIPULATION OF DISMISSAL**

Pursuant to Fed. R. Civ. P. 41(a)(1), the parties to this action hereby stipulate to dismissal of all claims and counterclaims with prejudice. Each party shall bear its own costs and fees.

**MICROFILM**

**MAR 23 2006 12:00 PM**

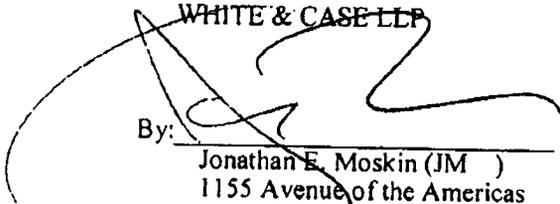
Dated: March 15, 2006

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Dated: March 15, 2006

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SO ORDERED:

  
\_\_\_\_\_  
U.S.D.J.