

ESTTA Tracking number: **ESTTA22451**

Filing date: **01/03/2005**

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

### **Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

#### **Opposer Information**

<b>Name</b>	King World Productions, Inc.
<b>Granted to Date of previous extension</b>	01/02/2005
<b>Address</b>	2401 Colorado Avenue, Suite 110 Santa Monica, CA 90404 UNITED STATES

<b>Correspondence information</b>	King World Productions, Inc. 1515 Broadway, 51st Floor New York, NY 10036 UNITED STATES rebecca.borden@viacom.com Phone:212-846-6335
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#### **Applicant Information**

<b>Application No</b>	78155339	<b>Publication date</b>	07/06/2004
<b>Opposition Filing Date</b>	01/03/2005	<b>Opposition Period Ends</b>	01/02/2005
<b>Applicant</b>	Vis Entertainment plc 130 St Vincent Street Glasgow, G2 5HF UNITED KINGDOM		

## **Goods/Services Affected by Opposition**

### **Class 009.**

All goods and services in the class are opposed, namely: Computer and video games software; computer games programs; computer games programs and computer games software downloadable from a global communications network; computer game machines and software adapted for use with television receivers; computer game cartridges, cassettes, tapes, and discs bearing computer games software; computer game joysticks; interactive multimedia computer game programs; virtual reality game software; electronic publications, namely magazines featuring news and information on the subject of computer games recorded on electronic, optical and magnetic data storage media

### **Class 016.**

All goods and services in the class are opposed, namely: Computer game instruction manuals; printed publications, namely, newsletters, books and magazines featuring information relating to computer games

### **Class 038.**

All goods and services in the class are opposed, namely: Broadcasting services, namely television broadcasting; cable television broadcasting; video broadcasting; audio broadcasting; radio broadcasting; broadcasting programs via a wireless communications network; electronic delivery of images and photographs via a wireless communications network; broadcasting programs via a global computer network; and electronic delivery of images and photographs via a global computer network all relating to computer games

### **Class 041.**

All goods and services in the class are opposed, namely: Entertainment services, namely, entertainment in the nature of producing electronic computer games; entertainment services, namely, providing computer games by means of a global communications network, wireless communications network or a computer-based system; rental of computer game programs; entertainment services, namely, providing interactive and non-interactive television programs in the field of computer games; production of television programs in the field of computer games; production of interactive television programs in the field of computer games; entertainment services, namely, providing a web site featuring motion picture films; production, distribution and editing of motion picture films

### **Class 042.**

All goods and services in the class are opposed, namely: Computer services relating to the design, development, creation, installation and maintenance of computer games entertainment software; computer consultation

### **Attachments**

spanky opposition.pdf ( 5 pages )

### **Signature**

/RB/

<b>Name</b>	King World Productions, Inc.
<b>Date</b>	01/03/2005

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

In the Matter of Application Serial No. 78155339  
Published in the Official Gazette on July 6, 2004

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KING WORLD PRODUCTIONS, INC.	:	Opposition No. _____
Opposer,	:	
-against-	:	<u>NOTICE OF OPPOSITION</u>
VIS ENTERTAINMENT	:	
Applicant.	:	
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King World Productions, Inc. ("Opposer"), a Delaware corporation, having its principal offices at 2401 Colorado Avenue, Suite 110, Santa Monica, California 90404, believes it will be damaged by registration of the trademark SPANKY sought to be registered on the Principal Register by Vis Entertainment. ("Applicant") in Application Serial No. 78/155339, published in the Official Gazette on July 6, 2004, for goods and services in classes 9, 16, 38, 41 and 42 (the "Application"), and hereby opposes registration on the following grounds:

1. Opposer owns, distributes and promotes the world famous THE LITTLE RASCALS television series, which is derived from the classic "Our Gang" and "Little Rascals" comedy shorts produced in the 1920's and 1930's and which has been among the most enduring of television series. The LITTLE RASCALS television series features young actors, a good number of whom became famous as a result of their roles in the series.

2. "Spanky," the character played by George McFarland, was enterprising and often the leader of the gang. The "Spanky" character proved to one of the most popular

elements of THE LITTLE RASCALS series. George McFarland played Spanky for eleven years, beginning when he was three years old. In January 1994, Mr. McFarland received a star on Hollywood's Walk of Fame in recognition of his role in the series.

3. Opposer is the owner in the United States of the SPANKY trademark and has used the mark in the United States for many types of merchandise (collectively "the SPANKY Trademarks"). To complement THE LITTLE RASCALS television series, Opposer has licensed the right to sell, through various retailers, a variety of merchandise, including ornaments, collectable figurines, magnets, bobble head dolls, lunch boxes, calendars, posters, greeting cards, postcards, t-shirts, loungewear, decorative plates and tins, cookie jars, salt and pepper shakers and action figures, featuring, among other characters, Spanky. Opposer, through its agent, CBS Consumer Products, is currently in discussions with licensees of other categories of merchandise on behalf of the Opposer.

4. As a consequence of the extensive and continuous use of the SPANKY mark by Opposer since prior to the filing of the Application and any alleged use by Applicant of its SPANKY trademark, Opposer's SPANKY mark has achieved vast public recognition.

5. Since prior to the filing of the Application and any alleged use by Applicant of the SPANKY trademark, the SPANKY Trademarks have been extensively and continuously promoted by Opposer throughout the United States, in advertising and promotional materials, including newspapers, magazines, catalogs, direct mail, the Internet and other promotional means.

6. Opposer has devoted substantial resources to developing recognition of the SPANKY Trademarks and the goodwill associated therewith. The outstanding reputation and goodwill associated with the SPANKY Trademarks are of inestimable value to Opposer.

7. Applicant filed the Application in the U.S. Patent and Trademark Office on or about August 19, 2002. The Application is based on Applicant's stated intent to use in commerce the trademark SPANKY on or in connection with a variety of goods and services in classes 9, 16, 38, 41, 42 as follows:

Class 9 : computer and video games software; computer games programs; computer games programs and computer games software downloadable from a global communications network; computer game machines and software adapted for use with television receivers; computer game cartridges, cassettes, tapes, and discs bearing computer games software; computer game joysticks; interactive multimedia computer game programs; virtual reality game software; electronic publications, namely magazines featuring news and information on the subject of computer games recorded on electronic, optical and magnetic data storage media;

Class 16: computer game instruction manuals; printed publications, namely, newsletters, books and magazines featuring information relating to computer games ;

Class 38: broadcasting services, namely television broadcasting; cable television broadcasting; video broadcasting; audio broadcasting; radio broadcasting; broadcasting programs via a wireless communications network; electronic delivery of images and photographs via a wireless communications network; broadcasting programs via a global computer network; and electronic delivery of images and photographs via a global computer network all relating to computer games;

Class 41 : entertainment services, namely, entertainment in the nature of producing electronic computer games; entertainment services, namely, providing computer games by means of a global communications network, wireless communications network or a computer-based system; rental of computer game programs; entertainment services, namely, providing interactive and

non-interactive television programs in the field of computer games; production of television programs in the field of computer games; production of interactive television programs in the field of computer games; entertainment services, namely, providing a web site featuring motion picture films; production, distribution and editing of motion picture films;

Class 42 : computer services relating to the design, development, creation, installation and maintenance of computer games entertainment software; computer consultation. Applicant's proposed trademark "SPANKY" is confusingly similar to the SPANKY Trademarks.

8. Through the extensive and continuous use of the SPANKY Trademarks by Opposer prior to the Application for the Applicant's proposed trademark "SPANKY," and the widespread public identification of the SPANKY Trademarks with Opposer, the Opposer's SPANKY Trademarks became famous. Registration and use of the Applicant's proposed trademark "SPANKY" will lessen the capacity of Opposer's mark to identify and distinguish the Opposer's goods and services.

9. Given the extensive and continuous use of the SPANKY Trademarks by Opposer and the widespread public identification of the SPANKY Trademarks with Opposer, Opposer would be seriously injured by the granting of a certificate of registration to Applicant for the trademark SPANKY in International Classes 9, 16, 38, 41 and 42 because such registration would:

- (a) support and assist Applicant in the confusing and misleading use of Applicant's SPANKY trademark sought to be registered in violation of Sections 2(d) and 13(a) of the Lanham Act, 15 U.S.C. §§ 1052(d), 1063(a);


- (b) damage, interfere with and cause dilution of Opposer's valuable goodwill in its SPANKY Trademarks in violation of Sections 2(f), 13(a) and 43(c) of the Lanham Act, 15 U.S.C. §§ 1052(f), 1063(a) and 1125(c);
- (c) give color of exclusive statutory rights to Applicant in violation and derogation of Opposer's prior and superior rights; and
- (d) tend to falsely and erroneously suggest a connection with Opposer.

WHEREFORE, Opposer believes that it will be seriously damaged by registration of Applicant's SPANKY trademark and, therefore, Opposer, by its undersigned attorneys, respectfully requests that its opposition be sustained and that registration of the trademark at issue in the Application be refused.

Dated: New York, New York  
January 3, 2005

Respectfully submitted,

KING WORLD PRODUCTIONS, INC.

  
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