

TTRK

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

STEVEN H. BALANCHI d/b/a)	
PROGRESSIVE TRADING CO.)	
)	
Opposer)	Opposition No.
)	
v.)	
)	
PLAST WOOD S.r.l.)	
)	
Applicant)	

NOTICE OF OPPOSITION

Opposer, STEVEN H. BALANCHI d/b/a PROGRESSIVE TRADING CO., with a business address of 2217 El Sol Avenue, Altadena, C.A. 91001, hereby opposes registration of the mark SUPERMAG MAGNETIC GENIUS that is the subject of application Serial No. 78/226,786, published in the *Official Gazette* of October 19, 2004, and requests that registration to Applicant be refused.

As grounds in support of its opposition, Opposer asserts as follows:

1. Opposer, for many years and since long prior to any date of first use upon which Applicant can rely, has adopted and continuously used the term "MAGZ" and "SUPERMAGZ" as a trademark for magnetic construction toys.
2. Opposer is the owner of Registration No. 2,741,609, for the mark MAGZ for magnetic construction toys. That registration is valid, subsisting, unrevoked, and uncanceled. Opposer has also filed on February 28, 2003 an application to register the mark SUPERMAGZ that was assigned Serial No. 76/493,891, and is presently opposed by the Applicant, Opposition No. 91160649.
3. Applicant has filed an application to register the mark SUPERMAG MAGNETIC GENIUS for Toys, namely, toy construction blocks; magnetic toys, namely, magnetic construction toys and combinable modular unit building magnetic blocks for educational and entertainment purposes; toy action figures; toy action figures and accessories therefor; toy airplanes; toy armor; toy artificial fingernails; toy bakeware and cookware; toy banks; toy bows and arrows; toy boxes; toy building blocks; toy butterfly nets; toy cap pistols; toy figures; toy gliders; toy guns; toy holsters; toy hoop sets; toy mail boxes; toy mobiles; toy model cars; toy model kit cars; toy model train sets; toy model vehicles and related accessories sold as units; toy modeling dough; toy music boxes; toy noisemakers; toy pistols; toy prism glasses; toy putty; toy record players; toy rockets; toy scooters; toy snow globes; toy stamps; toy swords; toy vehicles; toy vehicles and accessories therefor; toy vehicles with



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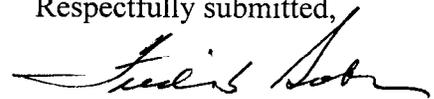
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transforming parts; toy watches; toy weapons; toy zip guns; transforming robotic toy vehicles. That application was filed on March 18, 2003, and was assigned Serial No. 78/226,786.

4. Applicant's mark so resembles Opposer's previously used and registered mark MAGZ and SUPERMAGZ as to be likely, when applied to the goods set forth in Applicant's application, to cause confusion, mistake, or deception within the meaning of Section 2(d) of the Trademark Act.

WHEREFORE, Opposer prays that the opposition be sustained and that registration to Applicant be refused.

Respectfully submitted,



Frederick Gotha
Attorney for the Opposer

Date: February 14, 2005

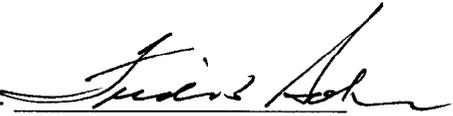
Certificate of Mailing

I hereby certify that the enclosed NOTICE OF OPPOSITION, Steven H. Registrant d/b/a Progressive Trading Co. OPPOSER v. Plast Wood S.r.l. APPLICANT; opposing SUPERMAG MAGNETIC GENIUS Serial No.: 78/226,786, is being deposited with the United States Postal Service as first class mail, postage fully prepaid thereon, addressed to:

Commissioner for Trademarks
Office of the Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3514

Date: February 14, 2005

Signature: _____


Frederick Gotha