

ESTTA Tracking number: **ESTTA29163**

Filing date: **03/28/2005**

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

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| Name | AMER SPORTS FRANCE |
| Granted to Date of previous extension | 03/27/2005 |
| Address | 63, Rue Condor cet-BP 128 Villefontaine Cedex, 38093 FRANCE |

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| Attorney information | LISA PEARSON FROSS ZELNICK LEHRMAN & ZISSU, P.C. 866 UNITED NATIONS PLAZA NEW YORK, NY 10017 UNITED STATES lpearson@frosszelnick.com Phone:(212) 813-5900 |
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Applicant Information

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| Application No | 78345699 | Publication date | 09/28/2004 |
| Opposition Filing Date | 03/28/2005 | Opposition Period Ends | 03/27/2005 |
| Applicant | Doolittle Edutainment Corp. Suite 500 4180 La Jolla Village Drive La Jolla, CA 92037 | | |

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| UNITED STATES |
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Goods/Services Affected by Opposition

Class 028. First Use: 19990804 First Use In Commerce: 19991214

All goods and services in the class are opposed, namely: Action figures; Action figures accessories; Action toys both mechanical and electric; Arcade-type electronic education video games; Archery equipment, namely bows and arrows; Baby rattles incorporating teething rings; Balloons; Baseballs; Basketballs; Bath toys; Bathtub toys; Battery operated action toys; Baby multiple activity toys; Baby rattles; Beach balls; Bean bag dolls; Board games; Bodyboards; Boomerangs; Baseballs; Baseball bats; Baseball Gloves; Bowling Balls; Children's activity tables containing manipulative toys; Christmas tree ornaments; Costume masks; Crib mobiles; Collectable toy figures; Crib toys; Disc toss toys; Drawing toys; Electronic educational game machines for children; Easter egg coloring kits; Egg decorating kits; Electric action toys; Floats for recreational use namely, swimming; Flying discs; Fishing poles; Footballs; Golf Clubs; Golf Balls; Hand held unit for playing electronic games; Hand puppets; Hockey sticks; Hockey pucks; Ice Skates; Infant development toys; Infant action crib toys; Inflatable bop bags; Inflatable swimming pools; Infant toys; Inflatable toys; Inflatable toys showing decorative pictures; Inflatable inner tubes for aquatic recreational use; Inline Skates; Jigsaw puzzles; Kites; Marionette puppets; Mechanical action toys; Mobiles for children; Modeled plastic toy figurines; Paper dolls; Plastic character toys; Play figures; Play mats containing infant toys; Plush toys; Positionable toy figures; Puppets; Pop up toys; Pull toys; Push toys; Puzzles; Rubber action balls; Rubber character toys; Soccer balls; Soccer ball knee pads; Soft sculpture plush toys; Spinning tops; Sport balls; Stuffed toy animals; Surfboards; Skis; Skateboards; Softballs; Squeeze toys; Stuffed toy bears; Stuffed toys; Swimming aids, namely arm floats; Toy animals and accessories therefore; Talking toys; Teddy bears; Teeball sets; Tennis Rackets; Tennis Balls; Tossing disc toys; Toy, namely, battery-powered computer game with LCD screen which features animation and sound effects; Toy action figures; Toy action figures and accessories therefore; Toy building blocks; Toys designed to be attached to car seats, strollers, cribs, and high chairs; Toy figures; Toy mobiles; Toy music boxes; Volleyballs; Water squirting toys; Water wing swim aids for recreational use; Water Skis; Wind-up toys; Yo-yos

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| Attachments | 050328-0425520-Notice of Opposition-DYNAMIC DOOLITTLE-js.pdf (4 pages) |
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| Signature | /lp/ |
| Name | LISA PEARSON |
| Date | 03/28/2005 |

the mark has become distinctive of Opposer's goods and has come to represent enormous goodwill for Opposer.

2. Opposer owns U.S. Registration No. 1,272,705, issued April 3, 1984, for the mark DYNAMIC for inter alia, skis in International Class 28. The registration shows a date of first use of 1966, long prior to any date on which Applicant relies. Opposer's registration is valid, subsisting, and in full force and effect. In addition, this registration has become incontestable. As such, this registration serves as **conclusive** evidence of Opposer's exclusive rights to use the mark.

3. According to the records of the United States Patent and Trademark Office, Applicant, a corporation organized and existing under the laws of the State of Nevada, United States of America, filed its application to register DYNAMIC DOOLITTLE, Application Serial No. 78/345/699, on December 26, 2003 for the following goods in International Class 28:

“Action figures; action figures accessories; action toys both mechanical and electric; arcade-type electronic education video games; archery equipment, namely bows and arrows; baby rattles incorporating teething rings; balloons; baseballs; basketballs; bath toys; bathtub toys; battery operated action toys; baby multiple activity toys; baby rattles; beach balls; bean bag dolls; board games; bodyboards; boomerangs; baseballs; baseball bats; baseball gloves; bowling balls; children's activity tables containing manipulative toys; Christmas tree ornaments; costume masks; crib mobiles; collectable toy figures; crib toys; disc toss toys; drawing toys; electronic educational game machines for children; Easter egg coloring kits; egg decorating kits; electronic action toys; floats for recreational use namely, swimming; flying discs; fishing poles; footballs; golf clubs; golf balls; hand held unit for playing electronic games; hand puppets; hockey sticks; hockey pucks; ice skates; infant development toys; infant action crib toys; inflatable bop bags; inflatable swimming pools; infant toys; inflatable toys; inflatable toys showing decorative pictures; inflatable inner tubes for aquatic recreational use; inline skates; jigsaw puzzles; kites; marionette puppets; mechanical action toys; mobiles for children; modeled plastic toy figurines; paper dolls; plastic character toys; play figures; play mats containing infant toys; plush toys; positionable toy figures; puppets; pop up toys; pull toys; push toys; puzzles; rubber action balls; rubber character toys; soccer balls; soccer ball knee pads; soft sculpture plush

toys; spinning toys; sport balls; stuffed toy animals; surfboards; skis; skateboards; softballs; squeeze toys; stuffed toy bears; stuffed toys; swimming aids, namely arm floats; toy animals and accessories therefore; talking toys; teddy bears; tee-ball sets; tennis rackets; tennis balls; tossing disc toys; toy, namely battery-powered computer game with lcd screen which features animation and sound effects; toy action figures; toy action figures and accessories therefore; toy building blocks; toys designed to be attached to car seats, strollers, cribs, and high chairs; toy figures; toy mobiles; toy music boxes; volleyballs; water squirting toys; water wing swim aids for recreational use; water skis; wind-up toys; yo-yos.”

4. The mark that Applicant seeks to register is similar in sound, meaning and commercial impression to Opposer’s DYNAMIC mark, and will be used on certain goods that are identical or closely related to the goods on which Opposer uses its registered mark. Based on the similarities of the marks and goods, the public is likely to associate the goods sold by Applicant under the mark DYNAMIC DOOLITTLE with Opposer or with Opposer’s goods, or to believe that Applicant’s goods are sponsored, endorsed or licensed by Opposer, or that there is some relationship between Applicant and Opposer.

5. For the above reasons, any use of the mark DYNAMIC DOOLITTLE by Applicant is likely to cause confusion, cause mistake or deceive the public, and cause the public to believe that the goods sold under/services associated with the DYNAMIC DOOLITTLE mark emanate from or are otherwise sponsored by or endorsed by Opposer, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

6. By reason of the foregoing, Opposer will be damaged by the registration of the mark DYNAMIC DOOLITTLE to Applicant.

WHEREFORE, it is respectfully requested that this opposition be sustained and that the registration sought by Application Serial No. 78/345/699 be denied.

Please charge the Opposition fee in the amount of \$300.00 for one class to Opposer’s attorneys’ Deposit Account No. 23-0825-0576900.

Dated: New York, New York
March 28, 2005

Respectfully submitted,

FROSS ZELNICK LEHRMAN
& ZISSU, P.C.

By: *Lisa Pearson*
Lisa Pearson

Attorneys for Opposer
866 United Nations Plaza
New York, New York 10017
(212) 813-5900