

Creative Group Marketing

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TTAB

September 5, 2006

United States Patent and Trademark Office
Trademark Trial and Appeal Board
PO Box 1451
Alexandria, VA 22313-1451
Attn: Cheryl Goodman

Re: Opposition No. 91167219
Serial # 78447127

Megazooka Trademark Published 6/14/05

Cheryl Goodman, Interlocutory Attorney,

I am in receipt of a letter from your office dated August 30, 2006 – Copy Attached. It refers to an answer for something allegedly filed/sent to me on May 27, 2006 allowing me to respond to by June 26, 2006.

Please be advised I have no idea to what you are referring and have never received anything from your office other than an opposition notice dated October 31, 2005. Moreover, the only communication I had with your office regarding this matter was in my last letter to you dated November 10, 2005 – a copy of which is enclosed and attached in this mailing.

Furthermore, the correct spelling of my name is Gary Ahlert not Alhert. Additionally, the proper address for my business is Creative Group Marketing, 400 Main Street, Suite 210, Stamford, CT 06901.

I would appreciate your sending me whatever documents to which you are making reference.

Sincerely yours,



Gary Ahlert

09-08-2006

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

COPY

Mailed: August 30, 2006

Opposition No. 91167219

CYI, Inc.

v.

Alhert, Gary

Cheryl Goodman, Interlocutory Attorney:

On May 27, 2006, the Board issued an order allowing applicant time to file an answer that complied with Fed. R. Civ. P. 8. Answer was due on June 26, 2006.

A review of the record shows that applicant has filed no further papers in accordance with the requirements set forth in the Board's order dated May 27, 2006.

Inasmuch as it appears that no answer has been filed, nor has applicant filed a motion to extend its time to answer, notice of default is hereby entered against applicant under Fed. R. Civ. P. 55(a).

Applicant is allowed until thirty days from the mailing date of this order to show cause why judgment by default should not be entered against applicant in accordance with Fed. R. Civ. P. 55(b).

Creative Group Marketing LLC

400 Main Street Suite 210 Stamford, CT 06901
(203) 359-3500 Fax: (203) 978-1919

November 10, 2005

United States Patent and Trademark Office
Trademark Trial and Appeal Board
PO Box 1451
Alexandria, VA 22313-1451
Attn: Torri Rodgers

COPY

Re: Opposition No. 91167219
Serial # 78447127

Megazooka Trademark Published 6/14/05

Torri Rodgers – Legal Assistant,

Please forgive the informality of my response. However, I am not an attorney, and I am not familiar with what may be a proper format or structure in replying to the attached, “Notice of Opposition”, for the trademark known as “Megazooka”. Moreover, this is the first notice, other than a postcard, I have ever received regarding this matter. As I address below, you will note that the issues here not only pertain to the Megazooka trademark, but to the Airzooka mark too, as well as patents and other property rights.

I will address and respond to Howard C. Miskin’s comments in a correspondingly numbered manner as contained in his Notice Of Opposition.

First, please be advised that Howard C. Miskin is an attorney representing CYI, Inc., or otherwise known as, Can You Imagine Corp. or Inc., in major litigation initiated by my firm, Creative Group Marketing LLC, and, Brian Jordan, the inventor and owner of the Megazooka, the Airzooka and all related products. [04 CV 04696 United States District Court, Southern District of New York.] CYI has had various incarnations over the years, so I am never sure which name the opposing parties chose to use at any given time.

Furthermore, Mr. Miskin is also representing two convicted felons (Steven Zulloff, Barry Benjamin – Securities Fraud and Tax Evasion) who, at various times, represent themselves as working for, Owners of, or consultants to, CYI and Can You Imagine, and they too are part of this litigation.

The suit involves the theft of Mr. Jordan’s and Creative’s intellectual properties, namely the Megazooka, the Airzooka and Airzooka Key Chain. We are represented by Helen Davis Chaitman, Phillips Nizer LLP, 666 Fifth Ave., New York, NY, telephone 212-977-9700.

There were two License Agreements established which granted certain rights to the Airzooka product to CYI in California, and another company called HPI in Hong Kong. As part of those Agreements all intellectual property rights to the Airzooka, and in the case of the first Agreement, any "Fruit From The Tree" intellectual property rights, were to be filed under and owned by the Inventor and/or the Licensor.

The first Agreement was terminated for cause, as was the second Agreement. Further, upon such terminations all assignments and intellectual property revert to Brian Jordan.

Howard C. Miskin, willfully, with malice and forethought and in complete contravention to the Agreements, illegally and deliberately filed patents and trademarks solely in the name of Steve Zuloff for Jordan's inventions.

The product, Megazooka, was NEVER licensed to CYI/HPI and this is appropriately documented in numerous letters and E-mails which have been made part of the court record. Moreover, I filed for the trademark Megazooka quite some time ago as my client, Brian Jordan, and I, wished to manufacture and sell the product through other means. This filing was done prior to any production and sale by CYI, and they were so informed in writing.

Despite my numerous notifications to Mr. Miskin and CYI/HPI of our position, Mr. Miskin, in concert with CYI/HPI, Steve Zuloff and Barry Benjamin deliberately and unlawfully manufactured and sold the Megazooka product along with the other Airzooka products as well. Not only did they sell the product(s), they put on the packaging - Invented by Brian Jordan and Licensed by Creative Group Marketing. Additionally, Howard C. Miskin, who was representing Jordan with the first patent application, had him sign a power of attorney and assignment and then, he, Miskin, filed a utility patent in Jordan's and Zuloff's names for the Airzooka. (#20040226548) Mr. Jordan was not pleased with the way Miskin had prepared the claims for his invention and wanted additional input into the application. However, Miskin, took it upon himself and filed the application without Mr. Jordan's approval or knowledge.

I would further point out that also unbeknownst to Brian Jordan and Creative, Miskin and Zuloff on behalf of CYI/HPI filed multiple design patents worldwide and in the US (D487293) solely in Zuloff's name and have been deliberately **falsely marking** the Megazooka, Airzooka and Airzooka Keychain packaging with the US Design Patent Number to create the impression to the public that the products and their function/performance were protected by patent. Of course, nothing could be further from the truth.

With respect to Mr. Miskin's Notice of Opposition:

1. The Megazooka and Airzooka are not the "opposer's goods" they have no rights to them whatsoever.
2. The Megazooka product was deliberately, willfully and with malicious intent stolen from the inventor and is being sold and manufactured illegally.
3. The great commercial success to which Mr. Miskin refers was in fact for the Airzooka and was created and paid for by us through publicity, product placement, interviews and our other efforts. Any resultant sales of the Megazooka are a direct benefit of our efforts, and not those of CYI/HPI.
4. This statement is absolutely untrue.
5. All applications and their resultant issuances and/or allowances for patents and/or trademarks are the property of, and should be in the name(s) of Brian Jordan and/or Creative Group Marketing.
6. Again, Miskin engages in outright lies meant to deliberately deceive and mislead the PTO. CYI has no rights to any of the properties which are currently being sold.
7. The applicant is not the rightful owner of the mark
8. 9. 10. The only parties thus far damaged have been the inventor and licensor who by means of Howard C. Miskin's abrogation of his duties as a registered patent attorney, his collusion with Zuloff and Benjamin (It is our belief and understanding that Miskin shares in the profits of CYI products) and his willful and wonton violation and disregard of patent and trademark laws has violated and stolen the property rights of Brian Jordan and Creative Group Marketing.

I respectfully request that any final disposition of the awarding of the Megazooka trademark be delayed until such time as this case is properly adjudicated.

Sincerely yours,

Gary Ahlert
Creative Group Marketing LLC

Cc: Helen Davis Chaitman
Phillips Nizer LLP

Brian Jordan