

ESTTA Tracking number: **ESTTA53234**

Filing date: **11/14/2005**

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 parties oppose registration of the indicated application.

Opposers Information

Name	Gift Shops International, Inc.
Granted to Date of previous extension	11/13/2005
Address	P.O. Box 1206 Sumner, WA 98390 UNITED STATES

Name	Mr. Donald Lee Fisher
Granted to Date of previous extension	11/13/2005
Address	P.O. Box 1206 Sumner, WA 98390 UNITED STATES
Party who filed Extension of time to oppose	Mr.DonFisher
Relationship to party who filed Extension of time to oppose	The change is merely to provide a full and complete name for this opposer, which is the same individual who filed the extensions.

Attorney information	William E. Holt Gordon Thomas Honeywell et al. P.O. Box 1157 Tacoma, WA 98401-1157 UNITED STATES wholt@gth-law.com Phone:(253) 620-6412
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Applicant Information

Application No	76562531	Publication date	05/17/2005
Opposition Filing Date	11/14/2005	Opposition Period Ends	11/13/2005
Applicant	Giftware International, Inc. 1280 Industrial Boulevard Southampton, PA 18966 UNITED STATES		

Goods/Services Affected by Opposition

Class 020. First Use: 19990100First Use In Commerce: 19990100 All goods and services in the class are opposed, namely: children's furniture and decorative pieces, namely, picture frames and mirrors
Class 028. First Use: 19990100First Use In Commerce: 19990100 All goods and services in the class are opposed, namely: toy boxes

Applicant Information

Application No	76564252	Publication date	11/01/2005
Opposition Filing Date	11/14/2005	Opposition Period Ends	12/01/2005
Applicant	Giftware International, Inc. 1280 Industrial Boulevard Southampton, PA 18966 UNITED STATES		

Goods/Services Affected by Opposition

Class 020. First Use: 19990100First Use In Commerce: 19990100
All goods and services in the class are opposed, namely: Children's furniture and decorative pieces, namely, picture frames and mirrors

Class 028. First Use: 19990100First Use In Commerce: 19990100
All goods and services in the class are opposed, namely: Toy boxes

Attachments	Kids.Opposition.pdf (4 pages)
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Signature	/William E. Holt/
Name	William E. Holt, Attorney
Date	11/14/2005

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

In the matter of trademark application Serial No. 76562531
For the mark Kid's Korner by Gift Mark
Published in the Official Gazette on May 17, 2005

And

In the matter of trademark application Serial No. 76564252
For the mark The Kid's Korner by Gift Mark
Published in the Official Gazette on November 1, 2005

Gift Shops International, Inc., and Don Fisher

v.

Giftware International, Inc.

NOTICE OF OPPOSITION

Gift Shoppes International, Inc.
P.O. Box 1206
Sumner, WA 98390

AND

Donald Lee Fisher
P.O. Box 1206
Sumner, WA 98390

The above-identified Opposers believe that they will be damaged by registration of the mark shown in the above-identified application, and hereby oppose the same.

The grounds for opposition are as follows:

1. The Opposers in this opposition are Gift Shoppes International, Inc. ("Opposer") and Donald Lee Fisher. Donald Lee Fisher owns all stock in Opposer Gift Shoppes International, Inc.
2. Opposer owns the trademarks "Kids' Korner Gift Shoppe" and "Kids' Korner."
3. Opposer's trademark "Kids' Korner Gift Shoppe" was registered August 25, 1992 under Registration No. 1710325 and has been used in commerce since at least 1989.
4. Opposer's trademark "Kids' Korner" was registered under Registration No. 2936206 on March 29, 2005. The "Kids Korner" mark was first used in commerce on March 1, 1993 and has been used continuously since that time.
5. Opposer's trademarks pertain to offering technical assistance in establishing and/or operating in-school gift shops for children. In doing that, Opposer sells products to schools that the schools, in turn, sell to others.
6. Although the products Opposer sells are not labeled "Kids' Korner," Opposer's customers know they are buying these products from Kids' Korner.
7. Applicant Giftware International, Inc. ("Applicant") seeks to register the trademark "Kid's Korner by Giftmark." Applicant filed its application on November 17, 2003. The mark was published in the Official Gazette on May 17, 2005, under Serial No. 76562531. It appears from the application that Applicant first used this mark in commerce in January 1999.
8. The application for "Kid's Korner by Giftmark" was made under two classifications. One is for children's furniture and decorative pieces, namely, picture frames and mirrors (in Class 20), and the other is for toy boxes (in Class 28).

9. Applicant also seeks to register the trademark "The Kid's Korner by Giftmark." Applicant filed its application for that mark on November 28, 2003. The mark was published in the Official Gazette on November 1, 2005, under Serial No. 76564252. It appears from the application that Applicant first used this mark in commerce in January 1999.

10. The application for "The Kid's Korner by Giftmark" was made under two classifications. One is for children's furniture and decorative pieces, namely, picture frames and mirrors (in Class 20), and the other is for toy boxes (in Class 28).

11. On information and belief, Applicant sells goods and products at the wholesale level, which is the same as Opposer's market. Further, one or more of the products sold by Applicant overlap with products sold by Opposer. Thus, Opposer's customers could see Applicant's marks on Applicant's products and become confused as to the affiliation, connection, or association with Opposer's marks.

12. More than two years before the date of this opposition, Opposer sent a letter to Applicant objecting to Applicant's use of the phrase "Kid's Korner." Applicant thus knew of the conflict between its marks and the mark of Opposer before filing its applications regarding "Kid's Korner by Giftmark" and "The Kid's Korner by Giftmark."

13. In its application regarding the mark "Kid's Korner by Giftmark" Eli Erlich, Applicant's President, represented on November 6, 2003, under penalty of perjury that:

to the best of his knowledge and belief, no other person, firm, corporation or association has the right to use [the mark "Kid's Korner by Giftmark"] in commerce, either in the identical form or in such near resemblance thereto as may be likely when applied to the goods of such other person, to cause confusion or to cause mistake, or to deceive.

14. In its application regarding the mark "The Kid's Korner by Giftmark" Eli Erlich, Applicant's President, likewise represented on November 6, 2003, under penalty of perjury that:

to the best of his knowledge and belief, no other person, firm, corporation or association has the right to use [the mark "The Kid's Korner by Giftmark"] in commerce, either in the identical form or in such near resemblance thereto as may be likely when applied to the goods of such other person, to cause confusion or to cause mistake, or to deceive.

15. Applicant's President thus represented on November 6, 2003, under penalty of perjury that no one else had the right to use a mark either identical to or significantly similar to Applicant's to cause confusion or mistake. Those statements, however, were false. Applicant filed its applications for both "Kid's Korner by Giftmark" and "The Kid's Korner by Giftmark" after receiving notice of Opposer's pre-existing mark and Opposer's objection to Applicant's use of the phrase "Kid's Korner."

16. Despite protest by Opposer, Applicant has continued to use the phrase "Kid's Korner."

17. Applicant's mark will cause confusion in the marketplace and will infringe upon Opposer's marks. Opposer's customers are likely to be confused about the relationship between Applicant and Opposer. Opposer's customers may buy Applicant's products rather than Opposer's or may believe that Opposer is competing with its customers. Either way, the confusion will damage Opposer's business and trademarks.

By 
Donald Lee Fisher

Date Nov 14, 2005

By 
Gift Shoppes International, Inc.
By Donald Lee Fisher
Its President

Date Nov 14, 2005