

ESTTA Tracking number: **ESTTA89546**

Filing date: **07/12/2006**

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

Name	Howard Stern
Granted to Date of previous extension	07/12/2006
Address	c/o Don Buchwald & Associates 10 E. 44th St. New York, NY 10017 UNITED STATES
Party who filed Extension of time to oppose	HowardStern
Relationship to party who filed Extension of time to oppose	A space has been inserted to separate the first and last names of the opposer.

Correspondence information	Michael A. Cornman Attorney Schweitzer Cornman Gross & Bondell LLP 292 Madison Avenue 19th Floor New York, NY 10017 UNITED STATES mac@scgb-law.com Phone:646-424-0770
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Applicant Information

Application No	78426170	Publication date	03/14/2006
Opposition Filing Date	07/12/2006	Opposition Period Ends	07/12/2006
Applicant	Topper, James 219 Lynhurst Avenue North Syracuse, NY 13212 UNITED STATES		

Goods/Services Affected by Opposition

Class 041. First Use: 2004/03/23 First Use In Commerce: 2004/03/23
All goods and services in the class are opposed, namely: educational services, namely, conducting classes and seminars in the field of free speech

Attachments	grounds of oppositioh.pdf (1 page)(46172 bytes)
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Signature	/mac/
Name	Michael A. Cornman

Date	07/12/2006
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GROUND OF OPPOSITION

As grounds of opposition, Howard Stern alleges that:

1. Opposer Howard Stern is an individual with his address c/o Don Buchwald & Associates, Inc., 10 East 44th Street, New York, NY 10017
2. Application Serial No. 78/426170 is a service mark application filed by Applicant on May 27, 2004 under Section 1(a) of the Trademark Act of 1946, as amended (15 U.S.C. 1051(b)), for registration of the mark THESTERNATION for "educational services, namely, conducting classes and seminars in the field of free speech" in International Class 041." The specimen shows Howard Stern's glasses and includes the slogan "Free Speech For Howard," clearly making the proposed mark a reference to HOWARD STERN.
3. Since long prior to the date on which Applicant filed the above application and, upon information and believe, since long prior to any use by Applicant of its mark in the United States, Howard Stern has used and continues to use the mark HOWARD STERN in interstate commerce in connection "entertainment services, namely, radio talk shows featuring performances by a radio personality," in Class 41 (U.S. Reg. No. 2,142,868), and in connection with "prerecorded video and audio tapes and discs featuring comedy performances," in Class 9 (U.S. Reg. No. 2,142,867)
4. Applicant's proposed mark so resembles the HOWARD STERN mark as to be likely, when used in connection with the Applicant's services, to cause confusion and to cause mistake and to deceive. Specifically, and without limitation, members of the public seeing Applicant's mark are likely to believe or assume that the same identifies goods that are provided by or otherwise associated with or sponsored by Howard Stern.
5. By reason of the foregoing, registration of Applicant's mark will result in irreparable injury to Howard Stern and to his rights in his mark.