

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

In the matter of Application Serial No. 78/751,105
Published for Opposition in the OFFICIAL GAZETTE on December 12, 2006

UMG RECORDINGS, INC.

Opposition No.: 91176791

Opposer

v.

MATTEL, INC.,

Applicant

**RESPONSE OF OPPOSER UMG RECORDINGS, INC., TO APPLICANT
MATTEL, INC.'S EVIDENTIARY OBJECTIONS TO AND REQUESTS TO
STRIKE PORTIONS OF TRIAL DECLARATIONS OF LORI FROELING,
MARIO ORTIZ AND MICHAEL REINERT**

Opposer UMG Recordings, Inc. (“Opposer” or “UMG”) hereby responds to Applicant, Mattel, Inc.’s (“Applicant” or “Mattel”) evidentiary objections to and request to strike portions of Trial Declarations of Lori Froeling, Mario Ortiz and Michael Reinert, dated May 30, 2008, as follows.

Applicant’s objection that “the Trial Declaration of Lori Froeling, the Trial Declaration of Mario Ortiz, and the Trial Declaration of Michael Reinert, each dated May 30, 2008 and originally filed by Opposer in the opposition proceeding before the Trademark Trial and Appeal Board entitled *UMG Recordings, Inc. v. O'Rourke*, No. 91178937, on the grounds that evidence submitted in a separate proceeding is irrelevant to this Opposition” is not well taken. First, the Froeling, Ortiz, and Reinert Declarations were submitted in the instant proceeding as well as an earlier Opposition concerning Opposer’s MOTOWN Marks. Second, they provide the Board with evidence relevant to the instant Opposition about, *inter alia*, the history and fame of Opposer’s MOTOWN Marks and rights therein, the success thereof, and advertising, promotion, and media coverage thereof.

Dated: March 15, 2010

Respectfully submitted,



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CERTIFICATE OF MAILING

Date of Deposit: March 15, 2010

“Express Mail” mailing label number: EB519288551US

I hereby certify that this paper or fee, **RESPONSE OF OPPOSER UMG RECORDINGS, INC., TO APPLICANT MATTEL, INC.'S EVIDENTIARY OBJECTIONS TO AND REQUESTS TO STRIKE PORTIONS OF TRIAL DECLARATIONS OF LORI FROELING, MARIO ORTIZ AND MICHAEL REINERT**, is being deposited with the United States Postal Service “Express Mail Post Office to Addressee” on the date indicated above and is addressed to: UNITED STATES PATENT AND TRADEMARK OFFICE, Trademark Trial and Appeal Board , P.O. Box 1451, Alexandria, Virginia 22313-1451.


Kimberly Stewart

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is Mitchell Silberberg & Knupp LLP, 11377 West Olympic Boulevard, Los Angeles, California 90064-1683 .

On March 15, 2010, I served a copy of the foregoing document(s) described as **RESPONSE OF OPPOSER UMG RECORDINGS, INC., TO APPLICANT MATTEL, INC.'S EVIDENTIARY OBJECTIONS TO AND REQUESTS TO STRIKE PORTIONS OF TRIAL DECLARATIONS OF LORI FROELING, MARIO ORTIZ AND MICHAEL REINERT** on the interested parties in this action at their last known address as set forth below by taking the action described below:

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- BY MAIL:** I placed the above-mentioned document(s) in sealed envelope(s) addressed as set forth above, and deposited each envelope in the mail at Los Angeles, California. Each envelope was mailed with postage thereon fully prepaid.
- BY OVERNIGHT MAIL:** I placed the above-mentioned document(s) in sealed envelope(s) designated by the carrier, with delivery fees provided for, and addressed as set forth above, and deposited the above-described document(s) with in the ordinary course of business, by depositing the document(s) in a facility regularly maintained by the carrier or delivering the document(s) to an authorized driver for the carrier.
- BY PERSONAL DELIVERY:** I placed the above-mentioned document(s) in sealed envelope(s), and caused personal delivery by FIRST LEGAL SUPPORT SERVICES of the document(s) listed above to the person(s) at the address(es) set forth above.
- BY PLACING FOR COLLECTION AND MAILING:** I placed the above-mentioned document(s) in sealed envelope(s) addressed as set forth above, and placed the envelope(s) for collection and mailing following ordinary business practices. I

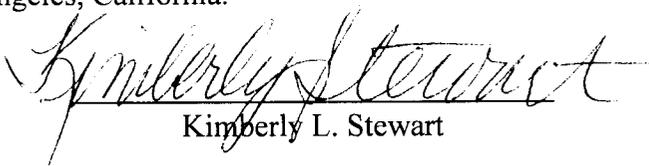
am readily familiar with the firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at 11377 West Olympic Boulevard, Los Angeles, California 90064-1683 in the ordinary course of business.

- BY ELECTRONIC MAIL:** I served the above-mentioned document electronically at __:__.m. on the parties listed at the email addresses above and, to the best of my knowledge, the transmission was complete and without error in that I did not receive an electronic notification to the contrary.
- BY FAX:** On _____, at _____ am/pm, from facsimile number (310) _____, before placing the above-described document(s) in sealed envelope(s) addressed as set forth above, I sent a copy of the above-described document(s) to each of the individuals set forth above at the facsimile numbers listed above. The transmission was reported as complete and without error. The transmission report was properly issued by the transmitting facsimile machine, and a copy of that report is attached hereto.

I declare that I am employed in the office of a member of the State Bar of California and various federal bars, at whose direction such service was made.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on March 15, 2010, at Los Angeles, California.


Kimberly L. Stewart