

ESTTA Tracking number: **ESTTA138529**

Filing date: **05/02/2007**

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	Inspiration Software, Inc.
Granted to Date of previous extension	05/05/2007
Address	9400 S.W. Beaverton Hillsdale Hwy., Suite 300 Beaverton, OR 97005-3300 UNITED STATES

Attorney information	David P. Cooper Kolisch Hartwell, P.C. 520 S.W. Yamhill Street, Suite 200 Portland, OR 97204 UNITED STATES mandi@khpatent.com, cooper@khpatent.com Phone:(503) 224-6655
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Applicant Information

Application No	78660615	Publication date	03/06/2007
Opposition Filing Date	05/02/2007	Opposition Period Ends	05/05/2007
Applicant	David Codikow and Dana Dufine Partnership, The c/o Vivian Madrid 9229 Sunset Boulevard Los Angeles, CA 90069 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 009. All goods and services in the class are opposed, namely: Pre-recorded video recordings and DVDs featuring music, children's activities and stories; video game cartridges and discs; video game software; computer products, namely, mouse pads and headphones; computer software in the field of children's entertainment for use in interactive children activities, music and stories; computer game cartridges and discs, computer game software, sound recordings featuring music and children's stories; sunglasses, eyeglasses and eyeglass frames, magnets</p>
<p>Class 038. All goods and services in the class are opposed, namely: Streaming of audio and visual recordings featuring music and musical based entertainment over a global computer network</p>
<p>Class 041. All goods and services in the class are opposed, namely: Entertainment services in the nature of live entertainment shows featuring guest performances of fictional characters; conducting entertainment exhibitions in the nature of live performances for children, live performances by musicians, live music concerts; on-going children's television programs, television educational series and television comedy series; live, televised and movie appearances by professional entertainers; providing prerecorded music, information in the field of music, and commentary and articles about music, all on-line via the</p>

Internet; conducting a national tour of children's concerts featuring multiple fictional characters, musical groups and bands; motion picture film, videotape and television show production; fan club services

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1768514	Application Date	09/08/1992
Registration Date	05/04/1993	Foreign Priority Date	NONE
Word Mark	INSPIRATION		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1988/02/04 First Use In Commerce: 1988/02/04 computer programs in the field of idea development through visual diagraming, outlining and text creation		

U.S. Registration No.	1864117	Application Date	09/04/1992
Registration Date	11/22/1994	Foreign Priority Date	NONE
Word Mark	INSPIRATION		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1991/08/00 First Use In Commerce: 1991/08/00 computer education training Class 042. First use: First Use: 1991/08/00 First Use In Commerce: 1991/08/00 [computer software design for others]		

U.S. Registration No.	2709693	Application Date	01/14/2000
Registration Date	04/22/2003	Foreign Priority Date	NONE
Word Mark	KIDSPIRATION		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2001/01/11 First Use In Commerce: 2001/01/11 educational software featuring instruction in visual learning, thinking and organization		

Attachments	75896931#TMSN.gif (1 page)(bytes) Statement of Basis for Opposition 5-2-07.pdf (2 pages)(62337 bytes)
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Signature	/david p. cooper/
Name	David P. Cooper
Date	05/02/2007

STATEMENT OF BASIS FOR OPPOSITION

Opposer, since at least as early as February 4, 1988, has been, and is now using the mark INSPIRATION for computer programs in the field of idea development and other goods. The use of opposer's mark has been valid and continuous since the date of first use, and has not been abandoned. Opposer's mark is symbolic of extensive good will and consumer recognition built up by opposer through substantial amounts of time and effort in advertising and promotion.

Opposer since at least as early as January 11, 2001, has been, and is now using the mark KIDSPIRATION for educational software featuring instruction in visual learning, thinking and organization and other goods. The use of opposer's mark has been valid and continuous since the date of first use, and has not been abandoned. Opposer's mark is symbolic of extensive good will and consumer recognition built up by opposer through substantial amounts of time and effort in advertising and promotion.

Notwithstanding opposer's rights in and to its INSPIRATION and KIDSPIRATION marks, applicant, on June 29, 2005 filed an application for registration of the mark KID-SPERIENCE for the following goods/services:

Class 9: pre-recorded video recordings and DVDs featuring music, children's activities and stories; video game cartridges and discs; video game software; computer products, namely, mouse pads and headphones, computer software in the field of children's entertainment for use in interactive children activities, music and stories; computer game cartridges and discs, computer game software, sound recordings featuring music and children's stories; sunglasses, eyeglasses and eyeglass frames;

Class 38: streaming of audio and visual recordings featuring music and musical based entertainment over a global computer network; and

Class 41: entertainment services in the nature of live entertainment shows featuring guest performances of fictional characters; conducting entertainment exhibitions in the nature of live performances for children, live performances by musicians, live music concerts; on-going children's television programs, television educational series and television comedy series, live, televised and movie appearances by professional entertainers; providing pre-recorded music, information in the field of music, and commentary and articles about music, all on-line via the internet; conducting a national tour of children's concerts featuring multiple fictional

characters, musical groups and bands; motion picture film, videotape and television show production; fan club services.

That application was given Serial No. 78/660,615 and published for opposition in the Official Gazette of March 6, 2007, page TM 107.

Applicant's mark KID-SPERIENCE, when used in connection with the goods/services set forth in its application, is confusingly similar to opposer's use of its INSPIRATION and KIDSPIRATION marks, and registration of applicant's mark and continued use by it with its goods/services is likely to cause confusion, mistake and deception. Applicant's goods/services are related to the goods/services set forth in opposer's above registrations. Applicant's use of its mark interferes with opposer's use of its INSPIRATION and KIDSPIRATION marks, and continued use or registration of applicant's mark will seriously damage opposer.