

ESTTA Tracking number: **ESTTA205557**

Filing date: **04/17/2008**

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	Hearst Communications, Inc.
Granted to Date of previous extension	04/20/2008
Address	300 West 57th Street New York, NY 10019 UNITED STATES

Attorney information	Lauren T. Estrin Kilpatrick Stockton 1100 Peachtree Street Suite 2800 Atlanta, GA 30309 UNITED STATES lestrin@kilpatrickstockton.com, tdavis@kilpatrickstockton.com, bfitzpatrick@hearst.com, mwanamaker@hearst.com, mbaratta@kilpatrickstockton.com, Phone:404-815-6500
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Applicant Information

Application No	78631512	Publication date	10/23/2007
Opposition Filing Date	04/17/2008	Opposition Period Ends	04/20/2008
Applicant	AT KidSystems Inc. 8737 Colesville Road Silver Spring, MD 20910 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. All goods and services in the class are opposed, namely: Interactive computer software for use in physical therapy, education, rehabilitation, entertainment, and child development

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.	630028	Application Date	08/10/1955
Registration Date	07/03/1956	Foreign Priority Date	NONE

Word Mark	COSMOPOLITAN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U038 (International Class 016). First use: First Use: 1886/03/00 First Use In Commerce: 1886/03/00 MAGAZINE OR PERIODICAL PUBLISHED MONTHLY OR AT OTHER INTERVALS		

U.S. Registration No.	3183924	Application Date	06/29/2006
Registration Date	12/12/2006	Foreign Priority Date	NONE
Word Mark	COSMOPOLITAN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1886/03/01 First Use In Commerce: 1886/03/01 GENERAL INTEREST MAGAZINE PUBLISHED MONTHLY OR AT OTHER INTERVALS		

U.S. Registration No.	1448513	Application Date	11/24/1986
Registration Date	07/21/1987	Foreign Priority Date	NONE
Word Mark	COSMOPOLITAN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 018. First use: First Use: 1986/10/28 First Use In Commerce: 1986/10/28 TOTE BAGS		

U.S. Registration No.	1685161	Application Date	07/03/1991
Registration Date	05/05/1992	Foreign Priority Date	NONE
Word Mark	COSMOPOLITAN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1988/10/15 First Use In Commerce: 1988/10/15 pre-recorded video tapes and video cassettes on the subjects of exercise and beauty		

U.S. Registration No.	1855579	Application Date	08/16/1993
Registration Date	09/27/1994	Foreign Priority Date	NONE
Word Mark	COSMOPOLITAN		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 1988/11/01 First Use In Commerce: 1988/11/01 eye glasses and eye glass frames

U.S. Application No.	77301657	Application Date	10/11/2007
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	CLUB COSMO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1999/01/01 First Use In Commerce: 1999/01/01 Compact discs featuring music		

U.S. Registration No.	1911389	Application Date	08/31/1994
Registration Date	08/15/1995	Foreign Priority Date	NONE
Word Mark	COSMOPOLITAN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1994/07/01 First Use In Commerce: 1994/07/01 books of general interest		

U.S. Registration No.	2969534	Application Date	04/29/2004
Registration Date	07/19/2005	Foreign Priority Date	NONE
Word Mark	COSMO QUIZ		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1997/05/00 First Use In Commerce: 1997/05/00 section of a magazine featuring topics such as relationships		

U.S. Registration No.	2196616	Application Date	03/28/1997
Registration Date	10/13/1998	Foreign Priority Date	NONE
Word Mark	COSMOPOLITAN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1997/10/01 First Use In Commerce: 1997/10/01 multi-media compact discs featuring entertainment and educational information on beauty makeovers		

U.S. Registration No.	2518660	Application Date	01/20/1999
Registration Date	12/11/2001	Foreign Priority Date	NONE
Word Mark	COSMOPOLITAN.COM		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1997/11/00 First Use In Commerce: 1997/11/00 COMPUTER SERVICES, NAMELY PROVIDING AN INTERACTIVE ON-LINE COMPUTER DATABASE FEATURING PORTIONS OF VARIOUS MAGAZINES AND ARTICLES AND ILLUSTRATIVE MATERIALS IN THE FIELDS OF PERSONAL RELATIONSHIPS, BEAUTY AND FASHION, HEALTH AND FITNESS, PERSONAL HYGIENE, STARS AND ENTERTAINMENT NEWS, AND LIFE AND WORK, RENDERED BY MEANS OF A GLOBAL COMPUTER NETWORK		

U.S. Registration No.	3373805	Application Date	11/03/2004
Registration Date	01/22/2008	Foreign Priority Date	NONE
Word Mark	COSMOPOLITAN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1999/01/01 First Use In Commerce: 1999/01/01 Pre-recorded compact discs and audio cassettes featuring music		

U.S. Registration No.	2527954	Application Date	01/20/1999
Registration Date	01/08/2002	Foreign Priority Date	NONE
Word Mark	COSMO GIRL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1999/06/29 First Use In Commerce: 1999/06/29 general interest magazine for girls and young women		

U.S. Registration No.	2407134	Application Date	01/20/1999
Registration Date	11/21/2000	Foreign Priority Date	NONE
Word Mark	COSMO GIRL!		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1999/06/29 First Use In Commerce: 1999/06/29 Providing an interactive on-line computer database featuring portions of various magazines and articles and illustrative materials in the fields of personal relationships, beauty and fashion, health and fitness, personal hygiene, stars		

	and entertainment news and life and work, rendered by means of a global computer network
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U.S. Registration No.	2976367	Application Date	07/27/1999
Registration Date	07/26/2005	Foreign Priority Date	NONE
Word Mark	COSMO GIRL!		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2003/10/31 First Use In Commerce: 2003/10/31 t-shirts		

U.S. Registration No.	3346425	Application Date	02/22/2007
Registration Date	11/27/2007	Foreign Priority Date	NONE
Word Mark	COSMO WEEKEND		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 2001/01/31 First Use In Commerce: 2001/01/31 MAGAZINE DEPARTMENTS IN THE FIELD OF ENTERTAINMENT, BEAUTY, HEALTH, HUMAN RELATIONSHIPS, PUBLISHED MONTHLY AND AT OTHER PERIODIC INTERVALS		

U.S. Registration No.	3342295	Application Date	02/23/2007
Registration Date	11/20/2007	Foreign Priority Date	NONE
Word Mark	COSMO GYNO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 2001/01/31 First Use In Commerce: 2001/01/31 Magazine departments in the field of HEALTH, AND FITNESS PUBLISHED MONTHLY AND AT OTHER PERIODIC INTERVALS		

U.S. Registration No.	3342296	Application Date	02/26/2007
Registration Date	11/20/2007	Foreign Priority Date	NONE
Word Mark	COSMO HAIR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 2001/02/28 First Use In Commerce: 2001/02/28 Magazine departments in the field of FASHION, BEAUTY, BEAUTY PRODUCT REVIEWS, AND CELEBRITY NEWS, PUBLISHED MONTHLY AND AT OTHER		

PERIODIC INTERVALS			
U.S. Registration No.	2813979	Application Date	06/15/2001
Registration Date	02/10/2004	Foreign Priority Date	NONE
Word Mark	COSMOGIRL!		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 2003/05/01 First Use In Commerce: 2003/05/01 Posters		
U.S. Registration No.	2963497	Application Date	06/15/2001
Registration Date	06/21/2005	Foreign Priority Date	NONE
Word Mark	COSMOGIRL!		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 024. First use: First Use: 2002/11/30 First Use In Commerce: 2002/11/30 Bed throws, beach towels		
U.S. Registration No.	3346423	Application Date	02/21/2007
Registration Date	11/27/2007	Foreign Priority Date	NONE
Word Mark	COSMO COMMANDMENTS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 2001/11/30 First Use In Commerce: 2001/11/30 MAGAZINE DEPARTMENTS IN THE FIELD OF ADVICE FOR RELATIONSHIPS, HEALTH, FITNESS, BEAUTY, AND FINANCE, PUBLISHED MONTHLY AND AT OTHER PERIODIC INTERVALS		
U.S. Registration No.	3011715	Application Date	12/26/2001
Registration Date	11/01/2005	Foreign Priority Date	NONE
Word Mark	COSMOGIRL!		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 020. First use: First Use: 2005/04/01 First Use In Commerce: 2005/04/01 mirrors		
U.S. Registration No.	2823992	Application Date	03/19/2002

Registration Date	03/16/2004	Foreign Priority Date	NONE
Word Mark	COSMOGIRL!		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 2003/07/00 First Use In Commerce: 2003/07/00 Pencil pouches, assignment books, portfolios, binders, note books, photo albums, and kits consisting essentially of journals, tissues, sleep mask, and candle		

U.S. Application No.	77137373	Application Date	03/22/2007
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	COSMO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2002/03/29 First Use In Commerce: 2002/03/29 PUBLICATION OF ELECTRONIC MAGAZINE PORTIONS AND PUBLICATION OF ELECTRONIC MAGAZINE ARTICLES AND ILLUSTRATIVE MATERIALS IN THE FIELDS OF PERSONAL RELATIONSHIPS, BEAUTY AND FASHION, HEALTH AND FITNESS, AND PERSONAL HYGENE		

U.S. Registration No.	3064090	Application Date	04/14/2003
Registration Date	02/28/2006	Foreign Priority Date	NONE
Word Mark	COSMOGIRL! COOL ROOM		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 011. First use: First Use: 2005/07/01 First Use In Commerce: 2005/07/01 lamps Class 021. First use: First Use: 2005/07/25 First Use In Commerce: 2005/07/25 soap dishes, tooth brush holders, tooth paste holders, tissue box covers, toilet tissue holders, shower caddies, towel rings Class 024. First use: First Use: 2003/11/30 First Use In Commerce: 2003/11/30 bed linens, namely sheets, pillow cases, pillow shams, comforters, quilts, dust ruffles, blankets, duvets, duvet covers, bed throws, bedspreads; bath accessories, namely towels, wash cloths, shower curtains; afghans Class 027. First use: First Use: 2005/04/30 First Use In Commerce: 2005/04/30 bath mats and rugs		

U.S. Registration No.	3265446	Application Date	05/29/2003
Registration Date	07/17/2007	Foreign Priority Date	NONE
Word Mark	COSMOPOLITAN.COM		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2007/02/14 First Use In Commerce: 2007/02/14 On-line retail store services featuring general merchandise in the fields of beauty and fashion, health and fitness, personal hygiene, stars and entertainment news, and life and work, rendered by means of a global computer network

U.S. Registration No.	2927504	Application Date	01/23/2004
Registration Date	02/22/2005	Foreign Priority Date	NONE
Word Mark	COSMOPOLITAN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 004. First use: First Use: 2003/11/00 First Use In Commerce: 2003/11/00 candles		

U.S. Registration No.	3335656	Application Date	01/23/2004
Registration Date	11/13/2007	Foreign Priority Date	NONE
Word Mark	COSMOPOLITAN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 021. First use: First Use: 2007/06/01 First Use In Commerce: 2007/06/01 cosmetic brushes		

U.S. Registration No.	3197099	Application Date	02/06/2004
Registration Date	01/09/2007	Foreign Priority Date	NONE
Word Mark	COSMOPOLITAN STYLE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 2004/08/31 First Use In Commerce: 2004/08/31 General interest magazines		

U.S. Application No.	78447546	Application Date	07/08/2004
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	THE COSMOPOLITAN CHANNEL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 038. First use:		

	Television broadcasting services and television broadcasting services by satellite distribution and television broadcasting services by cable Class 041. First use: Entertainment services, namely the production and distribution of television programming consisting of programs or segments on cooking, the concerns and interests of women, the concerns and interests of men, human relationships, financial advice, history, health, exercise, fashion, motion picture reviews, astrology and/or motion pictures
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U.S. Registration No.	3276308	Application Date	08/12/2004
Registration Date	08/07/2007	Foreign Priority Date	NONE
Word Mark	COSMOPOLITAN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 018. First use: First Use: 2007/02/15 First Use In Commerce: 2007/02/15 Tote bags, handbags and wallets		

U.S. Application No.	78466213	Application Date	08/12/2004
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	COSMOGIRL!		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: Candy		

U.S. Registration No.	3335961	Application Date	09/22/2004
Registration Date	11/13/2007	Foreign Priority Date	NONE
Word Mark	COSMOPOLITAN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 014. First use: First Use: 2007/06/01 First Use In Commerce: 2007/06/01 Watches		

U.S. Application No.	78498339	Application Date	10/12/2004
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	COSMOPOLITAN		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 016. First use: Gift cards, note cards, stationery, gift wrapping paper and monthly calendars		
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U.S. Application No.	78510383	Application Date	11/03/2004
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	COSMOGIRL!		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: Greeting Cards Class 028. First use: Board Games		

U.S. Registration No.	3335980	Application Date	11/04/2004
Registration Date	11/13/2007	Foreign Priority Date	NONE
Word Mark	COSMOPOLITAN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 024. First use: First Use: 2007/06/01 First Use In Commerce: 2007/06/01 BATH LINENS, NAMELY, TOWELS, WASH CLOTHS		

U.S. Application No.	78520903	Application Date	11/22/2004
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	COSMOGIRL!		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 018. First use: STORAGE TRUNKS Class 020. First use: CHAIRS, SEATING, TABLES, MIRRORS, READY-TO-ASSEMBLE DESKS, TELEVISION STANDS, SHELVING, AND STORAGE TOWERS		

U.S. Registration No.	3134271	Application Date	02/09/2005
Registration Date	08/22/2006	Foreign Priority Date	NONE
Word Mark	COSMOGIRL!		
Design Mark			
Description of Mark	NONE		

Goods/Services	<p>Class 011. First use: First Use: 2005/06/30 First Use In Commerce: 2005/06/30 Lighting Fixtures, night lights</p> <p>Class 016. First use: First Use: 2005/06/30 First Use In Commerce: 2005/06/30 PICTURES, BULLETIN BOARDS, DESK TOP ORGANIZERS, BOOKMARKS, DESK TOP BOXES AND DESK TOP TINS FOR HOLDING STATIONERY AND WRITING SUPPLIES AND COVERS THEREOF</p> <p>Class 020. First use: First Use: 2005/06/30 First Use In Commerce: 2005/06/30 Picture frames, decorative pillows, and non-metal key chains</p> <p>Class 021. First use: First Use: 2005/06/30 First Use In Commerce: 2005/06/30 Garbage pails, and all purpose household decorative tin and storage boxes</p> <p>Class 027. First use: First Use: 2005/06/30 First Use In Commerce: 2005/06/30 Rugs</p>
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U.S. Application No.	78563628	Application Date	02/09/2005
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	COSMOPOLITAN		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 020. First use: Decorative pillows, chair pads, table rounds, namely, round table tops that would be put on bases</p> <p>Class 024. First use: Bedding, namely bed sheets, pillow cases, comforters, bedspreads, coverlets, comforters, bed pads, quilts, duvet covers, duvets, pillow shams ruffled bed skirts; window treatments, namely, draperies and curtains</p>		

U.S. Application No.	78568524	Application Date	02/16/2005
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	COSMOPOLITAN		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 021. First use: HAIR BRUSHES</p>		

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	<p>COSMO FAQs, COSMO KAMA SUTRA, COSMO FASHION, CONNECT WITH COSMO, BE IN COSMO, FREE STUFF FROM COSMO, COSMO EXCLUSIVES, COSMO FOR YOUR GUY, GET COSMO HEADLINES, MAKE COSMO YOUR HOMEPAGE, TELL COSMO ABOUT YOUR HAIR!, HELP COSMO CHOOSE ITS COVERLINES, MAKE A GREAT RECIPE FROM COSMO RADION, THE COSMO BEAUTY AWARDS, SPORTING A STYLE YOU FOUND IN COSMO, ADD COSMO TO YOUR MYSPACE, GET</p>		

	COSMO UPDATES, COSMO MOBILE, COSMO RADIO, COSMO PROMO HOT SPOT, COSMO MEDIA KIT, COSMO POST, COSMO COMMANDMENTS, COSMO WEEKEND, EVERYTHING COSMO
Goods/Services	TITLE AND SECTION HEADLINES USED IN CONNECTION WITH PUBLICATIONS

Attachments	78920044#TMSN.jpeg (1 page)(bytes) 77301657#TMSN.jpeg (1 page)(bytes) 76589302#TMSN.gif (1 page)(bytes) 78510386#TMSN.jpeg (1 page)(bytes) 75623902#TMSN.gif (1 page)(bytes) 75761609#TMSN.jpeg (1 page)(bytes) 77113826#TMSN.jpeg (1 page)(bytes) 77114876#TMSN.jpeg (1 page)(bytes) 77116031#TMSN.jpeg (1 page)(bytes) 76975996#TMSN.gif (1 page)(bytes) 76271863#TMSN.gif (1 page)(bytes) 77112303#TMSN.jpeg (1 page)(bytes) 76353658#TMSN.gif (1 page)(bytes) 76976135#TMSN.gif (1 page)(bytes) 77137373#TMSN.jpeg (1 page)(bytes) 76510699#TMSN.gif (1 page)(bytes) 76521257#TMSN.gif (1 page)(bytes) 76572409#TMSN.gif (1 page)(bytes) 76572404#TMSN.gif (1 page)(bytes) 76574422#TMSN.gif (1 page)(bytes) 78447546#TMSN.jpeg (1 page)(bytes) 78466196#TMSN.jpeg (1 page)(bytes) 78466213#TMSN.jpeg (1 page)(bytes) 78487899#TMSN.jpeg (1 page)(bytes) 78498339#TMSN.jpeg (1 page)(bytes) 78510383#TMSN.jpeg (1 page)(bytes) 78511057#TMSN.jpeg (1 page)(bytes) 78520903#TMSN.jpeg (1 page)(bytes) 78563615#TMSN.jpeg (1 page)(bytes) 78563628#TMSN.jpeg (1 page)(bytes) 78568524#TMSN.jpeg (1 page)(bytes) Notice of Opposition (AT Kidsystems, Inc.).pdf (11 pages)(55898 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Lauren T. Estrin/
Name	Lauren T. Estrin
Date	04/17/2008

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

HEARST COMMUNICATIONS, INC.,)	
)	In re Serial No. 78/631,512
Opposer,)	
)	Mark: COSMO'S PLAY AND LEARN
v.)	
)	Opposition No. _____
AT KIDSYSTEMS, INC.,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Opposer Hearst Communications, Inc. will be damaged by the registration of the COSMO'S PLAY AND LEARN mark underlying Application Serial No. 78/631,512, and states the following for its Notice of Opposition to that application:

1. Opposer Hearst Communications, Inc. ("HCI") is a Delaware corporation with a principal place of business at 300 West 57th Street, New York, New York 10019. HCI is a subsidiary of The Hearst Corporation, one of the world's largest communications companies. Among its other activities, HCI is a publisher of magazines and other printed materials and a provider of online content.

2. Beginning in 1886, more than a century prior to the May 17, 2005 filing date of Applicant's intent-to-use application, HCI's predecessors-in-interest began using the COSMOPOLITAN mark in connection with a magazine. Each issue of *Cosmopolitan* magazine contains candid discussions of a variety of "lifestyle" issues, including discussions

of entertainment, fashion, beauty, cosmetics, and other related topics. *Cosmopolitan* magazine currently is produced by HCI.

3. For the last 100 years, HCI and its predecessors have invested a substantial amount of time, effort, and money in promoting the internationally famous and well-known *Cosmopolitan* magazine. It is published in over 30 languages and sold in more than 100 countries, making it the largest monthly magazine franchise in the world. HCI's COSMOPOLITAN mark is the subject of Registration No. 630,028, issued on July 3, 1956, for a "magazine or periodical published monthly or at other intervals" in International Class 16. This registration is incontestable.

4. References to HCI's registered COSMOPOLITAN mark often are abbreviated by HCI and by the public to COSMO. In 1999, HCI began use of the COSMO GIRL mark in connection with a magazine for teens and younger women that also features articles on "lifestyle" subjects, including fashion, beauty, and cosmetics. Like its sister magazine, *Cosmopolitan*, *Cosmo Girl* magazine has become famous and well-known. In 2000, it was named "Startup of the Year" by *Adweek* magazine and was named to *Advertising Age's* "A List," which designated it among the top three magazines of 2003. HCI's COSMO GIRL mark is the subject of Registration No. 2,527,954, issued January 8, 2002, for a "general interest magazine for girls and young women."

5. As part of its licensing program for the COSMOPOLITAN, COSMO, and COSMO GIRL marks, HCI has licensed use of the COSMOPOLITAN mark in connection with software that permits users to perform "virtual makeovers." COSMOPOLITAN virtual

makeover software was introduced in 1997 and has sold over one million copies since that time. The COSMOPOLITAN mark has both inherent and acquired distinctiveness as an indicator of origin for that software.

6. Including the claims described above, HCI is the owner of the following registrations and applications:

Mark	Goods & Services	Date of First Use/ Priority Date
COSMOPOLITAN Reg. No. 630,028	Magazine or periodical published monthly or at other intervals, in Class 16	Mar. 1886
COSMOPOLITAN Reg. No. 3,183,924	General interest magazine published monthly or at other intervals, in Class 16	Mar. 1886
COSMOPOLITAN Reg. No. 1,448,513	Tote bags, in Class 18	Oct. 28, 1986
COSMOPOLITAN Reg. No. 1,685,161	Pre-recorded video tapes and video cassettes on the subjects of exercise and beauty, in Class 9	Oct. 15, 1988
COSMOPOLITAN Reg. No. 1,855,579	Eye glasses and eye glass frames, in Class 9	Nov. 1, 1988
CLUB COSMO Serial No. 77/301,657	Compact discs featuring music in Class 9	Jan. 1, 1999
COSMOPOLITAN Reg. No. 1,911,389	Books of general interest, in Class 16	July 1, 1994
COSMO QUIZ Reg. No. 2,969,534	Section of a magazine featuring topics such as relationships, in Class 16	May 1997
COSMOPOLITAN Reg. No. 2,196,616	Multi-media compact discs featuring entertainment and educational information on beauty makeovers, in Class 9	Oct. 1, 1997
COSMOPOLITAN.COM Reg. No. 2,518,660	Computer services, namely providing an interactive on-line computer database featuring portions of various magazines and articles and illustrative materials in the fields of personal relationships, beauty and fashion, health and fitness, personal hygiene, stars and entertainment news, and life and work, rendered by means of a global computer network, in Class 42	Nov. 1997
COSMOPOLITAN Reg. No. 3,373,805	Pre-recorded compact discs and audio cassettes featuring music, in Class 9	Jan. 1, 1999
COSMO GIRL Reg. No. 2,527,954	General interest magazine for girls and young women, in Class 16	Jan. 20, 1999

Mark	Goods & Services	Date of First Use/ Priority Date
COSMO GIRL! Reg. No. 2,407,134	Providing an interactive on-line computer database featuring portions of various magazines and articles and illustrative materials in the fields of personal relationships, beauty and fashion, health and fitness, personal hygiene, stars and entertainment news, and life and work, rendered by means of a global computer network, in Class 42	Jan. 20, 1999
COSMOGIRL! Reg. No. 2,976,367	T-shirts, in Class 25	July 27, 1999
COSMO WEEKEND* Reg. No. 3,346,425	Magazine departments in the field of entertainment, beauty, health, human relationships, published monthly and at other periodic intervals, in Class 16	Jan. 31, 2001
COSMO GYNO* Reg. No. 3,342,295	Magazine departments in the field of health, and fitness published monthly and at other periodic intervals, in Class 16	Jan. 31, 2001
COSMO HAIR* Reg. No. 3,342,296	Magazine departments in the field of fashion, beauty, beauty product reviews, and celebrity news, published monthly and at other periodic intervals, in Class 16	Feb. 28, 2001
COSMOGIRL! Reg. No. 2,813,979	Posters, in Class 16	June 15, 2001
COSMOGIRL! Reg. No. 2,963,497	Bed throws, beach towels, in Class 24	June 15, 2001
COSMO COMMANDMENTS* Reg. No. 3,346,423	Magazine departments in the field of advice for relationships, health, fitness, beauty, and finance, published monthly and at other periodic intervals, in Class 16	Nov. 30, 2001
COSMOGIRL! Reg. No. 3,011,715	Mirrors, in Class 20	Dec. 26, 2001
COSMOGIRL! Reg. No. 2,823,992	Pencil pouches, assignment books, portfolios, binders, note books, photo albums, and kits consisting essentially of journals, tissues, sleep mask, and candle, in Class 16	Mar. 19, 2002
COSMO Serial No. 77/137,373	Publication of electronic magazine portions and publication of electronic magazine articles and illustrative materials in the fields of personal relationships, beauty and fashion, health and fitness, and personal hygiene, in Class 41	March 29, 2002

* Denotes mark registered on the Supplemental Register.

Mark	Goods & Services	Date of First Use/ Priority Date
COSMOGIRL! COOL ROOM Reg. No. 3,064,090	Lamps, in Class 11; soap dishes, tooth brush holders, tooth paste holders, tissue box covers, toilet tissue holders, shower caddies, towel rings, in Class 21; bed linens, namely sheets, pillow cases, pillow shams, comforters, quilts, dust ruffles, blankets, duvets, duvet covers, bed throws, bedspreads; bath accessories, namely towels, wash cloths, shower curtains; afghans, in Class 24; bath mats and rugs, in Class 27	Apr. 14, 2003
COSMOPOLITAN.COM Reg. No. 3,265,446	On-line retail store services featuring general merchandise in the fields of beauty and fashion, health and fitness, personal hygiene, stars and entertainment news, and life and work, rendered by means of a global computer network, in Class 35	May 29, 2003
COSMOPOLITAN Reg. No. 2,927,504	Candles, in Class 4	Nov. 2003
COSMOPOLITAN Reg. No. 3,335,656	Cosmetic brushes, in Class 21	Jan. 23, 2004
COSMOPOLITAN STYLE Reg. No. 3,197,099	General interest magazines, in Class 16	Feb. 6, 2004
THE COSMOPOLITAN CHANNEL Serial No. 78/447,546	Television broadcasting services and television broadcasting services by satellite distribution and television broadcasting services by cable, in Class 38; entertainment services, namely the production and distribution of television programming consisting of programs or segments on cooking, the concerns and interests of women, the concerns and interests of men, human relationships, financial advice, history, health, exercise, fashion, motion picture reviews, astrology and/or motion pictures, in Class 41	July 8, 2004
COSMOPOLITAN Reg. No. 3,276,308	Tote bags, handbags and wallets, in Class 18	Aug. 12, 2004
COSMOGIRL! Serial No. 78/466,213	Candy, in Class 30	Aug. 12, 2004
COSMOPOLITAN Reg. No. 3,335,961	Watches, in Class 14	Sep. 22, 2004
COSMOPOLITAN Serial No. 78/498,339	Gift cards, note cards, stationery, gift wrapping paper and monthly calendars, in Class 16	Oct. 12, 2004
COSMOGIRL! Serial No. 78/510,383	Greeting cards, in Class 16; board games, in Class 28	Nov. 3, 2004

Mark	Goods & Services	Date of First Use/ Priority Date
COSMOPOLITAN Reg. No. 3,335,980	Bath linens, namely, towels, wash cloths; table linens, namely, table cloths, in Class 24; fabric bath mats, in Class 27	Nov. 4, 2004
COSMOGIRL! Serial No. 78/520,903	Storage trunks, in Class 18; chairs, seating, tables, mirrors, ready-to-assemble desks, television stands, shelving, and storage towers, in Class 20	Nov. 22, 2004
COSMOGIRL! Reg. No. 3,134,271	Lighting fixtures, night lights, in Class 11; pictures, bulletin boards, desk top organizers, bookmarks, desk top boxes and desk top tins for holding stationery and writing supplies and covers thereof, in Class 16; picture frames, decorative pillows, and non-metal key chains, in Class 20; garbage pails, and all purpose household decorative tin and storage boxes, in Class 21; rugs, in Class 27	Feb. 9, 2005
COSMOPOLITAN Serial No. 78/563,628	Decorative pillows, chair pads, table rounds, namely, round table tops that would be put on bases, in Class 20; bedding, namely bed sheets, pillow cases, comforters, bedspreads, coverlets, comforters, bed pads, quilts, duvet covers, duvets, pillow shams ruffled bed skirts; window treatments, namely, draperies and curtains, in Class 24	Feb. 9, 2005
COSMOPOLITAN Serial No. 78/568,524	Hair brushes, in Class 25	Feb. 16, 2005

7. Since prior to the filing date of Applicant's application, HCI also has used such titles and section headlines as COSMO FAQs, COSMO KAMA SUTRA, COSMO FASHION, CONNECT WITH COSMO, BE IN COSMO, FREE STUFF FROM COSMO, COSMO EXCLUSIVES, COSMO FOR YOUR GUY, GET COSMO HEADLINES, MAKE COSMO YOUR HOMEPAGE, TELL COSMO ABOUT YOUR HAIR!, HELP COSMO CHOOSE ITS COVERLINES, MAKE A GREAT RECIPE FROM COSMO RADIO, THE COSMO BEAUTY AWARDS, SPORTING A STYLE YOU FOUND IN COSMO?, ADD COSMO TO YOUR MYSPACE, GET COSMO UPDATES, COSMO MOBILE, COSMO

RADIO, COSMO PROMO HOT SPOT, COSMO MEDIA KIT, COSMO POST, COSMO COMMANDMENTS, COSMO WEEKEND, and EVERYTHING COSMO in connection with its publications.

8. Taken together, Opposer's marks based on the elements COSMO and COSMOPOLITAN constitute a family of marks. Beginning over a hundred years ago, Opposer and its predecessors have expended considerable sums of money into developing consumer brand recognition for its family of COSMO and COSMOPOLITAN marks.

9. As a result of widespread advertising and promotion by Opposer and its predecessors, the marks making up Opposer's family of COSMO and COSMOPOLITAN marks acquired a high degree of recognition, fame, and distinctiveness as symbols of the high quality products and services offered by Opposer prior to the filing date of Applicant's applications. The public and trade are familiar with and identify Opposer's marks with Opposer and, by reason of this identification, goods and services associated with the marks are understood by the public and trade to be produced, marketed, and supplied under Opposer's authority, or otherwise derived from Opposer.

10. The marks making up Opposer's family of COSMO and COSMOPOLITAN marks are important factors employed by the public in identifying the source of Opposer's products and services and are distinctive of those products and services. As a result of their fame and notoriety, Opposer's marks are entitled to a broad scope of protection.

11. On May 17, 2005, Applicant filed intent-to-use application Serial No. 78/631,512 to register the COSMO'S PLAY AND LEARN mark on the Principal Register

for “interactive computer software for use in physical therapy, education, rehabilitation, entertainment, and child development,” in International Class 9.

12. The word COSMO in the mark that Applicant seeks to register is identical in appearance, sound, meaning, and commercial impression to the salient element of Opposer’s COSMO marks, and will be used for goods related to the goods and services for which Opposer uses its family of COSMOPOLITAN and COSMO marks.

13. When taken as a whole, Applicant’s mark is substantially similar in sound, meaning, and commercial impression to the salient element of Opposer’s COSMO and COSMOPOLITAN marks, and will be used for goods that are related to the goods and services for which Opposer uses its family of COSMO and COSMOPOLITAN marks.

14. Based on the similarities of the marks and the goods, the relevant public is likely to be confused into believing that Applicant’s goods, as offered under the COSMO’S PLAY AND LEARN mark, emanate from Opposer, or are authorized, licensed, endorsed, or sponsored by Opposer. Registration of Applicant’s mark on the Principal Register thus would be inconsistent with Opposer’s prior rights in its family of well-known COSMO and COSMOPOLITAN marks.

15. Based on the fact that Opposer has routinely featured articles in its print magazines and on its websites that are related to the goods underlying Applicant’s application, the relevant public is likely to be confused into believing that Applicant’s goods services, as offered under the COSMO’S PLAY AND LEARN mark, emanate from Opposer, or are authorized, licensed, endorsed, or sponsored by Opposer.

16. Opposer will be damaged by the registration of Applicant's COSMO'S PLAY AND LEARN mark because it so resembles Opposer's previously used and well-known marks as to be likely, when used on or in connection with the goods identified in the subject application, to cause confusion, or to cause mistake, or to deceive in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052.

17. Opposer will be damaged by the registration of Applicant's COSMO'S PLAY AND LEARN mark because the mark is likely to dilute the distinctiveness of the famous marks making up Opposer's family of COSMO and COSMOPOLITAN marks by eroding consumers' exclusive identification of these marks with Opposer, and/or by tarnishing and degrading the positive associations and prestigious connotations of these famous marks, and/or by otherwise lessening the capacity of the marks to identify and distinguish Opposer's goods and services in violation of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

18. Opposer therefore requests that registration of the mark underlying Application Serial No. 78/631,512 be refused, and this Notice of Opposition be sustained in Opposer's favor.

This 17th day of April, 2008.

Respectfully submitted,

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Attorneys for Opposer

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

HEARST COMMUNICATIONS, INC.,)	
)	In re Serial No. 78/631,512
Opposer,)	
)	Mark: COSMO'S PLAY AND LEARN
v.)	
)	Opposition No. _____
AT KIDSYSTEMS, INC.,)	
)	
Applicant.)	

CERTIFICATE OF SERVICE

This is to certify that the attached Notice of Opposition has been served upon Applicant's counsel by depositing a copy in the United States mail as first class mail, postage pre-paid, addressed as follows:

Mark M. Brandsdorfer
802 Still Creek Lane
Gaithersburg, MD 20878

This 17th day of April, 2008.

/Lauren T. Estrin/
Lauren T. Estrin