

ESTTA Tracking number: **ESTTA265801**

Filing date: **02/10/2009**

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

Proceeding	91187033
Party	Plaintiff David C McGowan
Correspondence Address	David C McGowan Sketchpad.com 2415Garth Run Road Madison, VA 22727-3314 UNITED STATES dcmcgowan@sketchpad.com
Submission	Motion to Amend Pleading/Amended Pleading
Filer's Name	David C McGowan
Filer's e-mail	DCMcGowan@Sketchpad.com
Signature	/David C McGowan/
Date	02/10/2009
Attachments	Amended Notice of Opposition.pdf (5 pages)(356820 bytes)

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

DAVID C. MCGOWAN

Opposition No. 91187033

Opposer,

AMENDED¹

V.

KEY CURRICULUM PRESS, INC.,

Applicant.

NOTICE OF OPPOSITION

David C. McGowan, (the “Opposer”), owner of Sketchpad LLC, believes he will be damaged by registration of the mark SKETCHPAD, Application Serial No. 77279192, by Key Curriculum Press, Inc. (the “Applicant”), and hereby opposes the issuance of such registration.

As grounds for opposition, Opposer respectively alleges:

1. Opposer’s business, named “Sketchpad” (aka “Sketchpad Productions”), is a Commonwealth of Virginia limited liability company located at 2415 Garth Run Road, Madison, Virginia 22727-3314
 2. Opposer is the owner of the Internet Domain Name (URL) and commercial website SKETCHPAD.Com.
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¹ Board granted this amended notice of opposition by USPTO letter dated January 16, 2009

3. Opposer has used and is now using both the mark SKETCHPAD and SKETCHPAD.Com in interstate commerce since as early as August 15th 1997.

4. Opposer incorporates the use of the mark SKETCHPAD and SKETCHPAD.Com in his business and product logo², marketing materials, goods and services. Specifically, Class 016 Prints and publications, namely: Graphic art reproductions, Graphic prints and representations, and Class 035 Advertising and business, namely: Providing an Internet website portal featuring links to graphics-related merchandise for retail purposes.

5. On information and belief, the term "SKETCHPAD" has been in use on the Internet for at least the past fifteen (15) years and is not inherently distinctive.

6. The Applicant has applied for registration of the trademark SKETCHPAD in connection with Class 009 Computer software, and Class 016 Prints and publications.

7. Opposer's mark and Applicant's mark are for commercially related Class 016 goods and services.

8. Opposer's mark and Applicant's mark are confusingly similar.

9. On information and belief, the mark SKETCHPAD by itself is a generic word not entitled to registration.

10. The registration of Applicant's mark for the goods and services identified would be inconsistent with Opposer's rights in its marks and will cause damage to Opposer.

² See Exhibit A

11. Wherefore, Opposer respectfully prays that the registration of the Applicant's mark not be permitted.

Respectfully submitted,

Dated: February 10, 2009

By: /David C. McGowan/

David C. McGowan
Opposer
Sketchpad LLC
2415 Garth Run Road
Madison, VA 22717-3314
Telephone: (540) 948-6168
dcmcgowan@sketchpad.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that one copy of the foregoing AMENDED NOTICE OF OPPOSITION was served on the Applicant Key Curriculum Press, Inc. by depositing the same in the United States mail, First Class Mail, postage prepaid, addressed to Applicant's counsel of record as follows:

EUGENE M. PAK
DLA PIPER US LLP
143 TOWNSEND ST STE 800
SAN FRANCISCO, CA 94107-1957

This 10th day of February 2009

/David C. McGowan/
David C. McGowan

EXHIBIT A

Sketchpad: A virtual artist community for the creative artist in all of us! Browse Sketchpad to learn more about our goods and services!



virtual artist Community :-D ;-) }> Coming Soon!

Browse Sketchpad

Search...

All Sketchpad

BETA 1.0

Sketchpad Categories

Cartoons/Comics

Caricatures

Illustrations

Digital art

Sketches

Doodles

Drawings

Abstract

Bizarre

Simply Malicious

SKETCHPAD

View: Popular Sketchpads



Go Web Young Man! By DC McGowan



Barb Wire Caricatures & Cartoons

Sketch > Forum > Chat > Shop > VOD > Play > News

JOIN SKETCHPAD!

Be one of the first artists to join our Sketchpad Artist Community & Forum! Sketchpad membership is FREE to create a Sketchpad webpage that promotes your artwork and creative talents to the world!

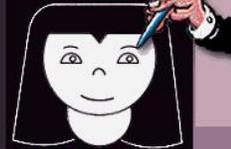
> Learn more <

Choose a Sketchpad username!

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Join Sketchpad!

CLICK "Nefertite"



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