

ESTTA Tracking number: **ESTTA246175**

Filing date: **10/31/2008**

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	Queen Productions Limited
Granted to Date of previous extension	11/02/2008
Address	The MillCookham Berkshire, SL6 9QT UNITED KINGDOM

Attorney information	Carrie A. Shufflebarger Greenebaum Doll & McDonald PLLC 255 East Fifth Street2900 Chemed Center Cincinnati, OH 45202-4728 UNITED STATES cas1@gdm.com, lke@gdm.com, plg@gdm.com Phone:513.455.7604
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**Applicant Information**

Application No	77343694	Publication date	05/06/2008
Opposition Filing Date	10/31/2008	Opposition Period Ends	11/02/2008
Applicant	Cunningham, LaToya R. 5020 Berkshire Drive Hopewell, VA 23860 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 041. All goods and services in the class are opposed, namely: Entertainment services, namely, an online activity where you create your own music videos; Magazine publishing; Multimedia publishing of books, magazines, journals, software, games, music, and electronic publications; On-line library services, namely, providing electronic library services which feature newspapers, magazines, photographs and pictures via an on-line computer network; Online electronic publishing of books and periodicals; Online entertainment ticket agency services; Providing a website featuring online courses of instruction in driving high performance automobiles; Providing online non-downloadable electronic dictionaries; Providing online religious instruction promoting Christian and family values; Publication of books, magazines, almanacs and journals; Publication of books, of magazines, of journals, of newspapers, of periodicals, of catalogs, of brochures; Publication of electronic magazines; Publication of magazines; Publication of texts, books, magazines and other printed matter; Publishing of books, magazines; Publishing of web magazines; Rental of magazines
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**Grounds for Opposition**

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

## Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2271397	Application Date	06/24/1997
Registration Date	08/24/1999	Foreign Priority Date	NONE
Word Mark	QUEEN		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: video and sound recordings and [ motion picture films featuring music and concert performances; exposed camera film ]; pre-recorded compact discs featuring music; [ blank audio and video tapes; ] cassettes and compact discs; [ computer software featuring music and entertainment in the nature of animation and videos featuring musical and concert performances and stories, and featuring educational creative writing programs, screen saver programs, poster art programs, and graphics programs, all for entertainment and amusement; video game cartridges; video game discs; electronic computer game cartridges and electronic computer game discs; video and computer output game machines for use with televisions; coin-operated game machines for use with televisions ]</p> <p>Class 016. First use: tour programs featuring a musical group; goods made from paper or cardboard, namely, decalcomanias, posters, [ greeting cards ] and sheet music, all featuring or pertaining to a musical group; stationery, pens, both featuring or pertaining to a musical group; mounted and unmounted photographs featuring or pertaining to a musical group; [ printed radio and television programs featuring listings of programs and schedules featuring or pertaining to a musical group ]</p> <p>Class 025. First use: articles of outer clothing featuring or pertaining to a musical group, sold at concerts and record stores, namely, T-shirts; caps; jackets; [ anoraks, ] trousers; [ dresses; ] footwear; and headwear</p> <p>Class 041. First use: entertainment in the nature of live musical concerts; radio program production and television show production; production of records and audio and video tapes, discs and cassettes; entertainment services, namely, production of plays, musicals, [ concerts,] live theatrical performances; publication of books and publication of concert programs, musical tour programs and musical score books</p>		

Attachments	QUEENS ONLY Notice of Opposition.pdf ( 6 pages )(154014 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	/Carrie A. Shufflebarger/
Name	Carrie A. Shufflebarger
Date	10/31/2008



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

In the Matter of

Application No. : 77/343,694  
Applicant : LaToya R. Cunningham  
Mark : QUEENS ONLY  
Filing Date : December 4, 2007  
Publication Date : May 6, 2008  
Opposed Class: : 41

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QUEEN PRODUCTIONS LIMITED :

Opposer, :

Opposition No. \_\_\_\_\_ :

v. :

LATOYA R. CUNNINGHAM :

Applicant. :

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**NOTICE OF OPPOSITION**

Opposer, Queen Productions Limited, a limited liability company of the United Kingdom, having an address at The Mill Cookham, Berkshire SL69QT, United Kingdom, believes that it is or will be damaged by the registration in International Class 41 of the mark shown in Application Serial No. 77/343,694, and hereby opposes registration of said mark by LaToya R. Cunningham ("Applicant").

As grounds of opposition, it is alleged that:

1. The above trademark application, Serial No. 77/343,694, seeking registration of the mark QUEENS ONLY for "Entertainment services, namely, an online activity where you create your own music videos; Magazine publishing; Multimedia publishing of books, magazines, journals, software, games, music, and electronic publications; On-line library services, namely, providing electronic library services which feature newspapers,

magazines, photographs and pictures via an on-line computer network; Online electronic publishing of books and periodicals; Online entertainment ticket agency services; Providing a website featuring online courses of instruction in driving high performance automobiles; Providing online non-downloadable electronic dictionaries; Providing online religious instruction promoting Christian and family values; Publication of books, magazines, almanacs and journals; Publication of books, of magazines, of journals, of newspapers, of periodicals, of catalogs, of brochures; Publication of electronic magazines; Publication of magazines; Publication of texts, books, magazines and other printed matter; Publishing of books, magazines; Publishing of web magazines; Rental of magazines,” in International Class 41, was filed December 4, 2007, based on Applicant’s intent to use the mark in commerce. Applicant’s mark was published for opposition May 6, 2008, in the *Official Gazette* of the United States Patent and Trademark Office.

2. Priority is not an issue. Opposer is the owner of U.S. Registration No. 2,271,397 for QUEEN for “video and sound recordings and pre-recorded compact discs featuring music; cassettes and compact discs,” in International Class 9; “tour programs featuring a musical group; goods made from paper or cardboard, namely, decalcomanias, posters, and sheet music, all featuring or pertaining to a musical group; stationery, pens, both featuring or pertaining to a musical group; mounted and unmounted photographs featuring or pertaining to a musical group,” in International Class 16; “articles of outer clothing featuring or pertaining to a musical group, sold at concerts and record stores, namely, T-shirts; caps; jackets; trousers; footwear; and headwear,” in International Class 25; and “entertainment in the nature of live musical concerts; radio program production and television show production; production of records and audio and video tapes, discs

- and cassettes; entertainment services, namely, production of plays, musicals, live theatrical performances; publication of books and publication of concert programs, musical tour programs and musical score books” in International Class 41. Opposer’s filing date is June 24, 1997, over ten years prior to the December 4, 2007, filing date of Applicant’s intent-to-use application. Opposer is currently using the QUEEN mark in commerce in the U.S. and has used the mark in commerce in the U.S. since at least as early as the 1975 release of its breakthrough classic album *Night at the Opera*.
3. Opposer has expended substantial amounts of money, time, and effort in advertising, promoting, and popularizing its QUEEN mark, and preserving the good will associated therewith. The public has come to know Opposer’s mark and recognize that any goods or services so marked originate with Opposer. By virtue of these efforts and by virtue of the excellence of its goods and services, Opposer has gained a valuable reputation for its QUEEN mark.
  4. Opposer’s mark, inherently distinctive when first chosen, has been so extensively used and advertised in interstate commerce conducted throughout the United States by Opposer on or in connection with Opposer’s goods and services that Opposer’s mark has become especially distinctive of and associated in the minds of the trade and purchasing public with Opposer as a well-known provider of its goods and services. The QUEEN mark is famous within the meaning of the Lanham Act, and has been famous in the United States since the late 1970s, well before Applicant’s adoption of Applicant’s mark.
  5. The mark QUEENS ONLY in Application Serial No. 77/343,694 so resembles the mark previously used by Opposer in commerce as to be likely, when applied to the services of

- the Applicant, to cause confusion, to cause mistake, or to deceive within the meaning of Section 2(d) of the Lanham Act.
6. Opposer is being damaged by Applicant's pending Application Serial No. 77/343,694 in Class 41 and will be damaged by registration because the mark sought to be registered is so similar to Opposer's mark that use and registration by Applicant will tend to cause confusion or mistake, or will deceive purchasers into the erroneous belief that Applicant's services are the services of Opposer, or that such services are authorized and/or sponsored by or are otherwise connected with the goods or services of Opposer, and thus, such use and registration will appropriate to Applicant substantial aspects of the good will Opposer has established in Opposer's mark.
  7. Opposer has no control over the nature and quality of Applicant's services under the mark it seeks to register, and any dissatisfaction with Applicant's services by the affected public would reflect adversely on Opposer, thus damaging Opposer's valuable and established good will and reputation.
  8. The registration of QUEENS ONLY will impair Opposer's trademark rights. If Applicant is permitted to register QUEENS ONLY, such registration will eventually result in the inability of Opposer's mark to function as an indication of origin.
  9. The mark QUEENS ONLY in Application Serial No. 77/343,694 so resembles the famous mark QUEEN previously used by Opposer in commerce as to be likely, when applied to the services of Applicant, to cause dilution of the distinctive quality of Opposer's mark within the meaning of Section 43(c) of the Lanham Act.
  10. If registration of QUEENS ONLY by Applicant were to be granted, the effect would be to create in favor of Applicant statutory rights under the Trademark Act of 1946, and

such registration would tend to restrict, interfere with, and damage Opposer in the unhampered conduct of its business and protection of its legitimate interests.

Please charge the filing fee of \$300 and any additional fees to Greenebaum Doll & McDonald PLLC's Deposit Account, No. 50-2904, the account of Opposer's counsel noted below.

Please direct all correspondence to Carrie A. Shufflebarger, Esq., at Greenebaum Doll & McDonald PLLC, 2900 Chemed Center, 255 East Fifth Street, Cincinnati, Ohio 45202, and all calls to the same at (513) 455-7604.

Respectfully submitted,

/s/ Carrie A. Shufflebarger

Carrie A. Shufflebarger, Esq.

Louis K. Ebling Esq.

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Date: October 31, 2008

**Designation of Domestic Representative**

Carrie A. Shufflebarger, Greenebaum Doll & McDonald PLLC, whose postal address is 2900 Chemed Center, 255 East Fifth Street, Cincinnati, Ohio 45202, is hereby appointed the owner's representative upon whom notice or process in this proceeding may be served.

**CERTIFICATE OF FILING**

I certify that this NOTICE OF OPPOSITION is being submitted electronically to the Trademark Trial and Appeal Board at the United States Patent and Trademark Office on this 31<sup>st</sup> day of October, 2008.

/s/ Carrie A. Shufflebarger  
Carrie A. Shufflebarger

**CERTIFICATE OF SERVICE**

I certify that a copy of this NOTICE OF OPPOSITION is being served via United States mail, postage prepaid, on the following, on this 31<sup>st</sup> day of October, 2008.

LaToya R. Cunningham  
5020 Berkshire Drive  
Hopewell, Virginia 23860

/s/ Carrie A. Shufflebarger  
Carrie A. Shufflebarger