

ESTTA Tracking number: **ESTTA284706**

Filing date: **05/18/2009**

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	Kanbar Entertainment, LLC
Granted to Date of previous extension	05/17/2009
Address	2100 Jackson Street San Francisco, CA 94115 UNITED STATES

Attorney information	John P. Rynkiewicz Kaye Scholer LLP 901 Fifteenth Street, N.W. Suite 700 Washington, DC 20005 UNITED STATES jrynkiewicz@kayescholer.com, jeischeid@kayescholer.com Phone:2026823500
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**Applicant Information**

Application No	77430664	Publication date	11/18/2008
Opposition Filing Date	05/18/2009	Opposition Period Ends	05/17/2009
Applicant	Mills Entertainment LLC Ste. 200 20 Prospect Street Ballston Spa, NY 12020 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 009. All goods and services in the class are opposed, namely: Sound and video recordings featuring performances based on themes relating to scams, cons and tricks
Class 041. All goods and services in the class are opposed, namely: Entertainment services, namely, live, recording and broadcast performances based on themes relating to scams, cons, and tricks; entertainment services, namely, an ongoing series based on themes relating to scams, cons, and tricks, broadcast over audio and video media

**Grounds for Opposition**

False suggestion of a connection	Trademark Act section 2(a)
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. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	HOODWINKED		
Goods/Services	Entertainment services and products, movies, sound recordings, dvds, books, posters and others.		

Attachments	HoodwinkedMillsOpp_001.pdf ( 4 pages )(146316 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	/john p rynkiewicz/
Name	John P. Rynkiewicz
Date	05/18/2009

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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KANBAR ENTERTAINMENT, LLC	)	
	)	
Opposer	)	
	)	
v.	)	Opposition No. _____
	)	
MILLS ENTERTAINMENT LLC	)	
	)	
	)	
Applicant.	)	

NOTICE OF OPPOSITION

Kanbar Entertainment, LLC, a limited liability company of the state of California, located at 2100 Jackson St., San Francisco, CA 94115 (“Opposer”), believes that it will be damaged by the registration of the mark HOODWINKED which is the subject of Application Serial No. 77430664 and hereby opposes the registration of said mark.

As grounds for Opposition, it is alleged that:

1. Opposer is a well-known entertainment company.
2. For many years and since long prior to the filing date of the Applicant’s application, Opposer has used the mark HOODWINKED to identify various goods and services, including films and others in the entertainment products and services fields that are the same as, or highly related to the goods and services of the Applicant.
3. Opposer is the owner of the prior-used and well-known common law mark HOODWINKED used on/with movies, dvds, sound recordings, books, posters and other products.

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MILLS ENTERTAINMENT LLC

4. As a result of the long use, promotion and advertising under the HOODWINKED mark by Opposer, the common law used mark HOODWINKED has become a valuable asset of Opposer serving as a symbol for Opposer and its goods and services and of Opposer's goodwill which is associated with those goods and services, including widespread recognition in the entertainment field.

5. Applicant's "HOODWINKED" mark is identical to Opposer's HOODWINKED mark and name adopted and used by Opposer through the years.

6. Despite Opposer's long prior common law and well-known rights in the HOODWINKED mark, Applicant, with notice of Opposer's prior rights and uses, and long after Opposer established rights in and to the mark HOODWINKED, filed an application for the registration of the mark HOODWINKED for goods and services described as "Sound and video recordings featuring performances based on themes relating to scams, cons and tricks" in Class 9 and "Entertainment services, namely, live, recording and broadcast performances based on themes relating to scams, cons, and tricks; entertainment services, namely, an ongoing series based on themes relating to scams, cons, and tricks, broadcast over audio and video media" in Class 41.

7. Applicant's goods and services, as described in its application opposed herein, are, would or could be offered through the same channels of trade to the same classes of customers or users as those goods and services offered and rendered by Opposer under the HOODWINKED trademark and servicemark and/or are highly related to those activities of Opposer.

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8. Opposer believes and therefore alleges that use and registration of the mark covered by Application Serial No. 77430664 will damage Opposer, for the reasons among others:

- a. that customers and purchasers of the respective goods and services would be confused, mistaken, or deceived as to the source and origin of Applicant's goods and services rendered under the HOODWINKED mark; and
- b. that customers and purchasers of the respective goods and services will assume, contrary to fact, that Applicant's goods and services are associated with, sponsored by, approved by, or otherwise related to or affiliated with Opposer.

9. Applicant's asserted mark HOODWINKED so resembles Opposer's previously used HOODWINKED mark as to be likely, when applied to the goods and services set forth in Applicant's application, to cause confusion, mistake or deception within the meaning of 15 U.S.C. Section 1052(d).

10. Applicant's asserted mark HOODWINKED so resembles Opposer's previously used HOODWINKED mark as to be likely, when applied to the goods and services set forth in Applicant's application, to falsely suggest a connection with the Opposer within the meaning of 15 U.S.C. Section 1052(a).

11. Applicant's asserted mark HOODWINKED is likely to dilute the distinctive quality of Opposer's famous, distinctive and well-known HOODWINKED mark within the meaning of 15 U.S.C. Section 1125(c)(1).

WHEREFORE, Opposer respectfully prays that this Opposition be sustained and that registration to Applicant be refused.

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The United States Patent and Trademark Office and the Trademark Trial and Appeal Board are hereby authorized to charge any fees necessitated by this Notice of Opposition to the Deposit Account of Opposer's attorneys, Kaye Scholer LLP, Deposit Account No. 11-0228.

Respectfully submitted,

KANBAR ENTERTAINMENT, LLC

Date: May 18, 2009

By:



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*Attorneys for Opposer*

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing NOTICE OF OPPOSITION was served on the Applicant via postage paid First Class U.S. Mail on the date set forth below, in an envelope addressed to:

David E. Rook, Esq.  
Hoffman, Warnick LLC  
75 State St., Suite 14  
Albany, NY 12207-2970

May 18, 2009  
Date

  
John P. Rynkiewicz