

ESTTA Tracking number: **ESTTA400655**

Filing date: **03/30/2011**

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	DC Comics
Granted to Date of previous extension	03/30/2011
Address	1700 Broadway New York, NY 10019 UNITED STATES
Attorney information	Patrick T. Perkins Perkins Law Office, P.C. 1711 Route 9D Cold Spring, NY 10516 UNITED STATES pperkins@ptplaw.com

Applicant Information

Application No	79060709	Publication date	11/30/2010
Opposition Filing Date	03/30/2011	Opposition Period Ends	03/30/2011
International Registration No.	0981572	International Registration Date	09/30/2008
Applicant	Superwoman Pty Ltd as trustee of the Superwoman Holdings Trust PO Box 1337 Cronulla NSW 2230 AUSTRALIA		

Goods/Services Affected by Opposition

<p>Class 035. All goods and services in the class are opposed, namely: Business management; business administration, assistance and consultancy services relating to business management and administration</p>
<p>Class 039. All goods and services in the class are opposed, namely: Travel agency services, namely, travel arrangement and reservation services for transportation; travel brokerage, namely, travel booking agencies; travel consultancy, namely, making arrangements for transportation; travel information and advisory services; organization of sightseeing tours; escorting of travelers; tourist offices; and excluding any reference or matters associated with offering credit cards or credit card services</p>
<p>Class 041. All goods and services in the class are opposed, namely: Publication of training manuals and printed educational matter and providing information services related to education and training, namely, in the field of female affairs, personal improvement, personal development, hospitality, design, business management, law, cooking, the arts, information technology, accounting, business, human resource</p>

management, marketing, advertising, sales and promotion, media, journalism, photography, travel, news and current affairs, entertainment and communications; Education and training services including online, namely, providing of training and arranging and conducting of conferences, seminars and workshops in the field of, personal improvement, personal development, hospitality, design, business management, law, cooking, the arts, health, science, female affairs, information technology, accounting, business, human resource management, marketing, advertising, sales and promotion, media, journalism, photography, travel, news and current affairs, entertainment and communications

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)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2226026	Application Date	02/11/1998
Registration Date	02/23/1999	Foreign Priority Date	NONE
Word Mark	SUPERMAN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1937/01/03 First Use In Commerce: 1937/01/03 comic books		

U.S. Registration No.	1108577	Application Date	07/27/1976
Registration Date	12/12/1978	Foreign Priority Date	NONE
Word Mark	SUPERMAN		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 016. First use: First Use: 1937/01/03 First Use In Commerce: 1937/01/03 COMIC MAGAZINES

U.S. Registration No.	1200394	Application Date	09/18/1979
Registration Date	07/06/1982	Foreign Priority Date	NONE
Word Mark	SUPERMAN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1937/00/00 First Use In Commerce: 1937/00/00 Books Concerning Memorabilia Relating to Fictional Characters, Children's Books, Coloring Books, Puzzle Books, Poster Books, Nonfiction Books Regarding the Production of Motion Pictures and Television Programs, Greeting Cards, Notepads and Posters, Paper Napkins, Paper Tablecloths, Calendars, Pencil Sharpeners, Cardboard Center Pieces, and Writing Slates		

U.S. Registration No.	1185526	Application Date	09/18/1979
Registration Date	01/12/1982	Foreign Priority Date	NONE
Word Mark	SUPERMAN		

Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1946/00/00 First Use In Commerce: 1946/00/00 Phonographic Records, Prerecorded Audio and Audio/Visual Tapes and Cassettes, Visual Tapes and Cassettes, Radios, Eye Glass Frames and Cases and Photographic Slides and Slide Viewers		

U.S. Registration No.	1185853	Application Date	09/18/1979
Registration Date	01/12/1982	Foreign Priority Date	NONE

Word Mark	SUPERMAN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 024. First use: First Use: 1949/00/00 First Use In Commerce: 1949/00/00 Shower Curtains, Towels, Sheets, Pillow Cases, Blankets, Comforters, and Drapes		

U.S. Registration No.	1209863	Application Date	09/18/1979
Registration Date	09/21/1982	Foreign Priority Date	NONE
Word Mark	SUPERMAN		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 028. First use: First Use: 1947/00/00 First Use In Commerce: 1947/00/00 Puppets, Puzzles, Dolls, Model Building Sets Consisting of Toy Character Figures, Models of Building Tops and Background Scenery, Toy Vehicles, Parachute Toys, Kites, Toy Watches, Balloons, Rollerskates, Toy Rockets, Child's Play/Disguise Set Consisting of Mask, Cape and Costume, Motor Driven Toy Action Figure, Flying Discs, Inflatable Bop Bag, Toy Pinball Machines, and Equipment Sold as a Unit for Playing Boardgames and Parlor Games

U.S. Registration No.	1220896	Application Date	09/18/1979
Registration Date	12/21/1982	Foreign Priority Date	NONE
Word Mark	SUPERMAN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 018. First use: First Use: 1947/00/00 First Use In Commerce: 1947/00/00 All Purpose Gym Bags, Tote Bags and Handbags		

U.S. Registration No.	1183809	Application Date	09/18/1979
Registration Date	12/29/1981	Foreign Priority Date	NONE
Word Mark	SUPERMAN		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 021. First use: First Use: 1974/01/00 First Use In Commerce: 1974/01/00 Hair Brushes, Bowls, Mugs, Glasses, Cookie Jars, Toothbrushes

U.S. Registration No.	394922	Application Date	10/24/1941
Registration Date	05/05/1942	Foreign Priority Date	NONE
Word Mark	SUPERWOMAN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U038 (International Class 016). First use: First Use: 1941/09/01 First Use In Commerce: 1941/09/01 Magazine Publication		

U.S. Registration No.	3784483	Application Date	09/23/2009
Registration Date	05/04/2010	Foreign Priority Date	NONE
Word Mark	SUPERWOMAN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 028. First use: First Use: 2007/04/00 First Use In Commerce: 2007/04/00		

	action figures and accessories therefor
--	---

Attachments	75432535#TMSN.gif (1 page)(bytes) 73094761#TMSN.gif (1 page)(bytes) 73231898#TMSN.gif (1 page)(bytes) 73231892#TMSN.gif (1 page)(bytes) 73231881#TMSN.gif (1 page)(bytes) 73231870#TMSN.gif (1 page)(bytes) 73231862#TMSN.gif (1 page)(bytes) 73231852#TMSN.gif (1 page)(bytes) 71448076#TMSN.gif (1 page)(bytes) 77833501#TMSN.jpeg (1 page)(bytes) 00043300.pdf (10 pages)(41223 bytes)
-------------	--

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	/patrickperkins/
Name	Patrick T. Perkins
Date	03/30/2011

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

In the matter of Application Serial No. 79/060709

-----X		
DC COMICS,	:	
	:	
Opposer,	:	Opposition No.
	:	
- against -	:	
	:	
Superwoman Pty Ltd,	:	
	:	
Applicant.	:	
	:	
-----X		

NOTICE OF OPPOSITION

DC Comics (“DC” or “Opposer”), a New York partnership located at 1700 Broadway, New York, New York 10019, believes that it is or will be damaged by the issuance of a registration of the SUPERWOMAN Stylized trademark as applied for in Application S.N. 79/060709 filed on September 30, 2008 by Superwoman Pty Ltd as trustee of the Superwoman Holdings Trust Limited Liability Company, Australia (“Applicant”) for “business management; business administration, assistance and consultancy services relating to business management and administration” in Class 35, “travel agency services, namely, travel arrangement and reservation services for transportation; travel brokerage, namely, travel booking agencies; travel consultancy, namely, making arrangements for transportation; travel information and advisory services; organization of sightseeing tours; escorting travelers; tourist offices; and excluding any reference or matters associated with offering credit cards or credit card services” in Class 39, and “publication of training manuals and printed educational matter and providing information

services related to education and training, namely, in the field of female affairs, personal improvement, personal development, hospitality, design, business management, law, cooking, the arts, information technology, accounting, business, human resource management, marketing, advertising, sales and promotion, media, journalism, photography, travel, news and current affairs, entertainment and communications; education and training services including online, namely, providing of training and arranging and conducting of conferences, seminars and workshops in the field of personal improvement, personal development, hospitality, design, business management, law, cooking, the arts, health, science, female affairs, information technology, accounting, business, human resource management, marketing, advertising, sales and promotion, media, journalism, photography, travel, news and current affairs, entertainment and communications” in Class 41, and therefore opposes the same. As grounds for the opposition, Opposer, by its attorney, Perkins Law Office, P.C., alleges as follows:

FACTS

1. DC is a New York partnership with its principal place of business at 1700 Broadway, New York, New York 10019.
2. DC Comics and its predecessors-in-interest (collectively “DC Comics”) is the publisher of comic books and magazines featuring comic characters and stories, including the world-famous character Superman. DC Comics is among the most well known and successful publishers of comic magazines in the world. It has created and published highly successful and well-known characters, including, but not limited to, Superman and Superwoman.
3. Over the many years since the Superman character was first introduced in 1938, DC Comics has focused an enormous amount of attention and effort to develop the Superman mythos, including the character, his associates, his world, and other indicia associated with him.

Throughout the period of Superman's existence, DC Comics has invested a vast amount of creative energy and resources to continually update and improve the Superman property to keep the character and his adventures timely and fresh in the public's mind. Opposer's efforts in this regard have led to a vast array of literary works, television series, and feature films, which fully explore in great depth Superman himself and the fictional world inhabited by him. Due to Opposer's extraordinary nurturing of the Superman mythos, the character and his universe have captured the popular imagination and it is beyond dispute that today the Superman lore is one of a rarified group of legends known and loved throughout the world.

4. As a part of the Superman mythology, DC has developed the Superwoman character and has invested creative energy and resources to update this character in the Superman world as well.

5. Because of DC Comics' shepherding and careful development of not just the Superman character, but also of his universe and of the things and people that populate that universe, including Superwoman, Superman and Superwoman have become associated with certain symbols and indicia which in the public mind are inextricably linked with the Superman character and which function as trademarks, both for literary and entertainment works featuring Superman and for various goods and services for which Opposer has licensed others to use these marks.

6. Among these indicia are the SUPERMAN and SUPERWOMAN trademarks.

7. The SUPERMAN Mark has been used in connection with Superman for more than 60 years and has appeared frequently across all media in which the Superman character is exploited. In addition, DC has used or licensed the use of the SUPERMAN Mark in connection with a broad range of goods and services.

8. The SUPERWOMAN Mark also has been used in connection with Superman for more than 60 years and has appeared across many media in which the Superman character is exploited. In addition, DC has used or licensed the use of the SUPERWOMAN Mark in connection with a broad range of goods and services.

9. Since their introduction, the SUPERMAN and SUPERWOMAN Marks have come to be recognized as powerful symbols standing alone, and are immediately recognized as associated with and identifying the character Superman, as well as goods and services manufactured, distributed and/or licensed by or on behalf of Opposer.

10. By virtue of DC Comics' ceaseless efforts to develop the Superman and Superwoman characters and their universe, including the introduction and continuing use of the SUPERMAN and SUPERWOMAN Marks in intimate association with Superman, the popularity of the Superman mythos on television, in motion pictures, and in comic books and in connection with other various goods and services, and the enormous affect and goodwill associated by the public therewith, the SUPERMAN and SUPERWOMAN Marks have become famous and instantly call to mind Superman and such goods and products to consumers.

11. The SUPERMAN and SUPERWOMAN Marks are arbitrary and famous and thus is strong and entitled to the broadest scope of protection.

12. Opposer owns a number of federal registrations for the Superman Mark, including but not limited to, Reg. Nos. 2,226,026, 1,108,577, 1,200,394, 1,185,526, 1,185,853, 1,209,863, 1,220,896, and 1,183,809. Opposer also owns the following federal registrations for the SUPERWOMAN Mark, including but not limited to, Reg. Nos. 0,394,922 and 3,784,483. Opposer's foregoing registrations are valid, subsisting and in full force and effect; as such, they constitute *prima facie* evidence of the validity of the registered marks and of the registrations

thereof, of Opposer's ownership of the marks shown therein and of Opposer's exclusive right to use the marks in commerce in connection with the goods and services named therein, without condition or limitation; they also constitute notice to Applicant of Opposer's claim of ownership of the marks shown therein; all as provided in Sections 7(b), 22 and 33(a) of the Lanham Trademark Act of 1946 as amended (the "Lanham Act").

13. On September 30, 2008, Applicant filed application S.N. 79/060,709 to register the mark SUPERWOMAN for "business management; business administration, assistance and consultancy services relating to business management and administration" in Class 35, "travel agency services, namely, travel arrangement and reservation services for transportation; travel brokerage, namely, travel booking agencies; travel consultancy, namely, making arrangements for transportation; travel information and advisory services; organization of sightseeing tours; escorting travelers; tourist offices; and excluding any reference or matters associated with offering credit cards or credit card services" in Class 39, and "publication of training manuals and printed educational matter and providing information services related to education and training, namely, in the field of female affairs, personal improvement, personal development, hospitality, design, business management, law, cooking, the arts, information technology, accounting, business, human resource management, marketing, advertising, sales and promotion, media, journalism, photography, travel, news and current affairs, entertainment and communications; education and training services including online, namely, providing of training and arranging and conducting of conferences, seminars and workshops in the field of personal improvement, personal development, hospitality, design, business management, law, cooking, the arts, health, science, female affairs, information technology, accounting, business, human resource management, marketing, advertising, sales and promotion, media, journalism,

photography, travel, news and current affairs, entertainment and communications” in Class 41 .

14. Applicant’s word portion of its mark is identical to Opposer’s SUPERWOMAN Mark and is virtually identical to its SUPERMAN Mark. All of the marks at issue are dominated by the word “Super.” Moreover, the services with which Applicant intends to use its mark are related to those with which Opposer could be expected to license its marks. The combination of the identical (or almost identical) word marks and the relationship of the parties’ respective goods and services, create a strong association with Opposer’s Superman and Superwoman related goods and services.

15. Upon information and belief, Applicant adopted and applied to register its mark with full knowledge of Opposer’s rights in and to the SUPERMAN and SUPERWOMAN Marks and with an intent to trade off of the good will of Opposer’s marks.

16. The date of Applicant’s application is September 30, 2008 - long after Opposer’s first use of the SUPERMAN and SUPERWOMAN Marks and well after they became famous marks.

17. Upon information and belief, Applicant willfully copied the SUPERMAN and SUPERWOMAN Marks in choosing its mark in a deliberate attempt to associate its services with Opposer and its Superman and Superwoman characters and the overwhelming goodwill therein.

18. Applicant’s mark is highly similar to Opposer’s SUPERMAN and SUPERWOMAN Marks. The marks are highly similar in appearance and make virtually identical commercial impressions.

19. Applicant has already unlawfully used Superman indicia to promote its services and, upon information and belief, Applicant intends to use its mark with other Superman indicia,

in a manner that further associates his services with Superman.

20. The services listed in Applicant's application are related to services with which Opposer has licensed some of its Superman related trademarks.

21. Applicant's use of its mark falsely suggests an association with or approval by Opposer of Applicant's services, and will inevitably create confusion in the marketplace, as consumers will assume that Applicant's services are authorized or endorsed by Opposer. Such false suggestion will cause irreparable harm to Opposer.

22. Applicant's use of its mark is certain to dilute Opposer's famous mark.

FIRST GROUND FOR RELIEF
UNDER 15 U.S.C. § 1052(d)

23. Opposer incorporates by reference paragraphs 1 through 22 as if fully set forth herein.

24. The SUPERMAN and SUPERWOMAN Marks have been used continually by Opposer since a date prior to any date on which Applicant may rely.

25. Applicant's mark is highly similar in appearance and in commercial impression to Opposer's marks.

26. The services of Applicant to be offered under its mark are intended and are likely to be perceived as related to Opposer's goods and services under the SUPERMAN and SUPERWOMAN Marks, and to the Superman and Superwoman characters themselves.

27. The use by Applicant of its mark for the services listed in the application is likely to create the erroneous impression that Applicant's services originate with, are sponsored or promoted by, come from, or are otherwise associated with Opposer or Opposer's goods or services provided under the SUPERMAN or SUPERWOMAN Marks or other Superman-related marks or that Applicant's services are endorsed, sponsored, or in some way connected with

Opposer. Any use of the Applicant's mark by Applicant is, therefore, likely to cause confusion, cause mistake or to deceive the public into the belief that the services offered under Applicant's mark come from or are otherwise authorized or sponsored by Opposer in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

**SECOND GROUND FOR RELIEF
DILUTION UNDER 15 U.S.C. § 1125(c)**

28. Opposer incorporates by reference paragraphs 1 through 27 as if fully set forth herein.

29. Opposer's Superman Mark is strong and famous and has been so from a date prior to Applicant's claimed date of first use.

30. Opposer's Superwoman Mark is strong and famous and has been so from a date prior to Applicant's claimed date of first use.

31. Applicant's use of its mark has caused or will cause dilution of the distinctive quality of Opposer's Superman and Superwoman Marks.

32. Applicant's use and registration of Applicant's mark are in violation of Section 43(c) of the Federal Trademark Act, 15 U.S.C. § 1125(c).

WHEREFORE, it is respectfully requested that this opposition be sustained and that the registration sought by Application S.N. 79/060,709 be denied.

Dated: Cold Spring, New York
March 30, 2011

Respectfully submitted,

PERKINS LAW OFFICE, P.C.

By: /Patrick Perkins/
Patrick T. Perkins

1711 Route 9D
Cold Spring, New York 10516
(845) 265-2820

Attorney for Opposer
DC Comics

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Notice of Opposition has been served on Applicant by mailing said copy on March 30, 2011, via First Class Mail, postage prepaid on Applicant at the following address:

Superwoman Pty Ltd
Superwoman Holdings Trust
PO Box 1337
Cronulla NSW 2230
Australia

/Patrick Perkins/
Patrick T. Perkins