

ESTTA Tracking number: **ESTTA406495**

Filing date: **05/02/2011**

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	Salspot Limited
Granted to Date of previous extension	05/01/2011
Address	27 Wrights Lane London, W8 5TZ UNITED KINGDOM

Attorney information	Pasquale A. Razzano and Nina Shreve Fitzpatrick, Cella, Harper & Scinto 1290 Avenue of the Americas New York, NY 10104 UNITED STATES prazzano@fchs.com,nshreve@fchs.com,jhiney@fchs.com,docketing@fchs.com
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**Applicant Information**

Application No	85066905	Publication date	11/02/2010
Opposition Filing Date	05/02/2011	Opposition Period Ends	05/01/2011
Applicant	Age of Learning, Inc. 101 N. Brand Blvd. Suite 870 Glendale, CA 91203 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 009. All goods and services in the class are opposed, namely: Decorative magnets; Refrigerator magnets; Computer mouse pads; sunglasses; Computer screen saver programs; Video game cartridges; Interactive video game programs; Interactive multimedia computer game programs; Computer game cartridges; Children's educational computer software and programs featuring educational activities, information, stories and games; Pre-recorded CD-ROMs featuring children's educational software and programs; Software enabling transfer of data between mobile communications apparatus; Computer game software for use with mobile communications devices to enable users to play games therewith; Computer software and programs enabling users of mobile communications devices to access databases and global computer networks and entertainment; Accessories for mobile communications devices, namely, cellular phone faceplates, battery covers, cases and straps
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**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.	3468387	Application Date	08/07/2000
Registration Date	07/15/2008	Foreign Priority Date	NONE
Word Mark	SPOT		
Design Mark	<b>SPOT</b>		
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2008/01/00 First Use In Commerce: 2008/01/00 downloadable electronic publications in the nature of materials published on websites accessible through the global computer network, featuring a fictional dog		

U.S. Registration No.	2282459	Application Date	05/13/1997
Registration Date	10/05/1999	Foreign Priority Date	NONE
Word Mark	SPOT		
Design Mark	<b>SPOT</b>		
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1993/12/00 First Use In Commerce: 1993/12/00 series of children's entertainment videos		

U.S. Registration No.	2659734	Application Date	11/06/1995
Registration Date	12/10/2002	Foreign Priority Date	NONE
Word Mark	SPOT		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 016. First use: First Use: 1980/00/00 First Use In Commerce: 1980/00/00 paper and paper articles, namely fiction books that feature the dog character "SPOT" from works created by the author Eric Hill; greeting cards, gift cards, [ invitation cards,] enclosure cards, [stickers, rubber stamps, ] all of the foregoing featuring the dog character "SPOT" from works created by the author Eric Hill

U.S. Registration No.	2652360	Application Date	11/06/1995
Registration Date	11/19/2002	Foreign Priority Date	NONE
Word Mark	SPOT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1993/12/00 First Use In Commerce: 1993/12/00 [ clothing and footwear, namely, rompers, jump suits, sleepwear, underwear, shirts, sweaters, dresses, trousers, bodysuits, T-shirts, sweatshirts and jeans ] Class 028. First use: First Use: 1991/00/00 First Use In Commerce: 1994/01/00 games and toys, namely, plush toys, jigsaw puzzles, plastic molded pre-school toys, namely, toy figures and toy animals		

Attachments	76104780#TMSN.gif ( 1 page )( bytes ) 75291190#TMSN.gif ( 1 page )( bytes ) Spot - Notice of Opposition.pdf ( 5 pages )(172937 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	/Nina Shreve/
Name	Pasquale A. Razzano and Nina Shreve
Date	05/02/2011

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

Salspot, Ltd.,	)	
	)	
	)	Opposer,
	)	
vs.	)	
	)	
Age of Learning, Inc.,	)	
	)	
	)	Applicant.
	)	
<hr/>		Opposition No. <hr/>

In the matter of Application  
Serial No. 85/066,905  
Mark: **SPOT**  
Filed: June 18, 2010 in International Class 9  
Published in the *Official Gazette*  
on November 2, 2010

NOTICE OF OPPOSITION

1. Opposer, Salspot, Ltd., is a corporation organized and existing under the laws of the United Kingdom and doing business at 27 Wrights Lane, London W85TZ, United Kingdom. The Opposer believes that it will be damaged by registration of the mark shown in the above-identified application, and hereby opposes the same with respect to all of the goods of the application.

2. Upon information and belief, Applicant, Age of Learning, Inc., is a Delaware corporation with an office at 101 N. Brand Blvd., Suite 870, Glendale, California, 91203.

3. Applicant has filed an application to register the mark SPOT in International Class 9 for “Decorative magnets; Refrigerator magnets; Computer mouse pads; sunglasses; Computer screen saver programs; Video game cartridges; Interactive video game programs; Interactive multimedia computer game programs; Computer game cartridges;

Children's educational computer software and programs featuring educational activities, information, stories and games; Pre-recorded CD-ROMs featuring children's educational software and programs; Software enabling transfer of data between mobile communications apparatus; Computer game software for use with mobile communications devices to enable users to play games therewith; Computer software and programs enabling users of mobile communications devices to access databases and global computer networks and entertainment; Accessories for mobile communications devices, namely, cellular phone faceplates, battery covers, cases and straps. This application was filed on June 18, 2010, and was assigned Serial No. 85/066,905 ("Applicant's mark") and was published for opposition on November 2, 2010.<sup>1/</sup>

4. Opposer is the owner of the trademark rights in the mark SPOT, which has long been used for a series of children's books by the author Eric Hill featuring the dog character SPOT, as well as for a variety of other products, including downloadable electronic publications and a series of videos. Opposer also is the owner of trademark rights in the image of the SPOT dog character, which has also long been used for the aforementioned products

5. Since long prior to the June 18, 2010 filing date for Applicant's mark, Opposer or its authorized representatives have been and are now engaged in the business of advertising, offering for sale, selling and distributing in the United States under the trademark SPOT and Salspot's dog image trademark, a variety of different products featuring the famous dog character SPOT. The products on which Salspot's trademarks have been so used include downloadable electronic publications and a series of videos, fiction books, greeting cards, and

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<sup>1/</sup> Opposer timely filed Requests for Extensions of Time to File a Notice of Opposition until May 1, 2011, a Sunday. Accordingly, the deadline to submit this Notice of Opposition is Monday, May 2, 2011.

other products. Also, the goods on which the SPOT mark and dog image trademark have been so used have been widely sold and used throughout the United States so that the mark SPOT, as well as the dog image trademark have acquired great value, fame and goodwill inuring to the benefit of Opposer.

6. Opposer is the owner of the following trademark registrations on the Principal Register of the United States Patent and Trademark Office, each of which is in full force and effect.

Mark	Registration	Registration Date
SPOT	3,468,387	July 15, 2008
SPOT	2,282,459	October 5, 1999
SPOT	2,659,734	December 10, 2002
SPOT	2,652,360	November 19, 2002

7. Certified and status copies of the registrations for the SPOT Trademarks on which Opposer will rely will be made of record during Opposer's testimony period. As indicated, the goods for which the mark SPOT has been registered in Registration No. 3,468,387 are "downloadable electronic publications in the nature of materials published on websites accessible through the global computer network, featuring a fictional dog" and Registration No. 2,282,459 are "series of children's entertainment videos."

8. Applicant's mark, when applied to the goods set forth in Applicant's application, so resembles Opposer's aforescribed marks as to cause confusion, mistake or deception within the meaning of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

9. Applicant's intended use and any actual use of the designation SPOT is without license, authorization, or permission of Opposer.

10. The granting of trademark registration for SPOT to Applicant would be contrary to Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), and would dilute, violate or diminish the prior and superior rights of Opposer in its aforesaid trademarks.

11. Opposer will be damaged if Application Serial No. 85/066,905 should be granted because Applicant will obtain statutory rights in the designation SPOT in violation and derogation of the established prior rights of Opposer.

WHEREFORE, Opposer prays that its opposition be sustained, that application Serial No. 85/066,905 be rejected, and that registration of **SPOT** as a trademark to Applicant be refused and denied.

Please charge any overpayment or underpayment to Deposit Account No. 06-1205.

Dated: May 2, 2011

Respectfully submitted,

By:



Pasquale A. Razzano

Nina Shreve

FITZPATRICK, CELLA, HARPER  
& SCINTO

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Attorney for Opposer

Salspot Ltd.

**CERTIFICATE OF SERVICE**

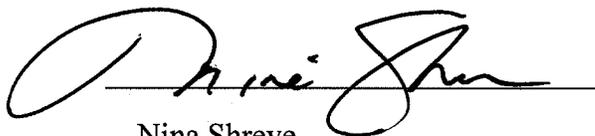
I hereby certify that on May 2, 2011 a copy of the foregoing

Notice Of Opposition

was served by first-class mail, postage prepaid upon Applicant's attorney of record:

Francie R. Gorowitz  
Rosenfeld, Meyer & Susman, LLP  
9601 Wilshire Blvd., Suite 710  
Beverly Hills, CA 90210

Stephanie Yost  
Age of Learning, Inc.  
101 N. Brand Blvd, Suite 870  
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A handwritten signature in black ink, appearing to read "Nina Shreve", is written over a horizontal line.

Nina Shreve

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