

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

REEL FX, INC.,)	Serial No.	: 85/186,331
)	Mark	: PIRASAURS
Opposer)	Opposition No.	: TBD
)	Atty. Dkt. No.	: 0057-T013001.OPP1
v.)		
)		
Toy Toon Creatins, Inc.)		
)		
Applicant)		

NOTICE OF OPPOSITION

REEL FX, INC. (hereinafter "Opposer"), a corporation duly organized and existing under the laws of the State of Texas, and having its principal place of business at 301 N. Crowds Street, Dallas, TX 75226, believes it will be damaged by registration of the mark PIRASAURS as shown in U.S. Trademark Application Serial No. 85/186,331, owned by TOY TOON CREATIONS, INC., a corporation having a place of business at 3414 Harbours Boulevard, Waterford, MI 48328 (hereinafter "Applicant"), and hereby opposes the same for all the goods identified therein.

The grounds for the opposition are as follows:

1. Upon information and belief, Applicant is the owner of U.S. Application Serial No. 85/186,331 for the word mark PIRASAURS for "Action figures; Battery operated action toys; Collectable toy figures; Dolls and accessories therefor; Electronic toy vehicles; Fantasy character toys; Mechanical action toys; Modeled plastic toy figurines; Molded toy

Date of Deposit: May 12, 2011

I hereby certify under 37 C.F.R. §2.197 that this correspondence is being deposited with the U.S. Postal Service on the date indicated above in an envelope affixed with sufficient postage addressed to:
ATTN: TTAB, Commissioner for Trademarks, P.O. Box 1451,
Alexandria, VA 22313-1451.

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Diane L. Gardner

Diane L. Gardner



05-16-2011

figures; Plastic character toys; Play sets for action figures; Plush toys; Positionable toy figures; Sandbox toys; Soft sculpture plush toys; Soft sculpture toys; Stuffed and plush toys; Talking electronic press-down toy; Talking toys; Toy animals; Toy animals and accessories therefor; Two and three dimensional positionable figures sold as an integral component of toys; Two and three dimensional positionable toy figures sold as a unit with other toys” in International Class 28.

2. Upon information and belief, Applicant filed U.S. Application Serial No. 85/186,331 in the U.S. Patent & Trademark Office on November 29, 2010, relying on a claim of intent to use the PIRASAURS mark in commerce in the U.S. under Trademark Act Section 1(b).

3. Upon information and belief, U.S. Application Serial No. 85/186,331 was published for opposition in the *Official Gazette* of the U.S. Patent & Trademark Office on April 12, 2011.

4. Opposer is the owner of U.S. Trademark Registration No. 3,687,414 for the mark WEBOSAURS, for *inter alia*, providing on-line computer games involving virtual reality based characters.

5. Opposer is the owner of U.S. Trademark Registration No. 3,684,431 for the mark WEBOSAURS, for *inter alia*, providing on-line computer games involving virtual reality based characters.

6. Opposer is the owner of U.S. Trademark Application No. 77/261,235 for the mark WEBOSAURS, for plush toys.

7. Opposer is the owner of U.S. Trademark Application No. 77/602,005 for the mark WEBOSAURS, for games and toys of all kinds, including, *inter alia*, modeled plastic toy figurines, molded toy figures, toy animals and accessories therefore, action figures, dolls and accessories therefore, collectible toy figures, positionable toy figures, soft sculpture toys, and stuffed toys.

8. Opposer is the owner of U.S. Trademark Application No. 77/602,002 for the mark WEBOSAURS, for games and toys of all kinds, including, *inter alia*, modeled plastic toy figurines, molded toy figures, toy animals and accessories therefore, action figures, dolls and accessories therefore, collectible toy figures, positionable toy figures, soft sculpture toys, and stuffed toys.

9. Opposer is the owner of International Registration No. 1018109, Australia Trademark Registration No. 1,133,328, Hong Kong Trademark Registration No. 301330019, Mexico Trademark Registration No. 1,133,328, New Zealand Trademark Registration No. 805,519, and several other pending foreign trademark applications, each for the mark WEBOSAURS for goods and services referred to in sections 4-8 *supra*.

10. Opposer has continuously used the WEBOSAURS marks in interstate commerce for services since at least as early as June 15, 2009, and filed applications for the WEBOSAURS mark for goods at least as early as August 22, 2007, and October 28, 2008, all of which are prior to the effective filing date of November 29, 2010 established by Applicant. Consequently, priority belongs to Opposer.

11. Through its widespread exposure, Opposer's mark has become well recognized in the U.S. Opposer has invested a great deal of money and effort in promoting its services sold under the WEBOSAURS marks and is continuing to invest significant resources in like promotion for both goods and services. The services now sold and the goods in development are directly related, complimentary to one another, and readily identifiable with one another. Services sold by Opposer in association with Opposer's mark have been widely promoted and sold throughout the world. By the aforesaid extensive use of Opposer's mark, and by the promotional efforts in connection therewith, Opposer has built up valuable goodwill in its WEBOSAURS mark. Such goodwill shall be immediately attributable to Opposer's goods as they are introduced to the market, due to the nature of the relationship between Opposer's goods and services. Because of Opposer's use and promotion, the mark has acquired secondary meaning in the minds of the public in connection with Opposer and its services. Such secondary meaning will be immediately attributable to Opposer's goods as they are introduced to the market, due to the nature of the relationship between Opposer's goods and services.

12. Applicant's PIRASAURS mark, as applied to the goods identified in U.S. Trademark Application Serial No. 85/186,331, is confusingly similar to Opposer's marks as applied to Opposer's goods and services, and is likely to cause confusion, mistake, or deception amongst the general and consuming public as to whether Applicant's goods originate with Opposer, or are licensed, authorized, or sponsored by Opposer, or are promoted with Opposer's approval.

13. By reason of the foregoing, Opposer will be damaged by Applicant's registration of the PIRASAURS mark.

WHEREFORE, Opposer respectfully requests that Applicant's U.S. Trademark Application Serial No. 85/186,331 be refused in its entirety, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

Opposer herein appoints Diane L. Gardner, member of the Bar of the State of California, its attorney to prosecute the above opposition with full powers of substitution and revocation and to transact all business in the U.S. Patent & Trademark Office connected therewith; correspondence address: Mastermind IP Law P.C., 421 Santa Marina Court, Escondido, CA 92029, tel. 760.294.5160, fax. 760.294.5161, e-mail diane@mmip.com.

Attached is a Credit Card Payment Form (PTO-2038) authorizing payment of a \$300 fee for filing this Notice of Opposition in a single class. Please charge any additional fees or deficiencies to the same authorized credit card.

Should any problems arise with payment via the authorized credit card, please apply any charges or credits to Deposit Account No. 50-3137.

Respectfully submitted,

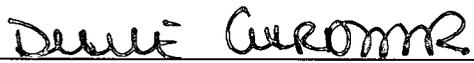
Date: 12 MAY 2011

Diane L. Gardner
Diane L. Gardner, Esq. CA 196,214
Mastermind IP Law P.C.
421 Santa Marina Court
Escondido, CA 92029
(760) 294-5160

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing NOTICE OF OPPOSITION upon Applicant by depositing one copy thereof in a sealed envelope in the United States mail, first class, postage pre-paid, on May 12, 2011, addressed as follows:

DAVID L. OPPENHUIZEN
THE WEINTRAUB GROUP, P.L.C.
28580 ORCHARD LAKE RD STE 140
FARMINGTON HILLS, MI 48334-2988



Diane L. Gardner