

ESTTA Tracking number: **ESTTA442792**

Filing date: **11/23/2011**

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	HASBRO, INC.
Granted to Date of previous extension	11/27/2011
Address	1027 Newport Avenue Pawtucket, RI 02862 UNITED STATES

Attorney information	Kim J. Landsman Golenbock Eiseman Assor Bell & Peskoe LLP 437 Madison Avenue 35th floor New York, NY 10022 UNITED STATES klandsman@golenbock.com,ejaffe@golenbock.com Phone:212-907-7300
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Applicant Information

Application No	85050193	Publication date	05/31/2011
Opposition Filing Date	11/23/2011	Opposition Period Ends	11/27/2011
Applicant	Candy Farm LLC 551 Campgaw Road Mahwah, NJ 07430 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. All goods and services in the class are opposed, namely: Computer game program cartridges, cassettes, discs and tapes and instruction manuals sold therewith
Class 014. All goods and services in the class are opposed, namely: Jewelry
Class 016. All goods and services in the class are opposed, namely: Paper products, namely, children's books, scrapbooks, bumper stickers, stickers, posters, educational learning cards, flash cards, activity cards, note cards, prints, magazines directed to children, workbooks directed to children, address books, stationery, calendars, folders, envelopes, postcards, greeting cards, business cards, adhesive note pads, clothing hang tags, blank journals, and diaries
Class 025. All goods and services in the class are opposed, namely: Clothing, namely, shirts, jackets, pants, jeans, underwear, coats, shoes, scarves, gloves, slippers, socks, hats, caps, sweaters, t-shirts, skirts, hosiery, belts, leotards, and sleepwear
Class 028. All goods and services in the class are opposed, namely: Toys, namely, dolls, doll accessories,

action figures, plush toys, poseable play figures and accessories therefor; scale model play figure kits composed of plastic, vinyl and resin molds; children's dress-up accessories; dollhouses and doll furniture; art activity toys, bathtub toys and water-squirting toys; ride-on toys and toy vehicles; flying discs, kites, yo-yo's and balloons; hand held units for playing electronic games other than those adapted for use with an external display screen or monitor; board games and game equipment sold as a unit for playing a board game, manipulative games, parlor games, action-type target games; card games and equipment sold as a unit for playing a card game; stand-alone video output game machines; coin-operated pinball game machines; jigsaw and manipulative puzzles; paper face masks and costume masks; hand puppets; crib mobiles and mobiles for children; skateboards, surfboards and ice skates; balls, namely, playground balls, soccer balls, baseballs and basketballs; baseball and softball gloves; swimming floats for recreational use; kickboard floatation devices for recreational use; swim boards for recreational use; swim fins; toy bakeware and toy cookware; toy banks; toy snow globes; and Christmas tree ornaments

Class 041.

All goods and services in the class are opposed, namely: Entertainment services, namely, providing websites featuring games and entertainment information directed to children; production of television programs; motion picture film production

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.	544328	Application Date	12/09/1949
Registration Date	06/26/1951	Foreign Priority Date	NONE
Word Mark	CANDY LAND		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U022 (International Class 028). First use: First Use: 1949/03/15 First Use In Commerce: 1949/03/15 BOARD GAME PLAYED WITH MOVABLE PIECES		

U.S. Registration No.	2580172	Application Date	11/14/2000
Registration Date	06/11/2002	Foreign Priority Date	NONE
Word Mark	CANDY LAND		

Design Mark	CANDY LAND
Description of Mark	NONE
Goods/Services	Class 024. First use: First Use: 2001/04/04 First Use In Commerce: 2001/04/04 beach towels

U.S. Registration No.	2666291	Application Date	02/14/2002
Registration Date	12/24/2002	Foreign Priority Date	NONE
Word Mark	CANDYLAND		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1996/08/12 First Use In Commerce: 1996/08/12 computer game programs		

U.S. Registration No.	2784765	Application Date	10/25/2001
Registration Date	11/18/2003	Foreign Priority Date	NONE
Word Mark	CANDYLAND		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 2003/01/10 First Use In Commerce: 2003/01/10 playing cards		

U.S. Registration No.	3042161	Application Date	04/17/2002
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Registration Date	01/10/2006	Foreign Priority Date	NONE
Word Mark	CANDY LAND		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2005/03/08 First Use In Commerce: 2005/03/08 pre-recorded video cassette tapes and dvd's featuring animated programs for children		

Attachments	71589107#TMSN.gif (1 page)(bytes) 76164166#TMSN.gif (1 page)(bytes) 76370443#TMSN.gif (1 page)(bytes) 76329781#TMSN.gif (1 page)(bytes) 76397830#TMSN.gif (1 page)(bytes) Not of Opp Candy Farm Final.pdf (8 pages)(342781 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	/Elizabeth A. Jaffe/
Name	Elizabeth A. Jaffe
Date	11/23/2011

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

In the Matter of Application Serial No. 85/050,193
Filed: May 28, 2010
For the Mark: CANDY FARM in International Classes 9, 14, 16, 25, 28, 41
Published in the Official Gazette: May 31, 2011 at TM 131-32

HASBRO, INC.,

Opposer,

v.

CANDY FARM LLC

Applicant.

Opposition No. _____

Commissioner for Trademarks
Trademark Assistance Center
600 Dulany Street
Alexandria, Virginia 22313
ATTN.: BOX TTAB – FEE

NOTICE OF OPPOSITION

HASBRO, INC., a Rhode Island corporation, having a place of business at 1027 Newport Avenue, Pawtucket, Rhode Island 02862-1059 (“Opposer”), believes that it will be damaged by registration of the CANDY FARM trademark covered by Application Serial No. 85/050,193, filed by Candy Farm LLC (“Applicant”), published in the Official Gazette dated May 31, 2011, at page TM 131, and hereby opposes the registration of the CANDY FARM trademark.

Applicant, upon information and belief, is a limited liability company organized under the laws of the state of New Jersey.

Opposer has obtained the necessary extension of time to file this Notice of Opposition and such Notice is timely made.

As grounds for opposition, Opposer alleges that:

1. As illustrated in the Official Gazette dated May 31, 2011, at page TM 131, Applicant seeks to register, based on 15 U.S.C. § 1051(b), and intends to use, the CANDY FARM trademark for goods and services in International Classes 9, 14, 16, 25, 28 and 41.

2. Specifically, Applicant seeks to register and use the trademark "CANDY FARM" for: "computer game program cartridges, cassettes, discs and tapes" in International Class 9; "paper products, namely, children's books, scrapbooks, bumper stickers, stickers, posters, educational learning cards, flash cards, activity cards, note cards, prints, magazines directed to children . . ." in International Class 16; clothing in International Class 25; "toys, namely, [but not limited to] . . . board games and game equipment sold as a unit for playing a board game, manipulative games, parlor games, action-type target games . . . stand-alone video output game machines . . ." in International Class 28; and "entertainment services, namely providing websites featuring games and entertainment information directed to children; production of television programs; motion picture film production" in International Class 41.

3. Opposer and its predecessors in title have been engaged for many years in the manufacture, sale, and licensing of a complete line of toys, games, playthings, clothing, and a wide variety of other consumer products under the "CANDY LAND" trademark (the "CANDY LAND mark").

4. Since its acquisition of Milton Bradley Company in 1984, Opposer has become the largest distributor of games in the United States. Milton Bradley Company began to sell a board game under the name and trademark CANDY LAND in 1949. Milton Bradley – and later, Opposer, which acquired Milton Bradley in 1984 and is its successor – has sold CANDY LAND board games continuously ever since the first sale in 1949. The CANDY LAND game is one of Milton Bradley’s and Opposer’s most successful and longest running games. Since its introduction in 1949, the game has become a fixture in a majority of American households.

5. Opposer is the owner of certain trademarks for the board game and related products that are the subject of the following federal registrations issued on the Principal Register, all of which are in full force and effect, as shown by the records of the U.S. Patent and Trademark Office (collectively, the “Trademarks”), including

- Registration No. 0544,328 in International Class 28 (board game played with movable pieces), registered on June 26, 1951;
- Registration No. 2,580,172 in International Class 24 (beach towels), registered on June 11, 2002;
- Registration No. 2,666,291 in International Class 9 (computer game programs), registered on December 24, 2002;
- Registration No. 2,784,765 in International Class 16 (playing cards), registered on November 18, 2003; and
- Registration No. 3,042,161 in International Class 9 (pre-recorded video cassette tapes and DVD’s featuring animated programs for children) registered on January 10, 2006.

6. In addition, Opposer has licensed the CANDY LAND mark for numerous products and has licensed the CANDY LAND mark for use with children's clothing, bedding, breakfast dishware and utensils, and even pediatric medical furniture. Additionally, over the years, Hasbro has also introduced numerous themed versions of its CANDY LAND game, often incorporating trademarks and content licensed from third party entertainment companies.

7. Opposer has expended more than ten million dollars in the past five years alone to advertise and promote the CANDY LAND brand.

8. Since 1967, the brand has generated more than 230 million dollars in sales. Since 1975, more than 2.5 million CANDY LAND games have been sold worldwide.

9. By virtue of the extensive advertising, promotional efforts, licensing, unsolicited publicity, and sales through long, continuous, and exclusive use that Milton Bradley Company and Hasbro have made of the CANDY LAND trademark in connection with board games and related products, the CANDY LAND name and mark have become well-known and associated in the minds of consumers with a single source.

10. By reason of the foregoing, the CANDY LAND trademark is widely recognized by the consuming public of the United States as a designation of source of the goods of Hasbro and is therefore famous within the meaning of 15 U.S.C. § 1125(c).

11. All of Opposer's trademark registrations and dates of first use predate Applicant's filing date and therefore Opposer has priority of use and rights superior to those of Applicant. Moreover, Applicant has filed applications for registration of goods in International Classes 9, 16 and 28. As stated above, Opposer holds registrations for goods in these three classes. Indeed, the goods for which Applicant seeks registration in International Classes 9, 16 and 28 are for the same or substantially the same goods as those already protected by registrations held by Opposer. Opposer has also licensed the CANDY LAND mark for entertainment services, including television programs and motion pictures, an intended use of Applicant's Mark in International Class 41.

12. Opposer has used its CANDY LAND mark in commerce extensively and has acquired considerable and valuable goodwill and wide-scale recognition for its mark. The

public has come to associate the CANDY LAND mark with Opposer and Opposer's goods and services, including but not limited to board games, computer games, publications, video cassettes and recordings, and entertainment, including television and motion pictures.

13. Opposer's registrations are *prima facie* proof of ownership and use of the mark from the original date of filing of the application, pursuant to 15 U.S.C. § 1057(b), and of the exclusive right to use the registered mark in commerce. Further, Registration Numbers 0544328, 2580172, 266291, and 2784765 are incontestable, pursuant to section 15 of the Trademark Act.

14. On information and belief, both the Applicant's mark and the CANDY LAND mark are applied to highly related goods and services and are likely to be sold to the same or similar channels of distribution.

15. Applicant's mark is confusingly similar to Opposer's registered CANDY LAND mark and is likely, when applied to the goods of the Applicant, to cause confusion, or to cause mistake or to deceive. Applicant's mark makes a highly similar commercial impression to Opposer's marks due to its incorporation of the identical term "CANDY" with the word "FARM," a word closely associated in substance and meaning with the word "LAND." The overall commercial impression of Applicant's mark, when applied to Applicant's goods, would cause confusion or be likely to cause confusion, mistake, or deception. The marks, as perceived by the consumer, will be considered substantially similar and confusing. Therefore, registration of the CANDY FARM mark is prohibited by 15 U.S.C. § 1052(d).

16. Registration of the CANDY FARM mark will lead the public to incorrectly conclude that Applicant or its services displaying the CANDY FARM mark have been authorized, sponsored or licensed by Opposer. Accordingly, issuance of any registration to

Applicant for the CANDY FARM mark is contrary to the provisions of 15 U.S.C. § 1052(a), and will result in damage to Opposer and the public.

17. Applicant's CANDY FARM mark is substantially similar to Opposer's CANDY LAND mark and is likely to dilute the distinctive quality of Opposer's famous mark and hamper its ability to function as a source-identifying trademark. Therefore, registration of said trademark is prohibited by 15 U.S.C. § 1125(c)(1).

18. Registration of Applicant's CANDY FARM mark constitutes *prima facie* evidence of the validity of such Registration, of Applicant's ownership of that trademark, and of Applicant's exclusive right to use said trademark pursuant to the provisions of 15 U.S.C. § 1057(b). Such registration would be a source of damage and injury to the Opposer and to the public and would be contrary to the principles of registration set out in 15 U.S.C. § 1051, *et seq.*

WHEREFORE, Opposer prays that this Opposition be sustained, and that application Serial No. 85/050,193 to Applicant for the CANDY FARM trademark be denied.

Please recognize Kim J. Landsman and Elizabeth A. Jaffe, Golenbock Eiseman Assor Bell & Peskoe LLP, 437 Madison Avenue, 35th Floor, New York, New York 10022, both members of the Bar of the State of New York, as the attorneys for the Opposer in this proceeding. All communications are to be directed to Elizabeth A. Jaffe at the address identified above.

Opposer hereby files this Notice of Opposition electronically, and simultaneously electronically transmits \$300.00 to cover the official statutory filing fee.

Dated: November 23, 2011

Respectfully submitted,

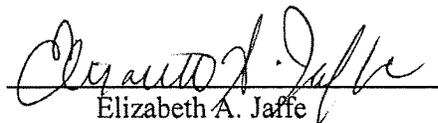
By: 
Kim J. Landsman
Elizabeth A. Jaffe

GOLENBOCK EISEMAN ASSOR
BELL & PESKOE LLP
437 Madison Avenue, 35th Floor
New York, New York 10022
212-907-7300

Attorneys for Opposer Hasbro, Inc.

ELECTRONIC MAILING CERTIFICATE

I hereby certify that the foregoing **NOTICE OF OPPOSITION** is being submitted electronically through the Electronic System for the Trademark Trial and Appeal Board ("ESTTA") on November 23, 2011.


Elizabeth A. Jaffe

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **NOTICE OF OPPOSITION** is being deposited with the U.S. Postal Service with sufficient postage as First Class mail this 23rd day of November, 2011 in an envelope addressed to the following person identified on the application as the representative of the Applicant:

Rebecca Stroder
SNR Denton US LLP
PO Box 061080
Chicago, IL 60606-1080


Elizabeth A. Jaffe