

June 19, 2013

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By Federal Express - Overnight

Trademark Assistance Center
Attention: TTAB
James Madison Building-East Wing, Concourse Level
600 Dulany Street
Alexandria, VI 22314

Re: In the Matter of Application SN 85/196,831
Opposition No. 91203898
PeopleNetwork Aps aka Beautiful People.com v. Beautiful People Magazine, Inc.
Opposer's Motion for Summary Judgment and Supporting Documents

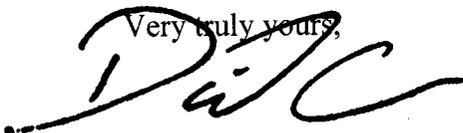
Dear Clerk:

Attached for filing with the TTAB, please find the following submissions:

- (1) Opposer's Motion for Summary Judgment (redacted version);
- (2) Opposer's Motion for Summary Judgment (unredacted), marked **confidential** and not for public record;
- (3) Declaration of Greg Hodge In Support of Opposer's Motion for Summary Judgment (redacted);
- (4) Declaration of Greg Hodge In Support of Opposer's Motion for Summary Judgment (unredacted), marked **confidential** and not for public record; and
- (5) Declaration of David K. Caplan In Support of Opposer's Motion for Summary Judgment.

If you have any questions regarding the enclosed, please feel free to contact me directly at (310) 777-3722.

Very truly yours,



David K. Caplan
Enclosures



06-21-2013

U.S. Patent and Trademark Office #72

4. Attached hereto as Exhibit 13 is a true and correct copy of the Office Action issued in response to the application to register Applicant's Mark, pulled from the TSDR page of the USPTO website.

5. Attached hereto as Exhibit 14 is a true and correct copy of the Examiner's Amendment indicating that Applicant authorized the Examining Attorney to add the above-reference disclaimer, pulled from the TSDR page of the USPTO website.

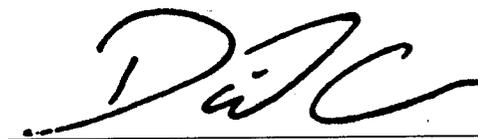
6. Attached hereto as Exhibit 15 is a true and correct copy of the Notice of Publication issued regarding Applicant's Mark, pulled from the TSDR page of the USPTO website.

7. Attached hereto as Exhibit 16 is a true and correct copy of PNA's Notice of Opposition.

8. There are a number of trademarks that have been registered by the same owner for use in connection with goods similar to those identified in both Applicant's and Opposer's applications, including the following: (1) U.S. Reg. No. 2,975,482; (2) U.S. Reg. No. 3,715,317; (3) U.S. Reg. No. 4,289,240; (4) U.S. Reg. No. 2,675,655; (5) U.S. Reg. No. 2,715,725; (6) U.S. Reg. No. 3,142,771; (7) U.S. Reg. No. 3,209,436; and (8) 3,167,417. True and correct copies of the aforementioned registrations, pulled from the TSDR page of the USPTO website, are attached hereto as Exhibits 17 through 24, respectively.

Under the laws of the United States of America, I declare under penalty of perjury that all of the forgoing is true and correct.

Executed this 18th day of June, 2013, at Natick, Massachusetts.

A handwritten signature in black ink, appearing to read "DKC", written over a horizontal line.

David K. Caplan

CERTIFICATE OF SERVICE

I, Patricia Cloutier, hereby certify that a true and correct copy of the foregoing **OPPOSER'S MOTION FOR SUMMARY JUDGMENT AND TO STAY ALL PROCEEDINGS; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF** was served upon:

Joshua Domond
Beautiful People Magazine Inc.
P.O. Box 1157
Hallandale, Florida 33008

by First Class Mail on June 18, 2012, with a courtesy copy by electronic mail to bpmagonline@gmail.com.


Patricia Cloutier

**OPPOSER'S MOTION FOR SUMMARY JUDGMENT
AND TO STAY ALL ALL PROCEEDINGS**

**Before the TTAB
Opposition No. 91203898**

EXHIBIT 11

Trademark/Service Mark Application, Principal Register

Serial Number: 85196831

Filing Date: 12/13/2010

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	85196831
MARK INFORMATION	
*MARK	<u>BEAUTIFUL PEOPLE MAGAZINE</u>
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	BEAUTIFUL PEOPLE MAGAZINE
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Beautiful People Magazine, Inc.
INTERNAL ADDRESS	Ste. 916
*STREET	101 Ocean Drive
*CITY	Miami Beach
*STATE (Required for U.S. applicants)	Florida
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	33139
LEGAL ENTITY INFORMATION	
TYPE	corporation
STATE/COUNTRY OF INCORPORATION	Florida
GOODS AND/OR SERVICES AND BASIS INFORMATION	
INTERNATIONAL CLASS	009

*IDENTIFICATION	Downloadable electronic publication, namely, general interest magazine featuring philanthropy, fashion, health, food, world issues, travel, art, and entertainment
FILING BASIS	SECTION 1(b)
ATTORNEY INFORMATION	
NAME	Leticia Guerra
ATTORNEY DOCKET NUMBER	7782-T10-004
FIRM NAME	Fleit Gibbons Gutman Bongini & Bianco PL
INTERNAL ADDRESS	Suite 115
STREET	21355 East Dixie Highway
CITY	Miami
STATE	Florida
COUNTRY	United States
ZIP/POSTAL CODE	33180
PHONE	305-830-2600
FAX	305-830-2605
EMAIL ADDRESS	tmmiami@fggbb.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
OTHER APPOINTED ATTORNEY	Paul D. Bianco, Gary Winer
CORRESPONDENCE INFORMATION	
NAME	Leticia Guerra
FIRM NAME	Fleit Gibbons Gutman Bongini & Bianco PL
INTERNAL ADDRESS	Suite 115
STREET	21355 East Dixie Highway
CITY	Miami
STATE	Florida
COUNTRY	United States
ZIP/POSTAL CODE	33180
PHONE	305-830-2600
FAX	305-830-2605

EMAIL ADDRESS	tmmiami@fggbb.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
NUMBER OF CLASSES	1
FEE PER CLASS	325
*TOTAL FEE DUE	325
*TOTAL FEE PAID	325
SIGNATURE INFORMATION	
SIGNATURE	/LG/
SIGNATORY'S NAME	Leticia Guerra
SIGNATORY'S POSITION	Attorney of record, Florida bar member
DATE SIGNED	12/13/2010

Trademark/Service Mark Application, Principal Register

Serial Number: 85196831

Filing Date: 12/13/2010

To the Commissioner for Trademarks:

MARK: BEAUTIFUL PEOPLE MAGAZINE (Standard Characters, see mark)

The literal element of the mark consists of BEAUTIFUL PEOPLE MAGAZINE.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Beautiful People Magazine, Inc., a corporation of Florida, having an address of
Ste. 916,
101 Ocean Drive
Miami Beach, Florida 33139
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 009: Downloadable electronic publication, namely, general interest magazine featuring philanthropy, fashion, health, food, world issues, travel, art, and entertainment
Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

The applicant's current Attorney Information:

Leticia Guerra and Paul D. Bianco, Gary Winer of Fleit Gibbons Gutman Bongini & Bianco PL

Suite 115
21355 East Dixie Highway
Miami, Florida 33180
United States

The attorney docket/reference number is 7782-T10-004.

The applicant's current Correspondence Information:

Leticia Guerra
Fleit Gibbons Gutman Bongini & Bianco PL
Suite 115
21355 East Dixie Highway
Miami, Florida 33180
305-830-2600(phone)
305-830-2605(fax)
tmmiami@fggbb.com (authorized)

A fee payment in the amount of \$325 has been submitted with the application, representing payment for 1 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /LG/ Date Signed: 12/13/2010
Signatory's Name: Leticia Guerra
Signatory's Position: Attorney of record, Florida bar member

RAM Sale Number: 6214
RAM Accounting Date: 12/14/2010

Serial Number: 85196831
Internet Transmission Date: Mon Dec 13 18:48:48 EST 2010
TEAS Stamp: USPTO/BAS-75.145.230.73-2010121318484824
3957-85196831-470c2adb861fa806883872fd49
8f5c9-CC-6214-20101213184127003279

BEAUTIFUL PEOPLE MAGAZINE

**OPPOSER'S MOTION FOR SUMMARY JUDGMENT
AND TO STAY ALL ALL PROCEEDINGS**

**Before the TTAB
Opposition No. 91203898**

EXHIBIT 12

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

PeopleNetwork Aps AKA BeautifulPeople.com Opposer	.	
	.	Mark: Beautiful People Magazine
v.	.	Serial No. – 85-196,831
	.	
Beautiful People Magazine, Inc. Applicant	.	Opposition No. 91203898
	.	

**APPLICANT'S ANSWER TO OPPOSER'S FIRST SET OF
INTERROGATORIES**

Comes Now, Beautiful People Magazine, by and through its president, Joshua Domond, and submits the following ANSWERS TO OPPOSER'S FIRST SET OF INTERROGATORIES to PeopleNetwork Aps AKA BeautifulPeople.com ("Opposer" herein).

Answer to Interrogatory No. 1

Joshua Domond, President of Beautiful People Magazine, Inc., selected the Beautiful People Magazine mark on October 18, 2006 by himself. Joshua Domond's business address is Beautiful People Magazine, 101 Ocean Drive, Suite 916, Miami Beach, FL 33139. The first adoption of the mark can be illustrated by the articles of incorporation for Beautiful People Magazine, Inc.

Before or after filing the articles of incorporation, Joshua Domond introduced the mark to business partner Nadia Caton of PO Box 1157 Hallandale, FL 33008, to business partner Lary Veloz of 10863 SW 69 Drive Miami, FL 33173, and to business partner Evens Domond of 20605 NW 11Ct, Miami Gardens, FI 33169.

Harold Hunter Jr., of 1619 Forest Rd, Apt 10, Durham, NC 27705 has also become a business partner with Joshua Domond. Joshua Domond has shared many emails and/or documents with Harold Hunter Jr. (which are produced in the answers to the Opposer's request for production of documents).

Note that Joshua Domond did not select the Beautiful People Magazine mark to trick consumers in order to "cash in" on the Opposer's business or good will. In fact, Joshua Domond did not know about the Opposer's company or Opposer's marks until the Opposer filed the Notice of Opposition for Opposition No. 91203898.

Additionally, note that Applicant applied for the mark Beautiful People Magazine on application Serial No. 76684764 with a goods/services description listed as "Magazine Publishing" in Class 041 on December 10, 2007. The date of first use was listed as October 18, 2006 on the application. Applicant believed that the specimen showed use of the mark in commerce for "magazine publishing." However, the trademark examiner disagreed and stated that the specimen showed an online publication. Thus, the examiner rejected the specimen for the goods/services listed in Application Serial No. 76684764. Please note that the application for Serial No. 76684764 was abandoned on December 14, 2010 and a notice of abandonment was sent out on January 7, 2011.

Even if such specimen submitted to application Serial No 76684764 showed an online publication, such online publication was not a "downloadable electronic publication, namely general interest magazine featuring philanthropy, fashion, health, food, world issues, travel, art, and entertainment." Thus, mark was not used in commerce or used at all for the goods/services stated in Application Serial No. 85,196,831.

Note that up until December 2010 (the time of abandonment of Application Serial No. 76684764), Applicant had been focused on outer beauty with a minor emphasis on inner beauty. Some of that can be seen in emails related to discussing the mark Serial No 76684764. However, Applicant realized that this is not what Applicant wanted the focus of the magazine to be. At that time, Applicant "redefined" the meaning and desired content of Beautiful People Magazine after much thought and deliberation. This switch in focus can be seen in Applicant's application for Beautiful People Magazine (serial No. 85,196,831).

Note that Applicant also filed a trademark application for the mark "Beautiful People in Action" on May 05, 2008 with goods/services listed as "Entertainment services, namely, conducting contests designed to promote socially beneficial goals" in Class 041. The mark was registered on September 21, 2010 and the Registration No. is 3850544. The date of first use is listed as August 31, 2009 and the date of first use in commerce is listed as August 31, 2009.

After Applicant redefined the intended focus of the magazine to spotlight inner beauty (not outer beauty), Applicant filed a trademark application for "Beautiful People Magazine" (Serial No. 85,196,831) on December 13, 2010.

The goods and services description is listed as: Downloadable electronic publication, namely, general interest magazine featuring philanthropy, fashion, health, food, world issues, travel, art, and entertainment."

As stated above, the concept for Beautiful People Magazine (Serial No. 85,196,831) is based on inner beauty. Inner beauty can be exemplified by providing help or assistance to mankind, performing good deeds or philanthropic acts, or by transforming the world in a positive way.

Since the focus of Beautiful People Magazine mark (Serial No. 85,196,831) is based on inner beauty and not outer beauty, there will be no requirement that a person's face and/or body be physically attractive or aesthetically pleasing to be featured on the cover or in the body of Beautiful People Magazine. The only requirement for Beautiful People Magazine will be that the persons appearing on the cover or in the body of the magazine have inner beauty, as exemplified by providing assistance to mankind, performing good deeds or philanthropic acts, or transforming the world in a positive way. Joshua Domond and other staff members will select those persons appearing on the cover and in the body of the magazine.

Beautiful People Magazine's cover and content for the downloadable electronic publication could feature photos and stories concerning average looking persons, attractive looking persons, ugly persons, obese persons, elderly persons, small children, physically or mentally disabled persons, disfigured persons, persons with missing limbs, and persons with age spots or wrinkles, and others who meet the criteria described above for inner beauty.

Note that Applicant's Beautiful People Magazine will not exclude physically attractive persons - especially if those persons possess inner beauty (as described above). However, outer physical beauty will not be a requirement and will not be the focus of the magazine.

The magazine will feature sections such as world changers, beautiful people search, 100 heroes of the world, who's who in philanthropy, world celebrity cause, beautiful people we love inner and outer beauty, and supreme court justice.

In some of the applicant's emails produced in response to the Opposer's Request for production, there was some confusion about this topic of "dates of use." Note that any dates of use mentioned in any emails provided for "new application" for Beautiful People Magazine do not reflect accurate information in relation to Application Serial No. 85,196,831

It has been confirmed that the Beautiful People Magazine mark has not been used in commerce or used at all in conjunction for the goods/services stated in Application Serial No. 85,196,831 and that is why an "intent to use" application

was filed. Applicant does have a bona fide intent to use the Beautiful People Magazine mark in commerce for goods/services listed in Application Serial No. 85,196,831).

Answer to Interrogatory No. 2

Applicant has not used the Beautiful People Magazine mark on or in connection with the goods listed on the application Serial No. 85,196,831 at this time.

Answer to Interrogatory No. 3

Applicant has not used the Beautiful People Magazine mark in interstate commerce on or in connection with the goods listed on the application Serial No. 85,196,831 at this time.

Answer to Interrogatory No. 4

Applicant has not used the Beautiful People Magazine mark on or in connection with the goods listed on the application Serial No. 85,196,831 at this time.

Applicant has used the Beautiful People magazine mark on or in connection with the goods/services listed on Application Serial No 76684764 in Class 041. The date of first use was listed as October 18, 2006 on the application. Applicant believed that the specimen showed use of the mark in commerce for "magazine publishing." However, the trademark examiner disagreed and stated that the specimen showed an online publication. Even if such specimen submitted to application Serial No 76684764 showed an online publication, such online publication was not a "downloadable electronic publication, namely general interest magazine featuring philanthropy, fashion, health, food, world issues, travel, art, and entertainment." Please note that the application for Serial No. 76684764 was abandoned.

Applicant filed a trademark application for the mark "Beautiful People in Action" on May 05, 2008 and the mark was registered on September 21, 2010. (Registration No. 3850544). The date of first use is listed as August 31, 2009 and the date of first use in commerce is listed as August 31, 2009.

Answer to Interrogatory No. 5

Applicant has not used the Beautiful People Magazine mark on or in connection with the goods listed on the application Serial No. 85-196,831 at this time.

Applicant plans to use the Beautiful People Magazine mark (Serial No. 85,196,831) globally, to promote inner beauty (as described in the answer to Interrogatory No. 1) via a downloadable electronic publication on the world wide web.

Joshua Domond, Nadia Caton, and Harold Hunter Jr. are the most knowledgeable persons on the planned use of the mark. The addresses and positions of these individuals are set forth in the answer to Interrogatory No. 1.

Answer to Interrogatory No. 6

Joshua Domond is the person responsible for the decision to apply to register the Beautiful People Magazine mark (Serial No. 85,196,831). Joshua Domond's address is Beautiful People Magazine, 101 Ocean Drive, Suite 916, Miami Beach, FL 33139.

Answer to Interrogatory No. 7

Applicant disclaimed the term "magazine" because the trademark examiner required the disclaimer.

Answer to Interrogatory No. 8

Applicant has not licensed any third party to use the Beautiful People Magazine mark in connection with any good or service.

Answer to Interrogatory No. 9

Applicant has not used the Beautiful People Magazine mark on or in connection with the goods listed in the Applicant's application (Serial No. 85,196,831) at this time. Similarly, Applicant has not sold or distributed goods using the Beautiful People Magazine mark (Serial No. 85,196,831) on or in connection with the goods listed on the Applicant's application Serial No 85,196,831 at this time.

For the goods/services offered under application Serial No 76684764, the channel of trade was the internet. The application Serial No 76684764 has been abandoned.

Applicant filed a trademark application for the mark "Beautiful People in Action" on May 05, 2008 and the date of first use in commerce is listed as Aug. 31, 2009. The mark was registered on September 21, 2010. (Registration No. 3850544). The trade channels are via Internet.

Answer to Interrogatory No. 10

Applicant has not used the Beautiful People Magazine mark on or in connection with the goods listed on the Applicant's application Serial No 85196,831 at this time.

Answer to Interrogatory No. 11

Applicant has not used the Beautiful People Magazine mark on or in connection with the goods listed on the Applicant's application Serial No 85196,831 at this time. There has been no actual advertising or actual promotion of Applicant's mark Serial No 85196,831 at this time.

Answer to Interrogatory No. 12

Applicant has not used the Beautiful People Magazine mark on or in connection with the goods listed on the Applicant's application Serial No 85196,831 at this time. There has been no actual advertising or actual promotion of the Beautiful People Magazine mark on or in connection with the goods listed on the Applicant's application Serial No 85196,831 at this time.

Note that there are two interrogatories that are numbered as "12".

Answer to Second Interrogatory Numbered as "12"

There were no objections, complaints, or inquires to Applicant's use of the mark on application Serial No. 76684764 and the mark has been abandoned.

Applicant has not used the Beautiful People Magazine mark on or in connection with the goods listed on the Applicant's application Serial No 85,196,831 at this time and thus, there have been no complaints or inquiries received with respect to the use of the Beautiful People Magazine mark in connection with any good or service listed on application Serial No 85,196,831.

As far as Applicant's planned or intended future use of Beautiful People Magazine in commerce for application Serial No 85,196,831, PeopleNetwork Aps AKA BeautifulPeople.com and Time Inc. have filed oppositions with the Trademark Trial and Appeal Board.

As Opposer is aware of, the opposition proceeding filed by PeopleNetwork Aps AKA BeautifulPeople.com is pending against Application Serial No. 85,196,831 and is the reason that we are having discovery.

Time Inc. filed Opposition 91205251 against Applicant's "Beautiful People Magazine" mark (Serial No. 85,196,831) on May 16, 2012 and Time Inc.

voluntarily withdrew the opposition on June 25, 2012. It is worth noting that Time Inc. had a famous registered mark and had goods directly in the field of printed and/or online magazines. However, Time Inc. realized that there was no likelihood of confusion and no trademark dilution. Additionally, Time Inc. realized that Joshua Domond would fight back and would not give up in the opposition. After several months of verbal discussions with Joshua Domond, Time Inc. learned that Joshua Domond would put up a dogfight and that Time Inc. would not win the Opposition. Time Inc., as noted above, voluntarily withdrew the opposition on June 25, 2012.

Answer to Interrogatory No. 13

Applicant has not conducted any surveys which discussed, concerned, or otherwise mentioned a trademark that includes the phrase "Beautiful People."

Note that there are two interrogatories numbered as "13."

Answer to Second Interrogatory Numbered as "13"

Applicant has not used the Beautiful People Magazine mark on or in connection with the goods listed on the Applicant's application serial no. 85,196,831 at this time and there has been no actual money spent on advertising/promotion of the Beautiful People Magazine mark on or in connection with the goods listed on the application serial no. 85,196,831 at this time.

Answer to Interrogatory No. 14

Applicant has not used the Beautiful People Magazine mark on or in connection with the goods listed on the Applicant's application Serial No. 85,196,831 at this time. Thus, there are no monthly gross sales for goods sold or rendered under the Beautiful People Magazine mark.

Note that are two questions labeled as No. 14.

Answer to Interrogatory labeled as the second No. 14

There has been no litigation regarding any of Applicant's marks.

Applicant has been involved in Oppositions as a Plaintiff and as a Defendant.

- (a) Applicant filed a trademark application for the mark "Beautiful People in Action" on May 05, 2008 and the date of first use in commerce is listed as Aug. 31, 2009. The mark was registered on September 21, 2010. (Registration No. 3850544). Applicant filed Opposition No. 91196034 against Beautiful People Society Inc.'s application for the mark "Beautiful

Answer to Interrogatory No. 17

Joshua Domond's business address is Beautiful People Magazine, 101 Ocean Drive, Suite 916, Miami Beach, FL 33139.

Harold Hunter Jr, a business partner of Joshua Domond, assisted in providing the answers to the interrogatories. Mr. Hunter lives at and works from his address of 1619 Forest Rd, Apt 10, Durham, NC 27705. Mr. Hunter can be reached directly at 704-674-4069.

Answer to Interrogatory No. 18

Mr. Harold Hunter Jr (see address on previous answers to interrogatories) Joshua Domond (see address on previous answers to interrogatories), and Nadia Caton (see address on previous interrogatories) have knowledge regarding any investigations related to the Opposer or Opposer's marks.

The investigations included examining opposer's website(s), opposer's trademark applications, opposer's specimens, prosecution history for opposer's marks, opposer's notice of opposition, opposer's motion, correspondence from Opposer, as well as examining other pending applications and/or issued trademark registrations containing the words "beautiful" and "people."

Answer to Interrogatory No. 19

Joshua Domond, Nadia Caton, and Harold Hunter are the most knowledgeable persons concerning the facts that support Applicant's Answer and Affirmative Defenses set forth in Applicant's Answer. The addresses of Mr. Domond, Mr. Hunter, and Ms. Caton can be found in answers to previous interrogatories.

Answer to Interrogatory No. 20

Applicant did not know about the existence of the Opposer or each of Opposer's marks until the Opposer filed the Notice of Opposition on February 15, 2012. The location of the Notice of Opposition is at the Trademark Trial and Appeal Board. The Notice of Opposition can be viewed and printed at the website <http://www.uspto.gov>.

After learning of the Opposer's marks and of the Opposition, Applicant followed the steps set forth below to analyze infringement.

- (a) Applicant read the Notice of Opposition filed by Opposer,
- (b) Applicant reviewed the trademark applications of the Opposer,
- (c) Applicant reviewed the specimens submitted by the Opposer,
- (d) Applicant examined the prosecution history of Opposer's marks and the all

documents related to the prosecution history.

- (e) Applicant examined all USPTO office actions and response to Office Actions for Opposer's marks.
- (f) Applicant searched for other pending or registered marks containing the name "beautiful people"
- (g) Applicant researched doctrine of laches, estoppel, acquiescence.
- (h) Applicant conducted a traditional likelihood of confusion analysis to determine:
 - Whether Applicant's mark is a strong/distinctive mark and whether Opposer's Mark is a strong/distinctive mark.
 - Whether Applicant's mark is sufficiently different in its entirety from Opposer's mark as to appearance, sound, connotation, and/or commercial impression so as to preclude any likelihood of confusion.
 - Whether Goods to be sold by Applicant are sufficiently different from those sold by Opposer so as to preclude any likelihood of confusion.
 - Whether the consumer markets and trade channels through which Applicant shall sell Applicant's goods are sufficiently different from those of the Opposer so as to preclude any likelihood of confusion, and
 - Whether the conditions under which Applicant will sell Applicant's goods are sufficiently different from those under which Opposer's goods are sold so as to preclude any likelihood of confusion

Answer to Interrogatory No. 21

No person, entity, or thing suggested that any goods and services offered or intended to be offered under the Applicant's Beautiful People Magazine mark originated from, or are sponsored by, licensed by, or otherwise affiliated with Opposer.

Answer to Interrogatory No. 22

Applicant does not plan to call any expert witnesses in this matter.

Answer to Interrogatory No. 23

Facts supporting the assertion that Applicant's mark (Serial No. 85,196,831) is sufficiently different in its entirety from Opposer's marks as to appearance, sound, connotation, and/or commercial impression so as to preclude any likelihood of confusion include:

- (a) Applicant's mark has a different appearance, sound, and commercial impression than the Opposer's marks because Applicant's mark has the term "magazine" as the final word in the mark. The extra word provides three extra syllables and lets consumers know that the Applicant intends to put out an online or hard copy magazine. Applicant's mark also does not have .com at the end.
- (b) The words "beautiful people" in the Applicant's mark have a primary meaning that is equivalent to mean "inner beauty."
- (c) The connotation or secondary meaning of the words "beautiful people" in Applicant's mark is equivalent to "philanthropy." Additional secondary meanings for the words "beautiful people" in the Applicant's mark include providing assistance to mankind, performing good deeds, or transforming the world in a positive way."

Answer to Interrogatory No. 24

Facts supporting Applicant's assertion that Applicant's mark (Serial No. 85,196,831) does not cause any likelihood of confusion, mistake or deception include the following:

(a.) Applicant's mark is a strong and distinctive mark, such that the trademark examiner found no conflicting marks and the trademark examiner did not find that Applicant's mark was "merely descriptive."

Conversely, Opposer's application Serial No. 85236075 for Beautiful People in classes 016 and 045 was initially refused registration on the Principal Register because the trademark examiner determined the mark to be "merely descriptive" of features of the Opposer's goods and services.

An excerpt from the Opposer's website states that subjects become members of its dating services when they are voted "beautiful" after uploading a photograph. Thus, the products and services feature "beautiful people." The trademark examiner concluded that both the individual components and the words combined were descriptive of Opposer's goods and services and did not create a unique, incongruous, or non-descriptive meaning in relation to the goods and services. The Opposer's application for Serial No. 85236075 was later suspended, but the rejection for being "merely descriptive" was continued by the trademark examiner.

The Opposer filed an identical application for Beautiful People in Class 041 on the Supplemental Register, the register reserved for descriptive marks. The co-pending Opposer's application for Beautiful People on the

Supplemental Register is Serial No. 85,264,026 and the prosecution of the Opposer's application has been suspended. This application would have likely faced rejection by the trademark examiner for being "merely descriptive."

Likewise, the Opposer's other cited application Serial No 85472690 for BeautifulPeople.com would have likely faced rejection by the trademark examiner for being "merely descriptive."

(b.) Applicant's mark (Serial No. 85,196,831) is sufficiently different in its entirety from Opposer's marks as to appearance, sound, connotation, and/or commercial impression so as to preclude any likelihood of confusion as illustrated by:

Applicant's mark has the term "magazine" as the final word in the mark. The extra word provides three extra syllables and lets consumers know that Applicant intends to put out an online or print magazine. Applicant's mark also does not have .com at the end.

The words "beautiful people" in the Applicant's mark have a primary meaning that is equivalent to mean "inner beauty."

The connotation or secondary meaning of the terms "beautiful people" in Applicant's mark is equivalent to "philanthropy." Alternative terms for the defining the secondary meaning of the words "beautiful people" include "providing assistance to mankind, performing good deeds, or transforming the world in a positive way."

(c.) Facts supporting Applicant's assertion that the goods to be sold by Applicant for application (Serial No. 85,196,831) are sufficiently different from those sold by Opposer so as to preclude any likelihood of confusion- include:

Applicant's application (Serial No. 85196831) is filed in Class 009 with a goods and services description listed as "downloadable electronic publication, namely general interest magazine featuring philanthropy, fashion, health, food, world issues, travel, art, and entertainment."

Opposer has no trademark applications filed and/or pending in class 009 because Opposer's goods and services are not eligible to be listed in Class 009. In fact, Opposer's applications are filed in Classes 016, 041, and 045 and these applications have goods/services that are different from those of Applicant. The goods and services referenced in Opposer's applications do not belong in Class 009.

Opposer's application – Serial No 85236075 for Beautiful People is filed in

Class 16 for "calendars" and in Class 045 for "dating services."

Opposer's application 85264026 for Beautiful People is filed in Class 041 on the supplemental register for "entertainment, namely a continuing reality television show broadcast over television, cable television, audio, video, digital media, and the internet."

Opposer's application 85472690 for BeautifulPeople.com is filed in Class 041 for "entertainment services in the nature of an ongoing reality based television program and in Class 045 for "internet based dating, social introduction, and social networking services."

(d.) Facts supporting Applicant's assertion that the consumer markets and trade channels through which Applicant shall sell Applicant's goods for application (Serial No. 85,196,831) are sufficiently different from those of the Opposer so as to preclude any likelihood of confusion – include:

Applicant will market Beautiful People Magazine to all consumers and not exclusively to physically attractive persons. Readers of Beautiful People Magazine will be interested in learning about inner beauty. Inner Beauty can be illustrated by providing assistance to mankind, performing good deeds or philanthropic acts, or transforming the world in a positive way. The magazine will feature sections such as world changers, beautiful people search, and 100 heroes of the world.

Since the focus of Beautiful People Magazine will be inner beauty and not outer beauty, there will be no requirement that a person's face and/or body be physically attractive or aesthetic to be featured on the cover or body of Beautiful People Magazine. The online electronic publication may feature physically attractive persons, especially if those persons fit the criteria for inner beauty (as described above) or if those persons have a unique contribution worthy of being featured in the Beautiful People Magazine.

The only requirements will be that the persons appearing on the cover or in the body of the Beautiful People Magazine have inner beauty (as described above) and/or have some unique contribution worthy of being featured in the Beautiful People Magazine.

Thus, the cover and content of Beautiful People Magazine could feature photos and stories concerning average looking persons, attractive looking persons, ugly or unattractive persons, obese persons, dwarfs, elderly persons, persons with age spots and wrinkles, children, disabled persons, disfigured persons, persons with missing limbs, and any other persons who have inner beauty (as described above).

Trade channels for Beautiful People Magazine will be via internet

webpage download and via email.

In contrast, the Opposer markets Opposer's marks to physically attractive persons exclusively, as evidenced on Opposer's BeautifulPeople.com website. The BeautifulPeople.com website states " As a member of BeautifulPeople, you will have access to the most attractive people locally and from around the globe." Additionally, the website for Opposer's marks displayed on BeautifulPeople.com has a voting system for picking the most physically attractive persons. To become a member, applicants are required to be voted in by existing members of the opposite sex. Members rate new applicants over a 48 hour period based on whether or not they find the applicant 'beautiful'. Should applicants secure enough positive votes from members, they will be granted membership to the BeautifulPeople community.

Additionally, materials that Opposer submitted to allege use of the Opposer's mark related to a Reality TV show, state the following:

"The Good, The Bad, Not The Ugly... There are thousands of dating agencies but this series lifts the lid on the most exclusive. *The Beautiful People* is only open to the lovely looking, the achingly attractive, and the down-right drop-dead gorgeous. It's like being in an exclusive club-- Mensa for the beautiful! . . . Each episode delves into the world of the vain, the egotistical, and the self-obsessed. New applicants are allowed in only if they pass the beauty test. We join them on dates—will they think their date is as beautiful as they are or will they be sadly disappointed?—go to Beautiful People events, and meet the ones desperate to get into this exclusively gorgeous club. Each week we follow those who have tried (and tried again) to get membership—but keep failing."

Trade Channels for Opposer's marks appear to be the internet and Television.

(e.) Facts supporting Applicant's assertion that the conditions under which Applicant will sell Applicant's goods for application (Serial No. 85,196,831) are sufficiently different from those under which Opposer's goods are sold so as to preclude any likelihood of confusion are as follows:

Consumers who will purchase Applicant's Beautiful People magazine will not purchase the magazine on impulse or based on the physical attractiveness of persons featured on the cover or in the body of the magazine. Consumers who will purchase Beautiful People Magazine will have thought through the benefits of the magazine and purchase the magazine to read about persons with inner beauty and the philanthropic or humanitarian acts performed by featured persons in the magazine.

There will be no reader/subscriber voting system based on physical attractiveness to determine which persons are featured on the cover or within the body of the Applicant's magazine. Similarly, there will be no reader/subscriber voting system based on physical attractiveness to determine who buys or can buy Applicant's goods/services offered in Beautiful People Magazine.

In contrast, sales and utilization of opposer's products/services are governed by a voting system, as described on the BeautifulPeople.com website. The beautifulpeople.com website states " The website for beautiful people.com also has a voting system for picking the most physically attractive persons. To become a member, applicants are required to be voted in by existing members of the opposite sex. Members rate new applicants over a 48 hour period based on whether or not they find the applicant 'beautiful'. Should applicants secure enough positive votes from members, they will be granted membership to the BeautifulPeople community.

Answer to Interrogatory No. 25

Applicant's mark (Serial No. 85,196,831) is a strong and distinctive mark, as illustrated by the fact that the examiner found no conflicting registered or pending marks. Additionally, the trademark examiner did not reject Applicant's mark as being "merely descriptive" of features of the Applicant's goods and services.

The words "beautiful people" in the Applicant's mark have a primary meaning of inner beauty and a secondary meaning of philanthropy, providing assistance to mankind, performing good deeds, or transforming the world in a positive way. Thus, the words "beautiful people" in the Applicant's mark create a unique, incongruous, and non-descriptive meaning in relation to the goods and services.

Answer to Interrogatory No. 26

Facts supporting Applicant's assertion that goods to be sold by Applicant in application (Serial No. 85,196,831) are sufficiently different from those sold by Opposer so as to preclude any likelihood of confusion include the following:

Applicant's application (Serial No. 85196831) is filed in Class 009 with a goods and services description listed as "downloadable electronic publication, namely general interest magazine featuring philanthropy, fashion, health, food, world issues, travel, art, and entertainment." Opposer has no trademark applications filed and/or pending in class 009 because Opposer's goods and

services are not eligible to be listed in Class 009.

Opposer's applications are filed in Classes 016, 041, and 045 and these applications have goods/services that are different from those of Applicant.

Opposer's application – Serial No. 85236075 for Beautiful People is filed in Class 16 for "calendars" and in Class 045 for "dating services." First, it is questionable as to whether Opposer's specimens prove that Opposer has used the mark in commerce for calendars "in the United States." Upon a thorough internet search, Applicant also found no other evidence of Opposer using the mark in commerce for calendars "in the United States." Furthermore, Applicant's goods and services are clearly different than these goods and services of Opposer for Serial No. 85236075.

Opposer's application 85264026 for Beautiful People is filed in Class 041 on the supplemental register for "entertainment, namely a continuing reality television show broadcast over television, cable television, audio, video, digital media, and the internet." First, it is questionable as to whether Opposer's specimens actually prove that Opposer is using the mark in commerce for a reality TV show "in the United States." Upon a thorough internet search, Applicant has found no other evidence that Opposer has used the mark in commerce for a reality TV show "in the United States." Furthermore, Applicant's goods and services are clearly different than these goods and services of Opposer for Serial No. 85264026

Opposer's application 85472690 for BeautifulPeople.com is filed in Class 041 for "entertainment services in the nature of an ongoing reality based television program and in Class 045 for "internet based dating, social introduction, and social networking services." First, it is questionable as to whether Opposer's specimens actually prove that Opposer is using the mark in commerce for a reality TV show "in the United States." Upon a thorough internet search, Applicant has found no other evidence that Opposer has used the mark in commerce for a reality TV show "in the United States." Applicant's goods and services are clearly different than these goods and services of Opposer for Serial No. 85472690

Answer to Interrogatory No. 27

Facts that support the assertion that the consumer markets and trade channels through which Applicant shall sell goods/services listed in application Serial No. 85,196,831 are sufficiently different from those of the Opposer so as to preclude any likelihood of confusion, include:

Applicant will market Beautiful People Magazine to all consumers and not

exclusively to physically attractive persons. Readers of Beautiful People Magazine will be interested in learning about inner beauty. Inner Beauty can be illustrated by providing assistance to mankind, performing good deeds or philanthropic acts, or transforming the world in a positive way. The magazine will feature sections such as world changers, beautiful people search, 100 heroes of the world, who's who in philanthropy, world celebrity cause, beautiful people we love inner and outer beauty, and supreme court justice.

Since the focus of Beautiful People Magazine will be inner beauty and not outer beauty, there will be no requirement that a person's face and/or body be physically attractive or aesthetic to be featured on the cover or body of Beautiful People Magazine. The online, downloadable publication may feature physically attractive persons, especially if those persons fit the criteria for inner beauty (as described above) or if that person has a unique contribution worthy of being featured in the Beautiful People Magazine.

The only requirements will be that the persons appearing on the cover or in the body of the Beautiful People magazine have inner beauty (as described above) and/or have some unique contribution worthy of being featured in the Beautiful People Magazine.

Thus, the cover and content of Beautiful People Magazine could feature photos and stories concerning average looking persons, attractive looking persons, ugly or unattractive persons, obese persons, dwarfs, elderly persons, persons with visible age spots and visible wrinkles, children, disabled persons, disfigured or scarred persons, persons with missing limbs, and any other persons who have inner beauty (as illustrated by providing assistance to persons in need, performing good deeds or philanthropic acts, or transforming the world in a positive way.)

Trade channels for Beautiful People Magazine will be via internet webpage download and via email.

In contrast, the Opposer markets Opposer's marks to physically attractive persons exclusively, as evidenced on Opposer's BeautifulPeople.com website. The BeautifulPeople.com website states "As a member of BeautifulPeople, you will have access to the most attractive people locally and from around the globe." Additionally, the website for Opposer's marks displayed on BeautifulPeople.com has a voting system for picking the most physically attractive persons. To become a member, applicants are required to be voted in by existing members of the opposite sex. Members rate new applicants over a 48 hour period based on whether or not they find the applicant 'beautiful'. Should applicants secure enough positive votes from members, they will be granted membership to the BeautifulPeople community.

Materials that Opposer submitted to allege use of the Opposer's mark

related to a Reality TV show, state the following:

"The Good, The Bad, Not The Ugly... There are thousands of dating agencies but this series lifts the lid on the most exclusive. *The Beautiful People* is only open to the lovely looking, the achingly attractive, and the down-right drop-dead gorgeous. It's like being in an exclusive club-- Mensa for the beautiful!"

Materials that Opposer submitted to allege use of the Opposer's mark related to a Reality TV show, also state the following:

Each episode delves into the world of the vain, the egotistical, and the self-obsessed. New applicants are allowed in only if they pass the beauty test. We join them on dates—will they think their date is as beautiful as they are or will they be sadly disappointed?—go to Beautiful People events, and meet the ones desperate to get into this exclusively gorgeous club. Each week we follow those who have tried (and tried again) to get membership---but keep failing.

It appears that trade Channels for Opposer's marks appear to be the internet, television, and/or retail store.

Answer to Interrogatory No. 28

Facts that support the assertion that the conditions under which Applicant will sell goods for application Serial No. 85,196,831 are sufficiently different from those under which Opposer's goods are sold so as to preclude any likelihood of confusion include:

For goods/services for the Applicant's mark, Consumers will not buy these goods/services on an impulse. Consumers who want to read about inner beauty will search for this magazine and make the purchase after much reflection & thought. There will be no voting system based on physical attractiveness to determine which persons are featured on the cover or in the body of Applicant's magazine. Consumers who buy Applicant's goods/services or who utilize the goods services offered under the Applicant's mark will not be chosen by a voting system based on physical attractiveness.

In contrast, sales of opposer's products are governed by a voting system based on physical attractiveness.

The Opposer's BeautifulPeople.com website states "As a member of BeautifulPeople, you will have access to the most attractive people locally and from around the globe." The website for beautiful people.com also references a voting system for picking the most physically attractive persons. To become a member, applicants are required to be voted in by

existing members of the opposite sex. Members rate new applicants over a 48 hour period based on whether or not they find the applicant 'beautiful'. Should applicants secure enough positive votes from members, they will be granted membership to the BeautifulPeople community.

Answer to Interrogatory No. 29

Facts that support Applicant's argument that there is no likelihood of dilution and no actual dilution between Applicant's mark Serial No. 85,196,831 and Opposer's marks are as follows.

Opposer's marks are not distinctive for the goods and services listed in Opposer's applications. In fact, Opposer's application Serial No. 85236075 for Beautiful People in classes 016 and 045 was initially refused registration on the Principal Register because the trademark examiner determined the mark to be "merely descriptive" of features of the Opposer's goods and services. Opposer's other applications were suspended, but likely would have faced the same rejection for being "merely descriptive."

Additionally, Opposer's marks are not famous and Opposer has not provided evidence to show otherwise. Opposer has not set forth facts or evidence to prove that (i) the Opposer's marks are famous to customers or to potential customers in the relevant market or (ii) to prove that the Opposer's marks have widespread renown and recognition by general public.

Opposer has not provided detailed evidence to establish fame of the Opposer's marks, such as detailed advertising figures, detailed sales figures, market share analyses, brand recognition surveys, and details regarding length of use. Opposer's marks have not been adjudicated as famous by a court of competent jurisdiction in the United States. Since the Opposer's marks are not famous, there is no likelihood of dilution and no actual dilution.

Opposer has not provided any specific facts to prove that Applicant's mark weakens the power of the Opposer's marks through identification with dissimilar goods.

Additionally, Opposer fails the traditional factor analysis of trademark dilution in that:

(i) The marks are dissimilar in appearance, sound, meaning, and connotation as discussed in the answer to previous interrogatories.

(ii) Opposer's mark not inherently distinctive as discussed in the answer to previous interrogatories.

(iii) Opposer does not engage in exclusive use of the mark.

Opposer does not have the exclusive right to the Beautiful People mark in the United States as illustrated by several active registrations or applications for marks which include the words "Beautiful People" and as illustrated by the fact that those applications or registrations have owners other than the Opposer. More specifically, there are active registrations and applications containing the words Beautiful People in classes 025, 036, 041, and 045.

The registrations and/or applications are as follows:

Registration No. 3960506 for Beautiful People in Class 025 owned 37.37, Inc.

Registration 2941226 for Where Beautiful People Come to Get Ugly in class 025 owned by Sports Entertainment, Inc.

Registration No. 2957823 for Beautiful Places for the Beautiful People in Class 036 owned by Robert L. Stark Enterprises, Inc. This registration has been cancelled.

Application No. 85281311 for Date Beautiful People in Class 045 (on the Supplemental Register) owned by Infostream Group, Inc.

Registration 3850544 for Beautiful People in Action in Class 041 owned by Applicant.

Registration 3274447 for Beautiful Bags for Beautiful People in Class 018 owned by Charlotte Parker.

(iv) The Opposer's mark does not have a high degree of recognition.

(v) The Applicant's mark was not intended to create an association with the Opposer's mark as indicated in the answer to Interrogatory No. 1.

(vi) There is no actual association between the Opposer's mark and the alleged mark, as indicated in answers to previous interrogatories.

Additionally, Opposer has not provided facts to prove dilution by tarnishment. More specifically, Opposer has not provided specific facts to prove that Applicant's mark casts the Opposer's marks in an unflattering light or harms the reputation of the Opposer's marks through association with inferior products or services.

Answer to Interrogatory No. 30

Opposer's application Serial No. 85236075 for Beautiful People in classes 016 and 045 was initially refused registration on the Principal Register because the trademark examiner determined the mark to be merely descriptive of features of the Opposer's goods and services. The Opposer's application for Serial No. 85236075 was later suspended, but the rejection for being merely descriptive was "continued" by the trademark examiner.

The Opposer filed an identical application for Beautiful People in Class 041 on the Supplemental Register, the register reserved for descriptive marks. The co-pending Opposer's application for Beautiful People on the Supplemental Register is Serial No. 85/264, 026 and the prosecution of the Opposer's application has been suspended. This mark would have likely been rejected by the trademark examiner for being "merely descriptive."

Likewise, the Opposer's other cited application Serial No 85472690 for BeautifulPeople.com would have likely faced rejection by the trademark examiner for being "merely descriptive."

Answer to Interrogatory No. 31

Facts supporting Applicant's laches defense include:

- (a) Applicant has a family of marks including Registration No. 3850544, for Beautiful People in Action and Application Serial No. 85,196,831 for Beautiful People Magazine. Applicant has plans for other trademark applications for other marks in the family.
- (b) Applicant filed for the Beautiful People in Action mark on May 5, 2008 as Intent to use with a goods/description classification listed as "Entertainment services, namely, conducting contests designed to promote socially beneficial goals" in Class 041
- (c) The Beautiful People In Action mark was published for Opposition on Mar. 31, 2009 and no person or entity filed a Notice of Opposition during the Opposition period.
- (d) The US Patent and Trademark Office issued a notice of Allowance for Beautiful People in Action on Jun. 23, 2009
- (e) The Use amendment was filed Jun. 22, 2010 and the date of first use in commerce is listed as Aug. 31, 2009 and the USPTO accepted Statement of Use on Aug. 11, 2010.
- (f) The US Patent and Trademark Office issued a registered mark for Beautiful People in Action on Sep. 21, 2010 and the Registration number is 3850544.
- (g) There have been no petitions for cancellation filed for Registration No. 3850544.

- (h) Opposer's application 85264026 for Beautiful People is filed in Class 041 on the supplemental register for "entertainment, namely a continuing reality television show broadcast over television, cable television, audio, video, digital media, and the internet." Date of first use is listed as Sep. 01, 2008. However, Opposer's specimens present a copy of a Canadian website and do not present any clear evidence that the mark was used in commerce in the United States for such goods/services listed on Opposer's application. Applicant also ran a thorough internet search and found no other evidence of Opposer using the mark in commerce for reality television show "in the United States."
- (i) Opposer's application 85472690 for BeautifulPeople.com is filed in Class 041 for entertainment services in the nature of an ongoing reality based television program and in Class 045 for "internet based dating, social introduction, and social networking services." Date of First use is listed as Mar. 01, 2009. However, Opposer's specimens for Class 041 present a copy of a Canadian website and do not present any clear evidence that the mark was used in commerce in the United States for such goods/services listed on Opposer's application. Applicant also ran a thorough internet search and found no other evidence of Opposer using the mark in commerce for reality television show "in the United States."
- (j) Opposer's application Serial No. 85,236,075 for Beautiful People is filed in Class 16 for "calendars" and in Class 045 for "dating services." First, it is questionable as to whether Opposer's specimens prove that Opposer has used the mark in commerce for calendars "in the United States." Applicant also ran a thorough internet search and found no other evidence of Opposer using the mark in commerce for calendars "in the United States."
- (k) Opposer claims common law trademark rights in the marks for application 85264026, application 85472690, and Serial No. 85,236,075. However, Opposer's specimens for these marks do not provide proof of use in commerce of calendars or reality TV shows in the United States.
- (l) If Opposer believed Opposer's marks were valid and that Opposer had common law trademark rights in the United States, then Opposer had a duty to "police" and enforce Opposer's common law marks under traditional trademark law and theory.
- (m) Opposer failed to file a Notice of Opposition against Applicant's application for Beautiful People in Action and no other entity or person filed for opposition against the mark Beautiful People in Action (Registration no. 3850544).
- (n) Opposer did not file a letter of Protest or a proceeding for concurrent use during trademark prosecution period for the mark Beautiful People in Action (Registration No. 3850544).
- (o) Opposer has not filed a petition for cancellation of the mark Beautiful

- People in Action (Registration No. 3850544).
- (p) Since Beautiful People in Action (Registration No. 3850544) is part of a family of marks that are or will be filed, Opposer's assertion of rights against a mark in the same family of Applicant's marks invokes the laches doctrine. (i.e. substantial and unreasonable delay in asserting rights resulting in material prejudice to Applicant)

Answer to Interrogatory No. 32

Facts supporting Applicant's acquiescence defense include:

- (a) Applicant has a family of marks including Registration No. 3850544, for Beautiful People in Action and Application Serial No. 85,196,831 for Beautiful People Magazine. Applicant has plans for other trademark applications for other marks in the family.
- (b) Applicant filed for the Beautiful People in Action mark on May 5, 2008 as Intent to use with a goods/description classification listed as "Entertainment services, namely, conducting contests designed to promote socially beneficial goals" in Class 041
- (c) The Beautiful People In Action mark was published for Opposition on Mar. 31, 2009 and no person or entity filed a Notice of Opposition during the Opposition period.
- (d) The US Patent and Trademark Office issued a notice of Allowance for Beautiful People in Action on Jun. 23, 2009
- (e) The Use amendment was filed Jun. 22, 2010 and the date of first use in commerce is listed as Aug. 31, 2009 and the USPTO accepted Statement of Use on Aug. 11, 2010.
- (f) The US Patent and Trademark Office issued a registered mark for Beautiful People in Action on Sep. 21, 2010 and the Registration number is 3850544.
- (g) There have been no petitions for cancellation filed for Registration No. 3850544.
- (h) Opposer's application 85264026 for Beautiful People is filed in Class 041 on the supplemental register for "entertainment, namely a continuing reality television show broadcast over television, cable television, audio, video, digital media, and the internet." Date of first use is listed as Sep. 01, 2008. However, Opposer's specimens present a copy of a Canadian website and do not present any clear evidence that the mark was used in commerce in the United States for such goods/services listed on Opposer's application. Applicant also ran a thorough internet search and found no other evidence of Opposer using the mark in commerce for reality television show "in the United States."
- (i) Opposer's application 85472690 for BeautifulPeople.com is filed in

Class 041 for entertainment services in the nature of an ongoing reality based television program and in Class 045 for "internet based dating, social introduction, and social networking services." Date of First use is listed as Mar. 01, 2009. However, Opposer's specimens for Class 041 present a copy of a Canadian website and do not present any clear evidence that the mark was used in commerce in the United States for such goods/services listed on Opposer's application. Applicant also ran a thorough internet search and found no other evidence of Opposer using the mark in commerce for reality television show "in the United States."

- (j) Opposer's application Serial No. 85,236,075 for Beautiful People is filed in Class 16 for "calendars" and in Class 045 for "dating services." First, it is questionable as to whether Opposer's specimens prove that Opposer has used the mark in commerce for calendars "in the United States." Applicant also ran a thorough internet search and found no other evidence of Opposer using the mark in commerce for calendars "in the United States."
- (k) Opposer claims common law trademark rights in the marks for application 85264026, application 85472690, and Serial No. 85,236,075. However, Opposer's specimens for these marks do not provide proof of use in commerce of calendars or reality TV shows in the United States.
- (l) If Opposer believed Opposer's marks were valid and that Opposer had common law trademark rights in the United States, then Opposer had a duty to "police" and enforce Opposer's common law marks under traditional trademark law and theory.
- (m) Opposer failed to file a Notice of Opposition against Applicant's application for Beautiful People in Action and no other entity or person filed for opposition against the mark Beautiful People in Action (Registration no. 3850544).
- (n) Opposer did not file a letter of Protest or a proceeding for concurrent use during trademark prosecution period for the mark Beautiful People in Action (Registration No. 3850544).
- (o) Opposer has not filed a petition for cancellation of the mark Beautiful People in Action (Registration No. 3850544).
- (p) Opposer's lack of action against application and/or Registration for Beautiful People in Action, constitutes "constructive encouragement" or "constructive assistance."
- (q) Since Beautiful People in Action (Registration No. 3850544) is part of a family of marks that are or will be filed, Opposer's assertion of rights against a mark in same family of Applicant's marks invokes the acquiescence doctrine.

Answer to Interrogatory 33.

Facts supporting Applicant's estoppel defense include:

- (a) Applicant has a family of marks including Registration No. 3850544, for Beautiful People in Action and Application Serial No. 85,196,831 for Beautiful People Magazine. Applicant has plans for other trademark applications for other marks in the family.
- (b) Applicant filed for the Beautiful People in Action mark on May 5, 2008 as Intent to use with a goods/description classification listed as "Entertainment services, namely, conducting contests designed to promote socially beneficial goals" in Class 041.
- (c) The Beautiful People In Action mark was published for Opposition on Mar. 31, 2009 and no person or entity filed a Notice of Opposition during the Opposition period.
- (d) The US Patent and Trademark Office issued a notice of Allowance for Beautiful People in Action on Jun. 23, 2009.
- (e) The Use amendment was filed Jun. 22, 2010 and the date of first use in commerce is listed as Aug. 31, 2009 and the USPTO accepted Statement of Use on Aug. 11, 2010.
- (f) The US Patent and Trademark Office issued a registered mark for Beautiful People in Action on Sep. 21, 2010 and the Registration number is 3850544.
- (g) There have been no petitions for cancellation filed for Registration No. 3850544.
- (h) Opposer's application 85264026 for Beautiful People is filed in Class 041 on the supplemental register for "entertainment, namely a continuing reality television show broadcast over television, cable television, audio, video, digital media, and the internet." Date of first use is listed as Sep. 01, 2008. However, Opposer's specimens present a copy of a Canadian website and do not present any clear evidence that the mark was used in commerce in the United States for such goods/services listed on Opposer's application. Applicant also ran a thorough internet search and found no other evidence of Opposer using the mark in commerce for reality television show "in the United States."
- (i) Opposer's application 85472690 for BeautifulPeople.com is filed in Class 041 for entertainment services in the nature of an ongoing reality based television program and in Class 045 for "internet based dating, social introduction, and social networking services." Date of First use is listed as Mar. 01, 2009. However, Opposer's specimens for Class 041 present a copy of a Canadian website and do not present any clear evidence that the mark was used in commerce in the United States for such goods/services listed on Opposer's application. Applicant also ran a thorough internet search and found no other evidence of Opposer using the mark in commerce for reality television

- show "in the United States."
- (j) Opposer's application Serial No. 85,236,075 for Beautiful People is filed in Class 16 for "calendars" and in Class 045 for "dating services." First, it is questionable as to whether Opposer's specimens prove that Opposer has used the mark in commerce for calendars "in the United States." Applicant also ran a thorough internet search and found no other evidence of Opposer using the mark in commerce for calendars "in the United States."
 - (k) Opposer claims common law trademark rights in the marks for application 85264026, application 85472690, and Serial No. 85,236,075. However, Opposer's specimens for these marks do not provide proof of use in commerce of calendars or reality TV shows in the United States.
 - (l) If Opposer believed Opposer's marks were valid and that Opposer had common law trademark rights in the United States, then Opposer had a duty to "police" and enforce Opposer's common law marks under traditional trademark law and theory.
 - (m) Opposer failed to file a Notice of Opposition against Applicant's application for Beautiful People in Action and no other entity or person filed for opposition against the mark Beautiful People in Action (Registration no. 3850544).
 - (n) Opposer did not file a letter of Protest or a proceeding for concurrent use during trademark prosecution period for the mark Beautiful People in Action (Registration No. 3850544).
 - (o) Opposer has not filed a petition for cancellation of the mark Beautiful People in Action (Registration No. 3850544).
 - (p) Since Beautiful People in Action (Registration No. 3850544) is part of a family of marks that are or will be filed, Opposer's assertion of rights against a mark in same family of Applicant's marks invokes the estoppel doctrine.

Answer to Interrogatory 34.

Facts supporting the assertion that the Opposer's claims are barred by the doctrine of unclean hands include:

Applicant is and/or will be a small business owner. Small businesses are having trouble staying afloat in today's turbulent economic times. Opposer is attempting to devastate a small business by opposing Applicant's mark without doing research to determine if the marks truly will be competitive in the same market. In this case, Opposer has no legitimate justification for opposing Applicant's mark.

Opposer's application – Serial No 85236075 for Beautiful People is filed in Class 16 for "calendars" and in Class 045 for "dating services." Date of first use is listed as Jan. 01, 2001. First, it is questionable as to whether

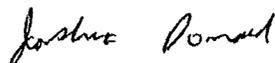
Opposer's specimens prove that Opposer has used the mark in commerce for calendars "in the United States." Applicant also found no other evidence of Opposer using the mark in commerce for calendars "in the United States." Opposer's conduct in this matter may constitute fraud and/or may constitute a ground for utilizing the unclean hands defense.

Opposer's application 85264026 for Beautiful People is filed in Class 041 on the supplemental register for "entertainment, namely a continuing reality television show broadcast over television, cable television, audio, video, digital media, and the internet." Date of first use is listed as Sep. 01, 2008. First, it is questionable as to whether Opposer's specimens actually prove that Opposer is using the mark in commerce for a reality TV show "in the United States." Applicant has found no other evidence that Opposer has used the mark in commerce for a reality TV show "in the United States." Opposer's conduct in this matter may constitute fraud and/or may constitute a ground for utilizing the unclean hands defense.

Opposer's application 85472690 for BeautifulPeople.com is filed in Class 041 for "entertainment services in the nature of an ongoing reality based television program and in Class 045 for "internet based dating, social introduction, and social networking services." Date of First use is listed as Mar. 01, 2009. First, it is questionable as to whether Opposer's specimens actually prove that Opposer is using the mark in commerce for a reality TV show "in the United States." Applicant has found no other evidence that Opposer has used the mark in commerce for a reality TV show "in the United States." Opposer's conduct in this matter may constitute fraud and/or may constitute a ground for utilizing the unclean hands defense.

Dated:
10/31/2012

Respectfully submitted,



Joshua Domond
Beautiful People Magazine
101 Ocean Drive, Suite 916
Miami Beach, FL 33139

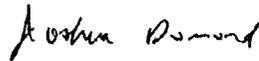
PROOF OF SERVICE BY MAIL

I, Joshua Domond, the undersigned, hereby declare as follows:

1. I am over 18 years and I am the President of the Applicant/Defendant in Opposition No. 91203898.
2. My address is 101 Ocean Drive, Suite 916, Miami Beach, FL 33139
3. On January 2, 2013 at 101 Ocean Drive, Suite 916, Miami Beach, FL 33139, I served a true copy of the attached document, entitled **"Applicant's Answer to Opposer's First Set of Interrogatories"** by placing the documents in an addressed, sealed envelope clearly labeled to identify the person being served at the address shown below and placed this in the mail for deposit in the United States Postal Service on that date in accordance with ordinary business practices:

David K. Caplan
Keats, McFarland, & Wilson, LLP
Attorneys for PeopleNetwork Aps AKA Beautiful People.com
9720 Wilshire Blvd, Penthouse Suite
Beverly Hills, CA 90212

4. An electronic copy was also emailed to Opposer's email at dcaplan@kmwlaw.com.
5. I declare that the foregoing is true and correct. Executed January 2, 2013 at Miami, Florida.



Joshua Domond
President of Beautiful People Magazine, Inc.
Beautiful People Magazine, Inc.
101 Ocean Drive, Suite 916
Miami Beach, FL 33139
305-305-5122

**OPPOSER'S MOTION FOR SUMMARY JUDGMENT
AND TO STAY ALL ALL PROCEEDINGS**

**Before the TTAB
Opposition No. 91203898**

EXHIBIT 13

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION

APPLICATION SERIAL NO. 85196831

MARK: BEAUTIFUL PEOPLE MAGAZINE

85196831

CORRESPONDENT ADDRESS:

Beautiful People Magazine, Inc.
Ste. 916
101 Ocean Drive
Miami Beach FL 33139

CLICK HERE TO RESPOND TO THIS LETTER:
<http://www.uspto.gov/teas/eTEASpageD.htm>

APPLICANT: Beautiful People Magazine,
Inc.

**CORRESPONDENT'S REFERENCE/DOCKET
NO:**

N/A

CORRESPONDENT E-MAIL ADDRESS:

FIRST OFFICE ACTION

STRICT DEADLINE TO RESPOND TO THIS LETTER

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER WITHIN 6 MONTHS OF THE ISSUE/MAILING DATE BELOW.

ISSUE/MAILING DATE:

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §2.62(a), 2.65(a); TMEP §§711, 718.03.

Search Results

The trademark examining attorney has searched the Office's database of registered and pending marks and has found no conflicting marks that would bar registration under Trademark Act Section 2(d). TMEP §704.02; see 15 U.S.C. §1052(d). However, applicant should note the following:

Disclaimer

The applicant must disclaim the descriptive wording "MAGAZINE" apart from the mark as shown because it merely describes an ingredient, quality, characteristic, function, feature, purpose or use of applicant's goods and/or services. See 15 U.S.C. §§1052(e)(1), 1056(a); *In re Steelbuilding.com*, 415 F.3d 1293, 1297, 75 USPQ2d 1420, 1421 (Fed. Cir. 2005); *In re Gyulay*, 820 F.2d 1216, 1217-18, 3 USPQ2d 1009, 1010 (Fed. Cir. 1987); TMEP §§1213, 1213.03(a).

Specifically, the attached dictionary definition indicates that this wording means "a publication that is

issued periodically, usually bound in a paper cover, and typically contains essays, stories, poems, etc., by many writers, and often photographs and drawings, frequently specializing in a particular subject or area, as hobbies, news, or sports.” The wording is merely descriptive because applicant indicates that it is providing a downloadable electronic magazine.

The computerized printing format for the *Trademark Official Gazette* requires a standard form for a disclaimer. TMEP §1213.08(a)(i). A properly worded disclaimer should read as follows:

No claim is made to the exclusive right to use MAGAZINE apart from the mark as shown.

See In re Owatonna Tool Co., 231 USPQ 493 (Comm’r Pats. 1983).

Response

For this application to proceed toward registration, applicant must explicitly address each refusal and/or requirement raised in this Office action. If the action includes a refusal, applicant may provide arguments and/or evidence as to why the refusal should be withdrawn and the mark should register. Applicant may also have other options for responding to a refusal and should consider such options carefully. To respond to requirements and certain refusal response options, applicant should set forth in writing the required changes or statements.

If applicant does not respond to this Office action within six months of the issue/ mailing date, or responds by expressly abandoning the application, the application process will end, the trademark will fail to register, and the application fee will not be refunded. *See* 15 U.S.C. §1062(b); 37 C.F.R. §§2.65(a), 2.68(a), 2.209(a); TMEP §§405.04, 718.01, 718.02. Where the application has been abandoned for failure to respond to an Office action, applicant’s only option would be to file a timely petition to revive the application, which, if granted, would allow the application to return to live status. *See* 37 C.F.R. §2.66; TMEP §1714. There is a \$100 fee for such petitions. *See* 37 C.F.R. §§2.6, 2.66(b)(1).

/Ellen J.G. Perkins/
Ellen J.G. Perkins
Examining Attorney - USPTO
Law Office 110
(571) 272-9372
Ellen.Perkins@uspto.gov - informal responses

TO RESPOND TO THIS LETTER: Go to <http://www.uspto.gov/teas/eTEASpageD.htm>. Please wait 48-72 hours from the issue/ mailing date before using TEAS, to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail TEAS@uspto.gov. For questions about the Office action itself, please contact the assigned examining attorney. **Do not respond to this Office action by e-mail; the USPTO does not accept e-mailed responses.**

WHO MUST SIGN THE RESPONSE: It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

PERIODICALLY CHECK THE STATUS OF THE APPLICATION: To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months

using Trademark Applications and Registrations Retrieval (TARR) at <http://tarr.uspto.gov/>. Please keep a copy of the complete TARR screen. If TARR shows no change for more than six months, call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS: Use the TEAS form at <http://www.uspto.gov/teas/eTEASpageE.htm>.

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Synonyms

- newsletter
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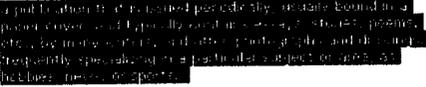
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mag-a-zine  

[mag-uh-zeen, mag-uh-zeen] [Show IPA](#)

-noun

1. 
2. a room or place for keeping gunpowder and other explosives, as in a fort or on a warship.
3. a building or place for keeping military stores, as arms, ammunition, or provisions.
4. a metal receptacle for a number of cartridges, inserted into certain types of automatic weapons and when empty removed and replaced by a full receptacle in order to

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- 5. Also called magazine show . *Radio and Television* .
 - a. Also called **newsmagazine**, a regularly scheduled news program consisting of several short segments in which various subjects of current interest are examined, usually in greater detail than on a regular newscast.
 - b. a program with a varied format that combines interviews, commentary, entertainment, etc.
- 6. **magazine section**.
- 7. *Photography* . **cartridge** (def. 4) .
- 8. a supply chamber, as in a stove.
- 9. a storehouse; warehouse.
- 10. a collection of war munitions.

Use Magazine in a Sentence

Origin:
1575-85; < French *magasin* < Italian *magazzino* storehouse < Arabic *makhẓin*, plural of *makhzan* storehouse; in figuratively, as "storehouse of information," used in book titles (from c1640) and periodical titles (in *The Gentleman's Magazine*, 1731)

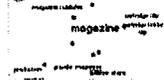
—Related forms

mag-a-zin-ee-ee, *mag-a-zin-ee-ee*, *adjective*

Dictionary.com Unabridged
Based on the Random House Dictionary, © Random House, Inc. 2011
[Cite This Source](#) | [Link To Magazine](#)

Related Words for: Magazine
mag, magazine publisher, cartridge, powder magazine, powder store
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Magazine Definition

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World English Dictionary

magazine (*mæʒəˈziːn*) [?]

— *n*

- 1. a periodical paperback publication containing articles, fiction, photographs, etc

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- photographs, etc
- 2. a metal box or drum holding several cartridges used in some kinds of automatic firearms; it is removed and replaced when empty
- 3. a building or compartment for storing weapons, explosives, military provisions, etc
- 4. a stock of ammunition
- 5. a device for continuously recharging a handing system, stove, or boiler with solid fuel
- 6. *photog* another name for **cartridge**
- 7. a rack for automatically feeding a number of slides through a projector
- 8. a TV or radio programme made up of a series of short nonfiction items

[C16: via French *magasin* from Italian *magazzino*, from Arabic *makhāzin*, plural of *makhzan* 'storehouse', from *khazana* 'to store away']

Collins English Dictionary - Complete & Unabridged 10th Edition
2009 © William Collins Sons & Co. Ltd. 1970, 1988 © HarperCollins
Publishers 1996, 2000, 2007, 2009, 2006, 2007, 2009
[See This Source](#)

Word Origin & History

magazine
1583, "place where goods are stored, esp. military ammunition," from M.Fr. *magasin* "warehouse, depot, store," from It. *magazzino*, from Arabic *makhāzin*, pl. of *makhzan* "storehouse," from *khazana* "to store up." The original sense is almost obsolete; meaning "periodical journal" dates from the publication of the first one, "Gentleman's Magazine," in 1731, from earlier use of the word for a printed list of military stores and information, or in a fig. sense, from the publication being a "storehouse" of information.

Online Etymology Dictionary. © 2010 Douglas Harper.
[Cite This Source](#)

Famous Quotations

magazine

- "I'm ashamed of myself and this magazine too. The sloppy..."
- "I will no longer be referred to as 'Miss' Steinem of Ms..."
- "It would never occur to anyone at Gourmet to take the k..."
- "In general, one may pronounce kissing dangerous. A spar..."
- "I had been curiously depressed all day. In the night I ..."

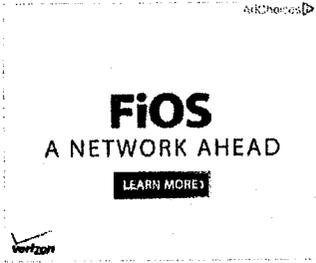
Mira Dumas

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**OPPOSER'S MOTION FOR SUMMARY JUDGMENT
AND TO STAY ALL ALL PROCEEDINGS**

**Before the TTAB
Opposition No. 91203898**

EXHIBIT 14

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION

APPLICATION SERIAL NO. 85196831

MARK: BEAUTIFUL PEOPLE MAGAZINE

85196831

CORRESPONDENT ADDRESS:

Beautiful People Magazine, Inc.
Ste. 916
101 Ocean Drive
Miami Beach FL 33139

GENERAL TRADEMARK INFORMATION:

<http://www.uspto.gov/main/trademarks.htm>

APPLICANT: Beautiful People Magazine,
Inc.

**CORRESPONDENT'S REFERENCE/DOCKET
NO:** N/A

CORRESPONDENT E-MAIL ADDRESS:

EXAMINER'S AMENDMENT

ISSUE/MAILING DATE:

DATABASE SEARCH: The trademark examining attorney has searched the USPTO's database of registered and pending marks and has found no conflicting marks that would bar registration under Trademark Act Section 2(d). TMEP §704.02; *see* 15 U.S.C. §1052(d).

APPLICATION HAS BEEN AMENDED: In accordance with the authorization granted by applicant on September 15, 2011, the trademark examining attorney has amended the application as indicated below. Please advise the undersigned immediately of any objections. Otherwise, no response is necessary. TMEP §707. Any amendments to the identification of goods and/or services may clarify or limit the goods and/or services, but may not add to or broaden the scope of the goods and/or services. 37 C.F.R. §2.71(a); *see* TMEP §§1402.06 *et seq.*

Disclaimer

The following disclaimer statement is added to the record:

No claim is made to the exclusive right to use "MAGAZINE" apart from the mark as shown.

See 15 U.S.C. §1056(a); TMEP §§1213, 1213.08(a)(i).

/Ellen J.G. Perkins/

Ellen J.G. Perkins
Examining Attorney - USPTO
Law Office 110
(571) 272-9372
Ellen.Perkins@uspto.gov - informal responses

PERIODICALLY CHECK THE STATUS OF THE APPLICATION: To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using Trademark Applications and Registrations Retrieval (TARR) at <http://tarr.uspto.gov/>. Please keep a copy of the complete TARR screen. If TARR shows no change for more than six months, call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

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**OPPOSER'S MOTION FOR SUMMARY JUDGMENT
AND TO STAY ALL ALL PROCEEDINGS**

**Before the TTAB
Opposition No. 91203898**

EXHIBIT 15

Side - 1



NOTICE OF PUBLICATION UNDER §12(a)
MAILING DATE: Dec 28, 2011
PUBLICATION DATE: Jan 17, 2012

The mark identified below will be published in the Official Gazette on Jan 17, 2012. Any party who believes they will be damaged by registration of the mark may oppose its registration by filing an opposition to registration or a request to extend the time to oppose within thirty (30) days from the publication date on this notice. If no opposition is filed within the time specified by law, the USPTO may issue a Notice of Allowance.

To view the Official Gazette online or to order a paper copy, visit the USPTO website at <http://www.uspto.gov/web/trademarks/tmog/> any time within the five-week period after the date of publication. You may also order a printed version from the U.S. Government Printing Office (GPO) at <http://bookstore.gpo.gov> or 202-512-1800. To check the status of your application, go to <http://tarr.uspto.gov/>.

SERIAL NUMBER: 85196831
MARK: BEAUTIFUL PEOPLE MAGAZINE
OWNER: Beautiful People Magazine, Inc.

Side - 2

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**OPPOSER'S MOTION FOR SUMMARY JUDGMENT
AND TO STAY ALL ALL PROCEEDINGS**

**Before the TTAB
Opposition No. 91203898**

EXHIBIT 16

ESTTA Tracking number: **ESTTA456746**

Filing date: **02/15/2012**

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	PeopleNetwork ApS AKA BeautifulPeople.com		
Entity	Corporation	Citizenship	Denmark
Address	Kikurren 86 DK-2300 Copenhagen, DENMARK		

Attorney information	David K. Caplan Keats, McFarland & Wilson, LLP 9720 Wilshire Blvd. Penthouse Suite Beverly Hills, CA 90212 UNITED STATES dcaplan@kmwlaw.com, trose@kmwlaw.com, ktyson@kmwlaw.com Phone:310-248-3830
----------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Applicant Information

Application No	85196831	Publication date	01/17/2012
Opposition Filing Date	02/15/2012	Opposition Period Ends	02/16/2012
Applicant	Beautiful People Magazine, Inc. Ste. 916 101 Ocean Drive Miami Beach, FL 33139 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. All goods and services in the class are opposed, namely: Downloadable electronic publication, namely, general interest magazine featuring philanthropy, fashion, health, food, world issues, travel, art, and entertainment

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. Application No.	85236075	Application Date	02/07/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BEAUTIFUL PEOPLE		

Design Mark	Beautiful People
Description of Mark	NONE
Goods/Services	Class 016. First use: First Use: 2001/01/01 First Use In Commerce: 2001/01/01 Calendars Class 045. First use: First Use: 2001/01/01 First Use In Commerce: 2001/01/01 Dating services

U.S. Application No.	85264026	Application Date	03/10/2011
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	BEAUTIFUL PEOPLE
Design Mark	Beautiful People
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 2008/09/01 First Use In Commerce: 2008/09/01 Entertainment, namely, a continuing reality television show broadcast over television, cable television, audio, video, digital media and the Internet

U.S. Application No.	85472690	Application Date	11/15/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BEAUTIFULPEOPLE.COM		

Design Mark	BEAUTIFULPEOPLE.COM
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 2001/01/01 First Use In Commerce: 2001/01/01 Entertainment services in the nature of an on-going reality based television program Class 045. First use: First Use: 2009/03/01 First Use In Commerce: 2009/03/01 Internet-based dating, social introduction and social networking services

Attachments	85236075#TMSN.jpeg (1 page)(bytes) 85264026#TMSN.jpeg (1 page)(bytes) 85472690#TMSN.jpeg (1 page)(bytes) Notice of Opposition.pdf (7 pages)(271867 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	/DKC/
Name	David K. Caplan
Date	02/15/2012

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

In the Matter of Application Serial No. 85/196,831

PeopleNetwork Aps)	
AKA BeautifulPeople.com)	Opposition No. _____
)	
Opposer,)	
)	
v.)	NOTICE OF OPPOSITION
)	
Beautiful People Magazine, Inc.)	
)	
Applicant.)	
_____)	

Commissioner for Trademarks
TTAB – BOX FEE
P.O. Box 1451
Alexandria, Virginia 22313-1451

NOTICE OF OPPOSITION

PeopleNetwork Aps AKA BeautifulPeople.com (“Opposer”), a Denmark corporation, having its principal place of business at Kikurren 86 DK-2300, Copenhagen, Denmark, submits that it will be damaged by the registration of the BEAUTIFUL PEOPLE MAGAZINE word mark (Serial No. 85/196,831) (hereinafter the “Application”) filed by Beautiful People Magazine, Inc. (“Applicant”), on December 13, 2010, for use in connection with a “downloadable electronic publication, namely, general interest magazine featuring philanthropy, fashion, health, food, world issues, travel, art, and entertainment” in International Class 009, and hereby opposes the Application. All goods in the Application are being opposed.

As grounds for opposition to the Application, Opposer states as follows:

1. Opposer believes that it will be damaged by the registration of the Application.
2. The Application was published for opposition on January 17, 2012 in the Official Gazette and Opposer is timely filing its opposition.
3. Opposer is the exclusive owner of all rights, title, and interest in and to the popular reality television series and dating services known as BEAUTIFUL PEOPLE and BEAUTIFULPEOPLE.COM, the website BEAUTIFULPEOPLE.COM which has developed into one of the most widely known Internet brands, and BEAUTIFUL PEOPLE calendars.
4. Opposer has exclusive common law trademark ownership rights in and to the BEAUTIFUL PEOPLE and BEAUTIFULPEOPLE.COM marks as a consequence of its ownership of all rights, title and interest in and to the television series, dating series, website and calendars.
5. In addition, Opposer owns the U.S. Trademark application having Serial No. 85/236,075 for the BEAUTIFUL PEOPLE word mark, filed on February 7, 2011, in International Class 016 for "calendars" and in International Class 045 for "dating services," both with a stated first use date of January 1, 2001.
6. Opposer also owns the U.S. Trademark application having Serial No. 85/264,026 for the BEAUTIFUL PEOPLE word mark, filed on March 10, 2011, in International Class 041 for "entertainment, namely, a continuing reality television show broadcast over television, cable television, audio, video, digital media and the Internet" with a stated first use date of September 1, 2008.

7. Opposer also owns the U.S. Trademark application having Serial No. 85/472,690 for the BEAUTIFULPEOPLE.COM word mark, filed on November 15, 2011, in International Class 041 for “entertainment services in the nature of an on-going reality based television program” with a stated first use date of January 1, 2001, and in International Class 045 for “Internet-based dating, social introduction and social networking services” with a stated first use date of March 1, 2009.

8. Opposer, since at least as early as 2001, has been and is now using the mark BEAUTIFUL PEOPLE in commerce and otherwise in connection with dating services and calendars, and BEAUTIFULPEOPLE.COM in commerce and otherwise in connection with entertainment services in the nature of an on-going reality based television program. Opposer’s use of the BEAUTIFUL PEOPLE and BEAUTIFULPEOPLE.COM marks has been valid and continuous and Opposer has not abandoned its marks for BEAUTIFUL PEOPLE and BEAUTIFULPEOPLE.COM. Extensive good will and consumer recognition of Opposer as an entertainment, dating and social introduction and networking company has been built up by Opposer through substantial amounts of time and effort in advertising and promotion. As a result, Opposer’s BEAUTIFUL PEOPLE and BEAUTIFULPEOPLE.COM marks are widely recognized by the general consuming public as a designation of source of Opposer, and have been recognized as such well prior to the filing of Applicant’s Application.

9. Applicant’s standard character work mark looks virtually identical to Opposer’s standard character word marks. The first two words of Applicant’s three word mark are identical to the first two words of Opposer’s marks. The only difference between Applicant’s mark and Opposer’s mark for BEAUTIFUL PEOPLE is the addition of the word “MAGAZINE” and, with

regard to Opposer's Mark for BEAUTIFULPEOPLE.COM, the additional deletion of ".COM". Moreover, Applicant is seeking registration for similar services, namely, an electronic magazine featuring entertainment content. In view of the similarity of the respective marks and the use of the marks for similar goods and services, it is alleged that Applicant's mark so resembles Opposer's marks as to be likely to cause consumer confusion, and/or to cause mistake as to source, sponsorship, or affiliation, or to deceive.

10. Significantly, Applicant filed its intent-to-use Application for BEAUTIFUL PEOPLE MAGAZINE almost ten years after Opposer's first use of its widely recognized BEAUTIFUL PEOPLE mark in connection with dating services and calendars and BEAUTIFULPEOPLE.COM mark in connection with entertainment services. Opposer's BEAUTIFUL PEOPLE and BEAUTIFULPEOPLE.COM marks were well known prior to Applicant's use of its mark as cited in its Application for BEAUTIFUL PEOPLE MAGAZINE.

11. Further, the registration of Applicant's mark is likely to dilute the distinctiveness of Opposer's famous BEAUTIFUL PEOPLE and BEAUTIFULPEOPLE.COM marks in the entertainment, dating, social introduction and social networking industries and trade on the good will associated with Opposer's BEAUTIFUL PEOPLE and BEAUTIFULPEOPLE.COM marks relating to its business, with consequent injury to Opposer and to the public. See Dan Robbins & Associates, Inc. v. Questor Corp., 599 F.2d 1009, 1013 (CCPA 1979) ("a mark designed to maximize association between entities, as here, is likely to lead to confusion in the absence of a proper license relationship between those entities").

12. If Applicant were granted the registration herein opposed, it would thereby obtain at least a *prima facie* exclusive right to the use of its mark. Such registration would be a source of damage and injury to Opposer.

13. The registration of the Application herein, would give color of exclusive statutory rights to Applicant in violation and derogation of the long-standing, prior, superior and exclusive rights of Opposer, and would support and assist Applicant in confusing and misleading the purchasing public.

WHEREFORE, Opposer believes that it will be damaged by the registration of Applicant's Application Serial No. 85/196,831 and prays that Applicant's Application to register be denied and refused.

Opposer's attorney, David K. Caplan, of KEATS, McFARLAND & WILSON LLP, has been appointed with full power of attorney, substitution and revocation to prosecute this Opposition Proceeding and to transact all business in the United States Patent and Trademark Office before the Trademark Trial and Appeal Board connected herewith.

Please address all communications to David K. Caplan at the following address: KEATS, McFARLAND & WILSON LLP, 9720 Wilshire Boulevard, Penthouse Suite, Beverly Hills, California 90212, telephone (310) 248-3830.

//

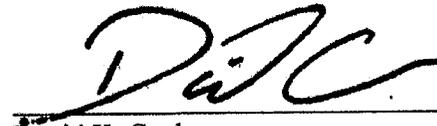
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In the Matter of Application Serial No. 85/196,831

This Notice of Opposition and the statutory filing fee in the amount of \$300.00 for the single class in the Application being opposed are being submitted concurrently herewith. See 37 C.F.R. 2.6(a)(17).

Respectfully submitted,



Dated: February 15, 2012

David K. Caplan
Keats McFarland & Wilson LLP
Attorneys for Opposer
PeopleNetwork Aps
AKA BeautifulPeople.com
9720 Wilshire Blvd., Penthouse Suite
Beverly Hills, CA 90212
Telephone: (310) 248-3830

In the Matter of Application Serial No. 85/196,831

CERTIFICATE OF SERVICE

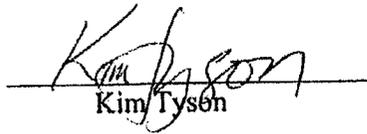
I, Kim Tyson, hereby certify that a true and correct copy of the foregoing **NOTICE OF**

OPPOSITION was served upon:

Beautiful People Magazine, Inc.
101 Ocean Drive
Suite 916
Miami Beach, FL 33139

modelcarefoundation@yahoo.com

by First Class Mail on February 15, 2012.


Kim Tyson

**OPPOSER'S MOTION FOR SUMMARY JUDGMENT
AND TO STAY ALL ALL PROCEEDINGS**

**Before the TTAB
Opposition No. 91203898**

EXHIBIT 17

Int. Cl.: 45

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 2,975,482

Registered July 26, 2005

**SERVICE MARK
PRINCIPAL REGISTER**

TRUE

HDVE, LLC (TEXAS LTD LIAB CO)
9 VILLAGE CIRCLE, SUITE 530
WESTLAKE, TX 76262

FOR: DATING SERVICES, INCLUDING BOTH
COMPUTER DATING SERVICES AND VIDEO DATING
SERVICES; AND PROVIDING INFORMATION
IN THE FIELD OF SELF-IMPROVEMENT, IN CLASS
45 (U.S. CLS. 100 AND 101).

FIRST USE 5-11-2004; IN COMMERCE 5-11-2004.

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

SER. NO. 76-593,170, FILED 5-20-2004.

ANDREW RHIM, EXAMINING ATTORNEY

**OPPOSER'S MOTION FOR SUMMARY JUDGMENT
AND TO STAY ALL ALL PROCEEDINGS**

**Before the TTAB
Opposition No. 91203898**

EXHIBIT 18

United States of America

United States Patent and Trademark Office

True

Reg. No. 3,715,317 TRUEBEGINNINGS, LLC (TEXAS LIMITED LIABILITY COMPANY)
Registered Nov. 24, 2009 300 DECKER DRIVE
IRVING, TX 75039

Int. Cl.: 41 FOR: PROVIDING A NON-DOWNLOADABLE ELECTRONIC PUBLICATION VIA A WEBSITE, NAMELY, AN ONLINE MAGAZINE FEATURING INFORMATION IN THE FIELDS OF DATING, NETWORKING, INTERPERSONAL RELATIONSHIPS AND PSYCHOLOGY, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

**SERVICE MARK
PRINCIPAL REGISTER**

FIRST USE 4-1-2005; IN COMMERCE 4-1-2005.

OWNER OF U.S. REG. NOS. 2,975,482 AND 3,043,738.

THE MARK CONSISTS OF THE WORD "TRUE" WITH THE LETTER "U" UNDERLINED FOLLOWED BY THE LETTER "U" CONTAINED IN A CIRCLE.

SER. NO. 78-839,192, FILED 3-16-2006.

MYRIAM HABEEB, EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office

PNA001342

**OPPOSER'S MOTION FOR SUMMARY JUDGMENT
AND TO STAY ALL ALL PROCEEDINGS**

**Before the TTAB
Opposition No. 91203898**

EXHIBIT 19

United States of America
United States Patent and Trademark Office

FRIEND FINDER

Reg. No. 4,289,240

Registered Feb. 12, 2013

Int. Cls.: 38, 41, 42, and 45

SERVICE MARK

PRINCIPAL REGISTER

VARIOUS, INC. (CALIFORNIA CORPORATION)
220 HUMBOLDT CT
SUNNYVALE, CA 94089

FOR: PROVIDING ON-LINE CHAT ROOMS FOR TRANSMISSION OF MESSAGES AMONG COMPUTER USERS CONCERNING SOCIAL NETWORKING, VIRTUAL COMMUNITIES, DATING AND RELATIONSHIPS, AND TOPICS OF GENERAL INTEREST; PROVIDING ON-LINE ELECTRONIC BULLETIN BOARDS FOR TRANSMISSION OF MESSAGES AMONG COMPUTER USERS CONCERNING SOCIAL NETWORKING, VIRTUAL COMMUNITIES, DATING AND RELATIONSHIPS, AND TOPICS OF GENERAL INTEREST, IN CLASS 38 (U.S. CLS. 100, 101 AND 104).

FIRST USE 0-0-2010; IN COMMERCE 0-0-2010.

FOR: ENTERTAINMENT AND EDUCATIONAL SERVICES, NAMELY, PROVIDING WEBSITES FEATURING PHOTOGRAPHIC, AUDIO, VIDEO AND TEXT PRESENTATIONS, BLOGS AND ON-LINE MAGAZINES APPEALING TO INDIVIDUALS INTERESTED IN SOCIAL NETWORKING, VIRTUAL COMMUNITIES, DATING AND RELATIONSHIPS, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 0-0-2010; IN COMMERCE 0-0-2010.

FOR: COMPUTER SERVICES, NAMELY, INTERACTIVE HOSTING SERVICES WHICH ALLOW THE USER TO UPLOAD, DOWNLOAD, STREAM, TAG, PUBLISH, SEARCH, SORT, ACCESS, SHARE AND EXCHANGE THEIR OWN CONTENT, TEXT, IMAGES, PERSONAL INFORMATION AND MESSAGES; COMPUTER SERVICES, NAMELY, CREATING AND MAINTAINING ON-LINE COMMUNITIES FOR USERS TO PARTICIPATE IN DISCUSSIONS, GET FEEDBACK FROM THEIR PEERS, FORM VIRTUAL COMMUNITIES, AND ENGAGE IN SOCIAL NETWORKING, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 0-0-2010; IN COMMERCE 0-0-2010.

FOR: ON-LINE SOCIAL NETWORKING SERVICES AND DATING SERVICES; PROVIDING AN ON-LINE COMPUTER DATABASE IN THE FIELDS OF SOCIAL NETWORKING, DATING AND RELATIONSHIPS, IN CLASS 45 (U.S. CLS. 100 AND 101).

FIRST USE 0-0-2010; IN COMMERCE 0-0-2010.



Leena Stewart Kea
Acting Director of the United States Patent and Trademark Office

Reg. No. 4,289,240 THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 1,785,477, 2,937,798, AND 2,962,192.

SN 77-465,820, FILED 5-5-2008.

JAMES LOVELACE, EXAMINING ATTORNEY

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*
What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between the 9th and 10th years after the registration date.* See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*
What and When to File:

You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or
reminder of these filing requirements.**

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.

**OPPOSER'S MOTION FOR SUMMARY JUDGMENT
AND TO STAY ALL ALL PROCEEDINGS**

**Before the TTAB
Opposition No. 91203898**

EXHIBIT 20

Int. Cls.: 41 and 42

Prior U.S. Cls.: 100, 101, and 107

United States Patent and Trademark Office

Reg. No. 2,675,655

Registered Jan. 14, 2003

**SERVICE MARK
PRINCIPAL REGISTER**

CUPID'S COACH

**FERMAN, JULIE (UNITED STATES INDIVIDUAL)
638 LINDERO CANYON ROAD, #386
OAK PARK, CA 91377**

FOR: EDUCATION SERVICES, NAMELY, CONDUCTING SEMINARS AND WORKSHOPS IN THE FIELD OF DATING, ROMANCE, AND RELATIONSHIPS; ORGANIZING SOCIAL EVENTS FOR SINGLES; PUBLISHING SERVICES, NAMELY, PUBLICATION OF NONFICTION BOOKS IN THE FIELD OF ADVICE AND INFORMATION RELATED TO DATING, ROMANCE AND RELATIONSHIPS, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 12-1-2000; IN COMMERCE 1-20-2001.

FOR: SOCIAL INTRODUCTION AGENCIES; DATING SERVICES; COMPUTER DATING SERVICES VIA GLOBAL COMPUTER NETWORKS; DATING SERVICES THROUGH VIDEO OR AUDIO TAPE PRESENTATIONS OF POTENTIAL PARTNERS, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 12-1-2000; IN COMMERCE 1-20-2001.

SN 78-034,233, FILED 11-7-2000.

WILLIAM BRECKENFELD, EXAMINING ATTORNEY

**OPPOSER'S MOTION FOR SUMMARY JUDGMENT
AND TO STAY ALL ALL PROCEEDINGS**

**Before the TTAB
Opposition No. 91203898**

EXHIBIT 21

Int. Cl.: 41

Prior U.S. Cls.: 100, 101 and 107

United States Patent and Trademark Office

Reg. No. 2,715,725

Registered May 13, 2003

SERVICE MARK
PRINCIPAL REGISTER



FREMANTLEMEDIA NORTH AMERICA, INC.
(DELAWARE CORPORATION)
2700 COLORADO AVE., 4TH FLOOR
SANTA MONICA, CA 90404

FIRST USE 6-11-2002; IN COMMERCE 6-11-2002.

SER. NO. 76-444,375, FILED 8-26-2002.

FOR: ENTERTAINMENT SERVICES IN THE
NATURE OF A CONTINUING TELEVISION TA-
LENT SHOW, IN CLASS 41 (U.S. CLS. 100, 101 AND
107).

JILL C. ALT, EXAMINING ATTORNEY

**OPPOSER'S MOTION FOR SUMMARY JUDGMENT
AND TO STAY ALL ALL PROCEEDINGS**

**Before the TTAB
Opposition No. 91203898**

EXHIBIT 22

Int. Cls.: 16, 25, and 28

Prior U.S. Cls.: 2, 5, 22, 23, 29, 37, 38, 39, and 50

United States Patent and Trademark Office

Reg. No. 3,142,771

Registered Sep. 12, 2006

TRADEMARK
PRINCIPAL REGISTER



FREMANTLEMEDIA NORTH AMERICA, INC.
(DELAWARE CORPORATION)
2700 COLORADO AVE., 4TH FLOOR
SANTA MONICA, CA 90404

FOR: POSTERS, CALENDARS, NOTEBOOKS,
BINDERS, DAILY ORGANIZERS, MEMOPADS,
STICKERS, PLAYING CARDS, WRITING PAPER,
ENVELOPES, GREETING CARDS, PAPER COAST-
ERS, PAPER MATS, BOOKS AND MAGAZINES IN
THE FIELD OF TALENT SHOWS, PHOTOGRAPHS,
POSTCARDS, TRADING CARDS, PREPAID PHONE
DEBIT CARDS WITHOUT MAGNETIC CODING, IN
CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 8-27-2002; IN COMMERCE 8-27-2002.

FOR: CLOTHING, NAMELY, RAINWEAR, T-
SHIRTS, SWEAT SHIRTS, JERSEYS, SHORTS,
SWEAT PANTS, JACKETS, HATS, CAPS, SCARVES,

PAJAMAS, NIGHT SHIRTS, NIGHT GOWNS, UN-
DERWEAR, HEAD BANDS, WRIST BANDS,
SKIRTS, SHIRTS, TANK TOPS, PANTS, COATS,
SWEATERS AND HEADWEAR, NAMELY, HATS
AND CAPS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 8-30-2002; IN COMMERCE 8-30-2002.

FOR: BOARD GAMES AND CARD GAMES,
DOLLS, DOLL PLAYSETS, TOY VEHICLES, TOY
CARDS, MUSICAL TOYS, TOY FIGURINES, TOY
BALLOONS, IN CLASS 28 (U.S. CLS. 22, 23, 38 AND
50).

FIRST USE 5-16-2003; IN COMMERCE 5-16-2003.

SN 78-151,120, FILED 8-5-2002.

MICHAEL WEBSTER, EXAMINING ATTORNEY

**OPPOSER'S MOTION FOR SUMMARY JUDGMENT
AND TO STAY ALL ALL PROCEEDINGS**

**Before the TTAB
Opposition No. 91203898**

EXHIBIT 23

Int. Cls.: 9, 25, 28, and 41

**Prior U.S. Cls.: 21, 22, 23, 26, 36, 38, 39, 50, 100, 101,
and 107**

Reg. No. 3,209,436

Registered Feb. 13, 2007

United States Patent and Trademark Office

**TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER**

BIG BROTHER

ENDEMOL NEDERLAND B.V. (NETHERLANDS
CORPORATION)
VAN CLEEFFKADE 15 1431
VAN AALSMBER, NETHERLANDS

FOR: APPARATUS FOR RECORDING, TRANSMISSION, OR REPRODUCTION OF SOUND AND IMAGES, NAMELY, COMPACT DISC PLAYERS, PORTABLE COMPACT DISC PLAYERS, VIDEO RECORDERS, TELEVISION SETS AND CAMCORDERS; MAGNETIC DATA CARRIERS AND RECORDING DISCS, NAMELY, UNRECORDED COMPACT DISCS, PRE-RECORDED COMPACT DISCS, UNRECORDED VIDEO TAPES, PRE-RECORDED VIDEO TAPES, LASER DISCS AND DVDS, ALL FEATURING MUSIC, CHARACTERS, SCENES AND SITUATIONS RELATING TO A TELEVISION SERIES AS WELL AS MUSIC, SCENES, CHARACTERS, AND SITUATIONS FROM AN INTERNET SITE RELATED TO A TELEVISION SERIES; ELECTRONIC GAME PROGRAMS, NAMELY CD ROM GAMES, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 3-1-2000; IN COMMERCE 3-1-2000.

FOR: TEE SHIRTS; SWEATERS, SWEATSHIRTS, POLO SHIRTS, SOCKS, UNDERWEAR; TROUSERS; COATS; JACKETS; SWIMMING TRUNKS AND SWIMMING SUITS; CAPS; SHORTS; SHOES AND SLIPPERS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 3-1-2000; IN COMMERCE 3-1-2000.

FOR: BOARD GAMES; CARD GAMES; HAND-HELD GAMES, NAMELY HAND HELD UNIT FOR PLAYING ELECTRONIC GAMES; GAMES OF SKILL; NAMELY ACTION SKILL; ELECTRONIC GAMES FOR ENTERTAINMENT PURPOSES, NAMELY ARCADE GAMES AND ARCADE-TYPE ELECTRONIC EDUCATION VIDEO GAMES, IN CLASS 28 (U.S. CLS. 22, 23, 38 AND 50).

FIRST USE 3-1-2000; IN COMMERCE 3-1-2000.

FOR: EDUCATIONAL AND ENTERTAINMENT SERVICES, NAMELY, PRODUCTION OF TELEVISION PROGRAMS, AND ENTERTAINMENT PROGRAMS, NAMELY, MOTION PICTURE FILM PRODUCTION, THEATER PRODUCTION SUCH AS STAGE PRODUCTIONS AND PRODUCTIONS OF MUSICALS, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 3-1-2000; IN COMMERCE 3-1-2000.

PRIORITY CLAIMED UNDER SEC. 44(D) ON BENELUX APPLICATION NO. 0937276, FILED 4-28-1999, REG. NO. 0652401, DATED 4-28-1999, EXPIRES 4-28-2009.

SN 75-834,124, FILED 10-27-1999.

SAMUEL E. SHARPER JR., EXAMINING ATTORNEY

**OPPOSER'S MOTION FOR SUMMARY JUDGMENT
AND TO STAY ALL ALL PROCEEDINGS**

**Before the TTAB
Opposition No. 91203898**

EXHIBIT 24

Int. Cls.: 38, 41 and 43

Prior U.S. Cls.: 100, 101, 104 and 107

United States Patent and Trademark Office

Reg. No. 3,167,417

Registered Nov. 7, 2006

**SERVICE MARK
PRINCIPAL REGISTER**

HELL'S KITCHEN

GRANADA MEDIA GROUP LIMITED (UNITED
KINGDOM PRIVATE LIMITED COMPANY)
THE LONDON TELEVISION CENTRE
UPPER GROUND
LONDON, UNITED KINGDOM SE1 9LT

FOR: BROADCASTING AND TRANSMISSION OF TELEVISION, RADIO, CABLE, SATELLITE AND INTERNET PROGRAMS; TELECOMMUNICATION OF INFORMATION, WEB PAGES AND COMPUTER PROGRAMS BY MEANS OF SATELLITE, CABLE MODEM, AND TELEPHONE LINES; ELECTRONIC TRANSMISSION OF DATA AND DOCUMENTS VIA COMPUTER TERMINALS, ELECTRONIC MAIL SERVICES; PROVIDING TELECOMMUNICATIONS CONNECTIONS TO COMPUTER DATABASES AND THE INTERNET VIA TELEPHONE LINES, CABLE, AND WIRELESS NETWORKS; ELECTRONIC TRANSMISSION OF MESSAGES, SOUND AND IMAGES; TRANSMISSION OF INFORMATION BY COMMUNICATIONS SATELLITE, MICROWAVE OR ELECTRONIC, DIGITAL OR ANALOGUE MEANS; PROVIDING MULTIPLE-USER ACCESS TO THE GLOBAL COMPUTER NETWORK; COMMUNICATIONS SERVICES, NAMELY, THE ELECTRONIC AND DIGITAL TRANSMISSION OF VOICE, DATA, IMAGES, SIGNALS, AND MESSAGES; TELECOMMUNICATIONS CONSULTING SERVICES RELATING THE AFORESAID SERVICES AND PROVIDING INFORMATION IN THE FIELD OF TELECOMMUNICATIONS RELATING TO THE AFORESAID SERVICES, IN CLASS 38 (U.S. CLS. 100, 101 AND 104).

FOR: ENTERTAINMENT SERVICES IN THE NATURE OF TELEVISION PROGRAMS IN THE REALITY GENRE AND IN THE FIELD OF COOKING AND RESTAURANTS; EDUCATIONAL SERVICES NAMELY, CONDUCTING ENTERTAINMENT SEMINARS, CONFERENCES, WORKSHOPS, RE-

TREATS, COURSES, CAMPS, HOLIDAYS IN THE FIELD OF COOKING AND RESTAURANTS; PUBLISHING, NAMELY, PUBLICATION OF NEWSPAPERS, MAGAZINES, BROCHURES, GUIDES AND BOOKS; ORGANIZING, CONDUCTING AND PRESENTING CONCERTS, COURSES, CONFERENCES, DEMONSTRATIONS, AND WORKSHOPS FOR EDUCATIONAL, CULTURAL OR ENTERTAINMENT PURPOSES IN THE FIELD OF COOKING OR RESTAURANTS; ORGANIZATION, PRODUCTION, AND PRESENTATION OF COMPETITIONS, CONTESTS, AND LIVE EXHIBITIONS IN THE FIELD OF REALITY SHOWS, COOKING AND RESTAURANTS, ROAD SHOWS IN THE FIELD OF REALITY SHOWS, COOKING AND RESTAURANTS, RAVES, AND CONCERTS; PROVIDING INFORMATION IN THE FIELD OF REALITY TELEVISION SHOWS VIA SATELLITE, CABLE MODEM AND TELEPHONE LINES, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FOR: PROVIDING INFORMATION IN THE FIELD OF RESTAURANTS, COOKING, AND RECIPES PROVIDED ON-LINE FROM A COMPUTER DATABASE OR THE INTERNET OR BY COMMUNICATIONS SATELLITE, MICROWAVE OR OTHER ELECTRONIC, DIGITAL OR ANALOGUE MEDIA; PROVIDING INFORMATION ABOUT COOKING AND RESTAURANTS VIA SATELLITE, CABLE MODEM AND TELEPHONE LINES, IN CLASS 43 (U.S. CLS. 100 AND 101).

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF NORTHERN IRELAND REG. NO. 2345196, DATED 10-7-2003, EXPIRES 10-7-2013.

SER. NO. 78-462,210, FILED 8-4-2004.

ELISSA GARBER KON, EXAMINING ATTORNEY