

ESTTA Tracking number: **ESTTA481335**

Filing date: **07/03/2012**

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	Mr. Beau L Tardy		
Entity	Individual	Citizenship	UNITED STATES
Address	1659 Hill Top Lane Kingwood, TX 77339 UNITED STATES		

Correspondence information	Mr. Beau L Tardy 1659 Hill Top Lane Kingwood, TX 77339 UNITED STATES dizzyworldwide@usa.net Phone:281-312-0418
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Applicant Information

Application No	85509929	Publication date	06/05/2012
Opposition Filing Date	07/03/2012	Opposition Period Ends	07/05/2012
Applicant	Wild Brain Entertainment, Inc. 15000 Ventura Blvd, 3rd Fl Sherman Oaks, CA 91403 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 009. Opposed goods and services in the class: Electrical and scientific apparatus, namely, electronic game software; computer game software; downloadable computer games; computer and video-game cassettes, cartridges, discs and programs; downloadable game software; motion picture films featuring music, animated cartoons, live-action performances and live action performances by costumed characters all in the field of children's education; pre-recorded video and audio cassettes, video and audio tapes, video and audio discs, CD ROMs, compact discs, digital versatile discs, musical video recordings, musical sound recordings and phonograph records featuring music, animated cartoons, live-action performances and live action performances by costumed characters all in the field of children's education; software and manuals sold as a unit in the field of children's education, namely, for use in creating, updating and maintaining calendars, for information management and for use as computer screen savers; decorative refrigerator magnets; hand held units for playing electronic games for use with external display screen or monitor</p>
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Other	Too similar to a brand name and cartoon character already in use that has received wide public attention, including being broadcast on national TV and was originally trademarked.

Mark Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	DIZZY		
Goods/Services	Electrical and scientific apparatus, namely, electronic game software; computer game software; downloadable computer games; computer and video-game cassettes, cartridges, discs and programs; downloadable game software; motion picture films featuring music, animated cartoons, live-action performances and live action performances by costumed characters all in the field of children's education; pre-recorded video and audio cassettes, video and audio tapes, video and audio discs, CD ROMs, compact discs, digital versatile discs, musical video recordings, musical sound recordings and phonograph records featuring music, animated cartoons, live-action performances and live action performances by costumed characters all in the field of children's education; software and manuals sold as a unit in the field of children's education, namely, for use in creating, updating and maintaining calendars, for information management and for use as computer screen savers; decorative refrigerator magnets; hand held units for playing electronic games for use with external display screen or monitor		

Attachments	DizzyTM-opposition.pdf (1 page)(44959 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Overnight Courier on this date.

Signature	/Beau L. Tardy/
Name	Mr. Beau L Tardy
Date	07/03/2012

I, the claimant, **Beau L. Tardy**, of **1659 Hill Top Lane, Kingwood, Texas, 77339**, believe in all good faith that the trademark '**Dizzy**' serial **#85509929** by **Wild Brain Entertainment, Inc.** as it is written, will impinge on and do irreparable harm to the existing brand and trademark name '**Dizzy**' currently under my ownership.

1. Standing: The brand and trademark name '**Dizzy**' as it relates to two previously registered trademarks (**serials #2339835, 2339836**) and several registered copyrights, has been in wide commercial use since 1997. The brand and trademark name '**Dizzy**' was first used in commerce by the New York registered corporation, **Dizzy Worldwide Corp.** of which I was the president and remain the principle assign. All copyright and trademark properties of **Dizzy Worldwide Corp.** including the name '**Dizzy**', '**Dizzy The Cat**' and '**Dizzy Worldwide**' have thus devolved to my ownership and have enjoyed continued use in commerce by my assigns and me. Additionally I own several websites named '**Dizzythecat.com**', '**Dizzytv.com**', '**Dizzycartoons.com**', '**Dizzycomics.com**', '**Dizzyville.com**' and '**Dizzyworldwide.com**'. Some have been in my name for over ten years.

2. Legal: The brand and trademark name '**Dizzy**' has received wide public display and distribution under my direct ownership for over ten years, notably on **TV**, including national exposure though **MTV Networks** and other TV networks; as well as in print, on posters, on stickers; on merchandise, including t-shirts and jackets; on the internet, in videos, animation and cartoons. The character '**Dizzy the Cat**' has appeared in cartoons, animations and graphic design form on MTV networks and on other TV networks both in the USA and abroad. '**Dizzy**' has appeared and continues to appear on the internet as animations and cartoons, as well as videos and games.

I believe that the ways Wild Brain Entertainment, Inc. proposes to use the name '**Dizzy**' are far too similar to the types of uses that the Dizzy Worldwide corporation and myself as principle assign put it to. Therefore it is my belief that the name '**Dizzy**' associated with namely TV and film, dvds, web videos, animation, cartoons, comic books and websites would be harmful to my rightful use and enjoyment of the brand and trademark name '**Dizzy**'.

'**Dizzy**' is a recognizable brand and trademark name that has been used widely in the entertainment industry for over ten years, in top tier number one national and international markets, namely on TV and the internet. Therefore I respectfully wish to oppose the registration of the trademark '**Dizzy**' to Wild Brain Entertainment, Inc. as it is written.

Sincerely,
Beau L. Tardy