

ESTTA Tracking number: **ESTTA495466**

Filing date: **09/19/2012**

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	Gannett Co., Inc.
Granted to Date of previous extension	09/19/2012
Address	7950 Jones Branch Drive McLean, VA 22107 UNITED STATES

Attorney information	Matthew L. Frisbee Dow Lohnes PLLC 1200 New Hampshire Avenue, N.W.Suite 800 Washington, DC 20036 UNITED STATES trademark@dowlohn.com Phone:202-776-2284
----------------------	--

Applicant Information

Application No	85325546	Publication date	05/22/2012
Opposition Filing Date	09/19/2012	Opposition Period Ends	09/19/2012
Applicant	Worldwide Mixed Martial Arts Sports, Inc. 150 Clove Rd., 11flr Little Falls, NJ 07424 UNITED STATES		

Goods/Services Affected by Opposition

Class 041.

All goods and services in the class are opposed, namely: Entertainment services, namely, conducting, organizing and producing combat sporting events and competitions in the field of martial arts and mixed martial arts; Live stage shows and performances by martial arts and mixed martial arts athletes; Providing a website on the Internet featuring news, photos, non-downloadable videos, and information regarding combat sports events and competitions, including the rankings of the participants; Production of video cassettes and digital video discs, namely, DVDs in the field of martial arts and mixed martial arts combat sporting events and competitions; Providing health club services, namely, providing equipment in the field of physical exercise; Providing instruction in the form of courses, workshops, seminars, personal training, and classes in the field of health and physical fitness; Educational services, namely, providing of courses, workshops, seminars, personal training, and classes in the field of fitness and nutrition; Instruction programs in the field of health and physical fitness, namely, providing exercise classes for groups of individuals; Providing information in the field of physical fitness and sports, namely, combat martial arts and mixed martial arts; providing online training programs in the field of physical fitness and combat martial arts and mixed martial arts via a global computer network

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	1842082	Application Date	09/07/1993
Registration Date	06/28/1994	Foreign Priority Date	NONE
Word Mark	WUSA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 038. First use: First Use: 1986/07/04 First Use In Commerce: 1986/07/04 television broadcasting services		

Attachments	Notice_of_Opposition .pdf (17 pages)(1499041 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	/Matthew L. Frisbee/
Name	Matthew L. Frisbee
Date	09/19/2012

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

In the matter of
Serial No. 85/325,546
Date of Publication: May 22, 2012
Mark: WUSA

GANNETT CO., INC.,)	
)	
Opposer,)	
)	Opposition No.
v.)	
)	
WORLDWIDE MIXED MARTIAL)	
ARTS SPORTS, INC.)	
Applicant.)	

NOTICE OF OPPOSITION

Opposer Gannett Co., Inc., a Delaware corporation, with a principal place of business at 7950 Jones Branch Drive, McLean, Virginia 22107, believes it will be damaged by registration of the mark shown in Application Serial No. 85/325,546 filed by Applicant, Worldwide Mixed Martial Arts Sports, Inc. (“WMMA”), on May 20, 2011, and published in the *Official Gazette* on May 22, 2012, at TM 1121. Pursuant to 15 U.S.C. §§ 1052(d) and 1063, by and through its attorneys, Opposer Gannett Co., Inc. opposes the registration of this mark.

As grounds for the Opposition, Opposer Gannett Co., Inc. alleges:

1. Opposer Gannett Co., Inc. is a Delaware corporation with a principal place of business at 7950 Jones Branch Drive, McLean, Virginia 22107.

2. Since at least as early as July 4, 1986, Opposer Gannett Co., Inc., itself and through its licensees and subsidiaries (hereinafter “Gannett”), has used the mark WUSA in connection with television broadcasting services. On September 7, 1993, Opposer Gannett filed an application for registration of the WUSA mark (“Gannett’s Mark”) in connection with such

services in International Class 38, Serial No. 74/433,328. The United States Patent and Trademark Office (“USPTO”) issued a Certificate of Registration for Gannett’s Mark on June 28, 1994, a copy of which is attached as Exhibit A. Further, Gannett filed a Declaration of Incontestability on June 28, 2000, a copy of which is attached as Exhibit B.

3. Gannett also offers a daily television news program, and has done so since at least as early as 1989, and has since 1998 operated a news website, now located at www.wusa9.com, under the WUSA mark. Both the television news program and the news website feature extensive sports coverage, including coverage of mixed martial arts competitions. In addition, through a subsidiary, Gannett owns and operates the MMAJUNKIE.COM blog, located at www.mmajunkie.com, which features daily news and information regarding mixed martial arts competitions and events. Gannett purchased MMAJUNKIE.COM in November of 2011. Gannett regularly cross-promotes its various media interests and sells advertising space across its different outlets to interested sponsors and advertisers.

4. Through substantial investments of time and resources in advertising and promoting its WUSA mark and services in various media, Opposer Gannett has established extremely valuable goodwill, public recognition and an outstanding reputation in its WUSA mark such that the mark is indicative of high quality and of origin associated exclusively with Opposer Gannett. By virtue of these efforts and the excellence of its services, Opposer Gannett has created a reputation of considerable value in its WUSA mark.

5. As a result of Opposer Gannett’s use of its WUSA mark in connection with its television broadcasting services, the public has come to associate the WUSA mark exclusively with Opposer Gannett, and the public recognizes the mark as indicating that such services promoted and offered under said mark originate with Opposer Gannett.

6. Upon information and belief, Applicant Worldwide Mixed Martial Arts Sports, Inc. is a Nevada corporation with offices located at 150 Clove Road, 11th Floor, Little Falls, New Jersey 07424.

7. Applicant WMMA seeks registration of the mark WUSA in International Class 41 for the following services:

Entertainment services, namely, conducting, organizing and producing combat sporting events and competitions in the field of martial arts and mixed martial arts; Live stage shows and performances by martial arts and mixed martial arts athletes; Providing a website on the Internet featuring news, photos, non-downloadable videos, and information regarding combat sports events and competitions, including the rankings of the participants; Production of video cassettes and digital video discs, namely, DVDs in the field of martial arts and mixed martial arts combat sporting events and competitions; Providing health club services, namely, providing equipment in the field of physical exercise; Providing instruction in the form of courses, workshops, seminars, personal training, and classes in the field of health and physical fitness; Educational services, namely, providing of courses, workshops, seminars, personal training, and classes in the field of fitness and nutrition; Instruction programs in the field of health and physical fitness, namely, providing exercise classes for groups of individuals; Providing information in the field of physical fitness and sports, namely, combat martial arts and mixed martial arts; providing online training programs in the field of physical fitness and combat martial arts and mixed martial arts via a global computer network.

8. Applicant WMMA's application to register the WUSA mark was filed on May 20, 2011, and is based on an intent to use the mark in commerce.

9. Because Opposer Gannett's date of first use for its WUSA mark pre-dates (by many years) the filing of Applicant WMMA's intent-to-use application to register its proposed WUSA mark, Opposer Gannett has priority of use. Opposer Gannett's WUSA mark is valid and subsisting, and Opposer Gannett's use of the mark has been substantially continuous. Opposer Gannett's legal rights with respect to its WUSA mark are, therefore, superior to Applicant WMMA's rights with respect to its proposed WUSA mark.

10. The marks are identical in sight, sound and appearance. In addition, both WMMA's application and Gannett's registration are for word marks without any additional design elements or stylization. For this reason, Applicant WMMA's proposed WUSA mark is confusingly similar to Opposer Gannett's WUSA mark.

11. Further, both Applicant WMMA's proposed WUSA mark and Opposer Gannett's WUSA mark are used or will be used in connection with closely related or identical services. Specifically, WMMA will use its mark in connection with, among other things, "providing a website on the Internet featuring news, photos, non-downloadable videos, and information regarding combat sports events and competitions, including the rankings of participants." Likewise, Gannett uses its WUSA mark in connection with television broadcasting services and a website featuring news and information, including news and information related to mixed martial arts competitions and sports generally. Consequently, there is or will be a substantial overlap in the channels of trade for the services offered under the respective marks.

12. Consumers, including viewers, visitors and advertisers, who are likely to use or be familiar with Opposer Gannett's WUSA television broadcasting and Internet news services are substantially the same or overlap significantly with the consumers, including viewers, visitors and advertisers, who are likely to use or be familiar with Applicant WMMA's proposed WUSA services. For instance, an advertiser who wants to reach mixed martial arts fans may enter into an advertisement agreement with Gannett to advertise in a variety of its media interests, including on its WUSA television station, its WUSA website, or its MMAJUNKIE.COM website. That same advertiser may also advertise on WMMA's website or sponsor one of WMMA's events.

13. Because Opposer Gannett's WUSA mark and Applicant WMMA's proposed WUSA mark will be used in connection with closely related or identical services, the modes of advertising and promotion for the respective marks are also likely to overlap significantly.

14. As a result of the foregoing, consumers, including viewers, visitors and advertisers, are likely to believe, to the considerable detriment of Opposer Gannett, that (i) Applicant WMMA's services originate with, are affiliated with, or are endorsed or sponsored by Opposer Gannett, or (ii) that Opposer Gannett and Applicant WMMA are affiliated or associated entities.

15. Consequently, consumers familiar with Opposer Gannett's WUSA mark would be likely to utilize Applicant WMMA's services believing them to be services provided by, sponsored by, or affiliated with Opposer Gannett. Any such confusion would result in loss of trade to Opposer Gannett. Furthermore, any defect, objection or fault found with the services promoted or provided under Applicant WMMA's mark would necessarily reflect upon and seriously injure the reputation of Opposer Gannett's services and the goodwill associated therewith.

16. If Applicant WMMA were granted the registration opposed herein, 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 Gannett. Moreover, if Applicant WMMA were granted a registration for the WUSA mark, the uniqueness of Opposer Gannett's WUSA mark would be seriously impaired and the strength of Opposer Gannett's WUSA mark would be diminished.

17. For the reasons set forth above, a likelihood of confusion under Section 2(d) of the Lanham Act exists between Opposer Gannett's WUSA mark and Applicant WMMA's proposed WUSA mark.

18. For all the foregoing reasons, registration of Applicant WMMA's proposed WUSA mark will result in damage to Opposer Gannett, and registration should be refused.

WHEREFORE, Opposer Gannett respectfully requests that the Opposition be sustained and Application Serial No. 85/325,546 be rejected and denied.

A filing fee of \$300.00, as required by 37 C.F.R. § 2.6(a)(17), accompanies this Notice of Opposition.

Respectfully submitted,

GANNETT CO., INC.

By:



Matthew L. Frisbee
Suzanne M. Underwald
David J. Wittenstein
Its Attorneys

DOW LOHNES PLLC
1200 New Hampshire Ave., N.W.
Suite 800
Washington, D.C. 20036
(202) 776-2000
mfrisbee@dowlohn.com
trademark@dowlohn.com

September 19, 2012

CERTIFICATE OF DELIVERY

I hereby certify that this Notice of Opposition is being filed electronically with the Trademark Trial and Appeal Board, U.S. Patent and Trademark Office, Madison East, Concourse Level Room C 55, 600 Dulany Street, Alexandria, VA 22314, via the Electronic System for Trademark Trials and Appeals (<http://estta.uspto.gov>) on September 19, 2012.



Matthew L. Frisbee

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing has been served on the following person, at his said address, via first class mail, postage prepaid, on September 19, 2012:

Raj Abhyanker
Raj Abhyanker, P.C.
1580 W El Camino Real Ste 8
Mountain View, CA 94040-2462
Counsel for Worldwide Mixed Martial Arts Sports, Inc.



Matthew L. Frisbee

EXHIBIT A

Int. Cl.: 38

Prior U.S. Cl.: 104

United States Patent and Trademark Office **Reg. No. 1,842,082**
Registered June 28, 1994

**SERVICE MARK
PRINCIPAL REGISTER**

WUSA

**GANNETT CO., INC. (DELAWARE CORPORATION)
1100 WILSON BOULEVARD
ARLINGTON, VA 22234**

**FOR: TELEVISION BROADCASTING SERVICES, IN CLASS 38 (U.S. CL. 104).
FIRST USE 7-4-1986; IN COMMERCE 7-4-1986.**

**OWNER OF U.S. REG. NOS. 1,411,700,
1,411,701, AND 1,412,627.**

SER. NO. 74-433,328, FILED 9-7-1993.

RICHARD A. FRIEDMAN, EXAMINING ATTORNEY

EXHIBIT B

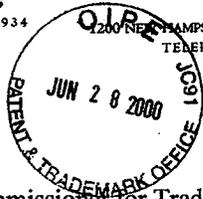


06-28-'000
U.S. Patent & TMO/TI Mail RptDt #22

DOW, LOHNES & ALBERTSON, PLLC
ATTORNEYS AT LAW

WASHINGTON, D.C.

KEVIN J. KUZAS
DIRECT DIAL 202-776-2934
kkuzas@dla1aw.com



1200 NEW HAMPSHIRE AVENUE, N.W. • SUITE 800 • WASHINGTON, D.C. 20036-6802
TELEPHONE 202-776-2000 • FACSIMILE 202-776-2222

CD

ONE RAVINIA DRIVE • SUITE 1600
ATLANTA, GEORGIA 30346-2108
TELEPHONE 770-901-8800
FACSIMILE 770-901-8874

June 28, 2000

Assistant Commissioner for Trademarks
Box POST REG - FEE
2900 Crystal Drive
Arlington, Virginia 22202-3513

Re: Combined Section 8 & 15 Declaration of Continued Use and
Incontestability
Mark: **WUSA**
Reg. No: 1,842,082
Reg. Date: June 28, 1994
Class: 38

Dear Madam:

On behalf of Gannett Co., Inc., owner of the above-referenced service mark registration, enclosed is an executed Combined Section 8 & 15 Declaration of Continued Use and Incontestability, along with a sample specimen showing the mark as currently used.

Please enter the enclosed Declaration and specimen into the registration file and forward the formal notification of receipt and acceptance to me.

Upon entry of the enclosed Declaration for the trademark, this registration should remain in full force and effect. A check in the amount of \$300.00 to cover the filing fee is also enclosed. Thank you for your assistance.

Sincerely,

Kevin J. Kuzas
Kevin J. Kuzas
AT

KJK/cml
Enclosures: Section 8 & 15 Declaration
Specimen
Check (\$300.00)

cc: Richard Dyer
Jeff Dudley
Barbara Wall



06-28-2000

U.S. Patent & Trademark Mail Rept Dt. #22

PRU
#4

**IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE**

Registrant: Gannett Co., Inc. ✓
Registration No: 1,842,082 ✓
Mark: WUSA ✓
Class: 38
Registration Date: June 28, 1994 ✓

To: Assistant Commissioner for Trademarks
Box POST REG - FEE
2900 Crystal Drive
Arlington, Virginia 22202-3513

**COMBINED SECTION 8 & 15 DECLARATION
OF CONTINUED USE AND INCONTESTABILITY**

The mark shown in Principal Register Registration No. 1,842,082, owned by the above-identified Registrant, is in use in interstate commerce on or in connection with all of the services identified in the registration, namely, television broadcasting services.

The mark has been in continuous use in interstate commerce for five consecutive years subsequent to the date of registration, and is still in use in such commerce, on or in connection with all of the services identified in the registration. There has been no final decision adverse to Registrant's claim of ownership of such mark for such services, or to Registrant's right to register the same or to keep the same on the register; and there is no proceeding involving said rights pending and not disposed of either in the Patent and Trademark Office or in the courts.

DOW, LOHNES & ALBERTSON, PLLC
ATTORNEYS AT LAW
1200 NEW HAMPSHIRE AVENUE, N.W. - SUITE 800
WASHINGTON, D.C. 20036-6802
TELEPHONE 202-776-2000

07/05/2000 LMICKEL

00000140 1842082

01 FC:372
02 FC:373

100.00 DP ✓
200.00 DP ✓

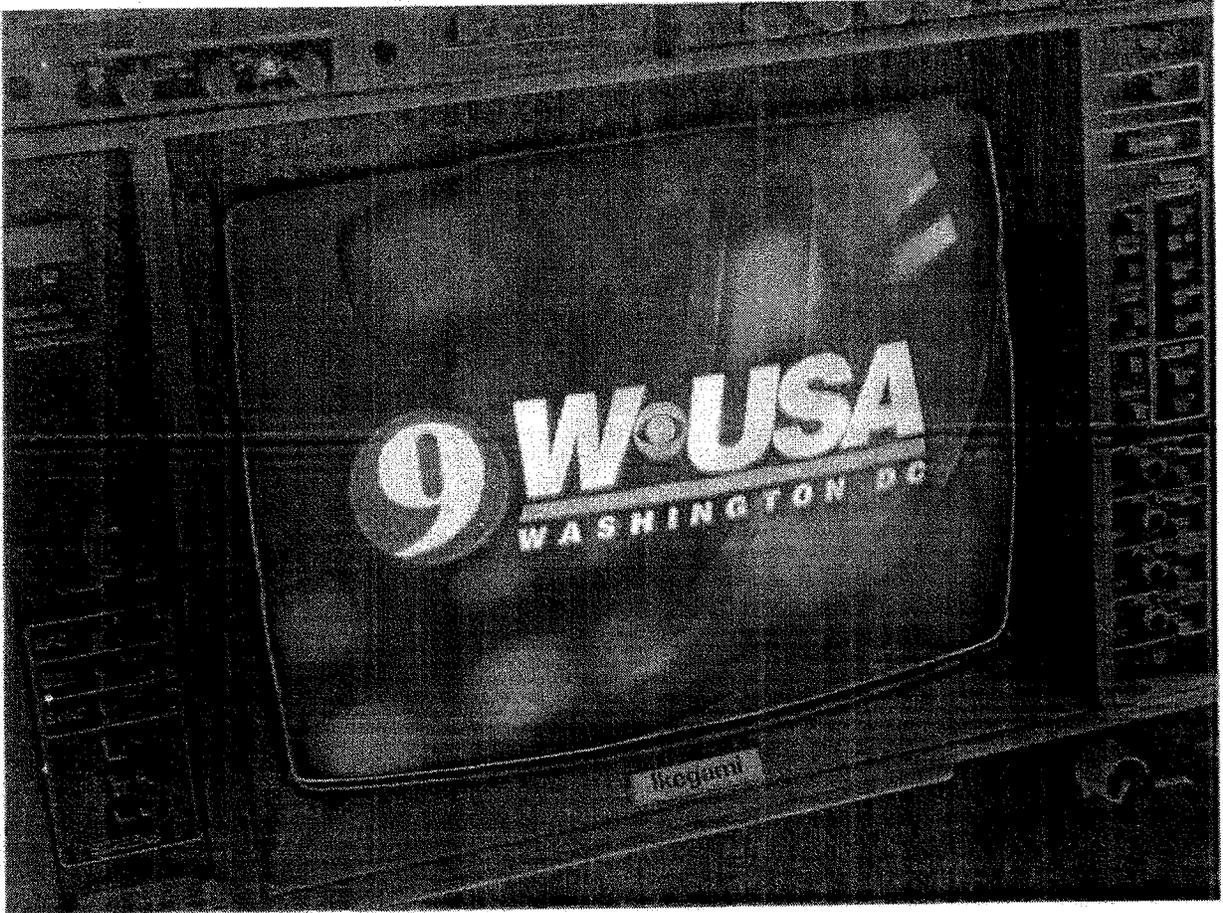
DECLARATION

Barbara W. Wall, 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. § 1001, and that such willful false statements may jeopardize the validity of this document, declares that she is properly authorized to execute this document on behalf of the Registrant; she believes the Registrant to be the owner of the above identified registration; the mark is in use in commerce; and all statements made of her own knowledge are true and all statements made on information and belief are believed to be true.

Gannett Co., Inc.

By: Barbara W. Wall ✓
Barbara W. Wall
Vice President and Senior Legal Counsel

Date: June 21, 2000



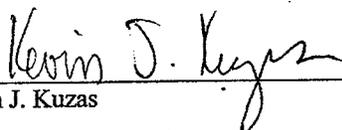
✓





CERTIFICATE OF DELIVERY

I hereby certify that this correspondence is being deposited via courier for hand-delivery in an envelope addressed to: Assistant Commissioner for Trademarks, Box POST REG - FEE, 2900 Crystal Drive, Arlington, Virginia 22202-3513, on June 28, 2000.



Kevin J. Kuzas