

ESTTA Tracking number: **ESTTA566170**

Filing date: **10/21/2013**

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	Hanna-Barbera Productions, Inc.
Granted to Date of previous extension	10/20/2013
Address	4000 Warner Boulevard Burbank, CA 91522 UNITED STATES

Attorney information	Michael A. Grow Arent Fox LLP 1717 K Street, NW Washington, DC 20036 UNITED STATES grow.michael@arentfox.com, henrye@arentfox.com, tmdocket@arentfox.com Phone:202 857 6389
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Applicant Information

Application No	85775007	Publication date	04/23/2013
Opposition Filing Date	10/21/2013	Opposition Period Ends	10/20/2013
Applicant	Copham, Kristen Mae 420 N Ohioville Rd. New Paltz, NY 12561 UNITED STATES		

Goods/Services Affected by Opposition

Class 016. All goods and services in the class are opposed, namely: Educational publications in the field of yoga
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Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
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. Registration No.	2734445	Application Date	08/15/2002
Registration Date	07/08/2003	Foreign Priority Date	NONE

Word Mark	YOGI BEAR
Design Mark	
Description of Mark	NONE
Goods/Services	Class 016. First use: First Use: 2002/06/01 First Use In Commerce: 2002/06/01 Printed matter and paper goods--namely, [books featuring characters from animated, action adventure, comedy and/or drama features, comic books, children's books, magazines featuring characters from animated, action adventure, comedy and/or drama features, coloring books, children's activity books; stationery, writing paper, envelopes,] notebooks, [diaries, note cards, greeting cards, trading cards;] [lithographs;] pens, [pencils, cases therefor, erasers,] crayons, markers, [colored pencils, painting sets, chalk and chalkboards; decals, heat transfers;] posters; mounted and/or unmounted photographs; [book covers,] book marks, calendars, [gift wrapping paper;] paper party favors and paper party decorations--namely, [paper napkins, paper doilies, paper place mats, crepe paper,] paper hats [, invitations, paper table cloths, paper cake decorations; printed transfers for embroidery or fabric appliques; printed patterns for costumes, pajamas, sweatshirts and t-shirts]

U.S. Registration No.	2927910	Application Date	01/12/2004
Registration Date	02/22/2005	Foreign Priority Date	NONE
Word Mark	YOGI BEAR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 028. First use: First Use: 2003/06/30 First Use In Commerce: 2003/06/30 Toys and sporting goods, including games and playthings--namely, action figures and accessories therefor; plush toys; [balloons; bathtub toys; ride-on toys;] equipment sold as a unit for playing card games; toy vehicles; dolls; flying discs; [electronic hand-held game unit; game equipment sold as a unit for playing a board game,] a card game, [a manipulative game, a parlor game and an action type target game; stand alone video output game machines;] jigsaw and manipulative puzzles; [paper face masks; skateboards; ice skates; water squirting toys;] balls--namely, playground balls, [soccer balls, baseballs, basketballs; baseball gloves; Fishing equipment, namely, fishing rods, reels and tackle boxes; swimming floats for recreational use; kickboard flotation devices for recreational use; surfboards; swim boards for recreational use; swim fins;] toy bakeware and toy cookware; [toy banks;] toy snow globes; and Christmas tree ornaments		

U.S. Registration No.	2927880	Application Date	12/08/2003
Registration Date	02/22/2005	Foreign Priority Date	NONE
Word Mark	YOGI BEAR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 020. First use: First Use: 2003/05/01 First Use In Commerce: 2003/05/01 [Sleeping bags, plastic cake decorations, non-metal key chains, chairs, chair pads, non-metal money clips, corks for bottles, drinking straws,] picture frames [, pillows and seat cushions, booster seats, infant walkers, bassinets, high		

	chairs, hand-held fans, decorative mobiles, and soft-sculpture wall decorations]		
U.S. Registration No.	2724009	Application Date	08/15/2002
Registration Date	06/10/2003	Foreign Priority Date	NONE
Word Mark	YOGI BEAR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2002/03/00 First Use In Commerce: 2002/03/00 Clothing for men, women and children - namely, shirts, t-shirts, sweatshirts, [jogging suits, trousers, pants, shorts,] tank tops, [rainwear, cloth bibs, skirts, blouses, dresses, suspenders, sweaters, jackets, coats, raincoats, snow suits, ties, robes, hats, caps, sunvisors, belts, scarves,] sleepwear, pajamas, [lingerie,] underwear, [boots, shoes, sneakers, sandals, booties, slipper socks, swimwear and] masquerade and Halloween costumes and masks sold in connection therewith		
U.S. Registration No.	2635083	Application Date	01/03/2002
Registration Date	10/15/2002	Foreign Priority Date	NONE
Word Mark	YOGI BEAR'S		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1969/00/00 First Use In Commerce: 1969/00/00 RENDERING TECHNICAL AID AND ASSISTANCE TO OTHERS IN THE ESTABLISHMENT OF CAMPGROUNDS AND RECREATIONAL FACILITIES		
U.S. Registration No.	1424342	Application Date	06/02/1986
Registration Date	01/06/1987	Foreign Priority Date	NONE
Word Mark	YOGI BEAR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1961/01/29 First Use In Commerce: 1961/01/29 ENTERTAINMENT SERVICES, NAMELY ANIMATED CARTOON PROGRAMS FOR TELEVISION		
Attachments	Copham opposition.pdf(308317 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	/Michael A. Grow/
Name	Michael A. Grow
Date	10/21/2013

Reg. No. 2927880, YOGI BEAR, issued on February 22, 2005, in Class 20.

Reg. No. 2724009, YOGI BEAR, issued on June 10, 2003, in Class 25;

Reg. No. 2635083, YOGI BEAR'S, issued on October 15, 2002, in Class 35;

Reg. No. 1424342, YOGI BEAR, issued on January 6, 1987, in Class 41;

4. The foregoing registrations are incontestable and they provide constructive notice and conclusive evidence of Opposer's ownership of its registered Marks and of its exclusive right to use the Marks in commerce in connection with toys and other products and services.

5. Opposer's mark YOGI is derived from the name of the famous cartoon character that has appeared in many highly popular television programs, feature films and motion pictures created and produced by Opposer.

6. Opposer's Marks were first used in 1958 when the YOGI character appeared in THE HUCKLEBERRY HOUND SHOW television series.

7. In January 1961 Opposer's Marks were used in connection with an extraordinarily successful television series disseminated under the mark THE YOGI BEAR SHOW.

8. Opposer's Marks were also used in connection with several animated feature films and made for television movies, including *Hey There, It's Yogi Bear!*, produced in 1964, *Yogi's First Christmas* in 1980, *Yogi's Great Escape* in 1987, and *Yogi Bear* an animated 3D film released in 2010.

9. The highly popular 2010 production stars well known actors Dan Aykroyd as the voice of Yogi Bear and Justin Timberlake as the voice of "Yogi's pal" Boo Boo Bear and it has generated over \$100 million in box office receipts in the United States alone and over \$200 million worldwide.

10. For over fifty years, Opposer's Marks have been the subject of extensive publicity and advertising, and Opposer has extensively used and licensed others to use Opposer's Marks in interstate commerce in connection with a variety of goods and services including various types of books and other publications.

11. Because of the extensive advertising, publicizing and use of Opposer's Marks, they have become strong and famous and they merit a broad scope of protection against imitation.

12. Since long prior to the filing date of Applicant's application, or any first use date that Applicant may claim, the fame of Opposer's Marks has been enhanced through continuous use of the marks in connection with toys, clothing television productions, motion pictures, videos, DVDS and other merchandise.

13. Notwithstanding Opposer's prior established rights in its Marks, Applicant is seeking registration of the confusingly similar mark YOGA BEAR for educational publications in the field of yoga.

14. Upon information and belief, Applicant made no use of her alleged mark in connection with the sale of any products or services prior to the filing date of her application.

15. On information and belief, Applicant has had actual knowledge of Opposer's Marks for many years and Applicant had such actual knowledge when she applied to register her alleged mark.

LIKELIHOOD OF CONFUSION- §2(d)

16. The mark that Applicant seeks to register is identical to or so resembles Opposer's Marks that the use and registration thereof is likely to cause confusion, mistake and deception as

to the source or origin of Applicant's goods and will injure and damage Opposer and the goodwill and reputation symbolized by Opposer's Marks.

17. The goods of Applicant are identical to or so closely related to the goods sold under Opposer's Marks that the public is likely to be confused, to be deceived, and to assume erroneously that Applicant's goods are those of Opposer or that Applicant has been licensed to use its alleged mark by Opposer, or that Applicant is in some way connected with or sponsored by or affiliated with Opposer.

18. Likelihood of confusion is enhanced by the fame of Opposer's Marks and by the fact that consumers associate said marks with services and goods sold, approved or endorsed by Opposer.

19. Likelihood of confusion is enhanced by the fact that prospective purchasers of Applicant's goods are also prospective purchasers of goods or services sold under Opposer's Marks.

20. Likelihood of confusion may be presumed in this case because Applicant obviously adopted an imitation of Opposer's Marks in bad faith with an intent to cause confusion, to profit from the popularity of Opposer's Marks and to induce purchasers to believe that Applicant's goods originate with or are licensed or endorsed by Opposer.

DECEPTION/FALSE SUGGESTION OF A CONNECTION - §2(a)

21. Applicant's alleged mark so closely resembles Opposer's Marks that it is likely to cause deception in violation of Section 2(a) of the Trademark Act, in that Applicant's alleged mark misdescribes the nature or origin of the goods, purchasers are likely to believe that the misdescription actually describes the nature or origin of the goods, and this is likely to materially alter purchasers' decisions to acquire Applicant's goods.

22. Applicant's alleged mark so closely resembles Opposer's Marks that it falsely suggests a connection with Opposer in violation of Section 2(a) of the Trademark Act, because Applicant's alleged mark points uniquely to Opposer, and purchasers will assume that goods sold under Applicant's alleged mark are connected with Opposer.

23. When Applicant's alleged mark is used on goods of the type described in her application, Applicant's alleged mark will cause purchasers to mistakenly assume that Opposer is endorsing, attempting to promote, or encouraging the sale of Applicant's goods by permitting the alleged mark to be used on such goods.

24. Applicant's alleged mark is deceptive in that it falsely suggests a connection with, or approval by, Opposer.

25. Use and registration of the alleged mark by Applicant will deprive Opposer of the ability to protect its reputation, persona and goodwill.

26. Likelihood of damage to Opposer's goodwill is enhanced by the fact that prospective customers who encounter defects in the quality of Applicant's goods will attribute those defects to Opposer and this will injure Opposer's reputation and goodwill.

DILUTION - §43(c)

27. For many years, Opposer's Marks have been widely used and publicized throughout the United States and, therefore, Opposer's Marks have become well known and famous as a distinctive symbol of Opposer's goodwill.

28. Applicant's alleged mark is virtually identical to Opposer's Marks.

29. On information and belief, Applicant intends to use her alleged mark YOGA BEAR in commerce with a willful intent to trade on Opposer's reputation or to cause dilution of Opposer's famous Marks.

30. Opposer's Marks became well known and famous before Applicant made any use of her alleged mark, and before Applicant filed any application to register her alleged mark.

31. The alleged mark shown in Applicant's application will cause dilution of the distinctive quality of Opposer's Marks.

32. Use or registration of Applicant's alleged mark will lessen the capacity of Opposer's famous Marks to identify and distinguish Opposer's goods.

33. Likelihood of confusion, dilution and deception is enhanced by the fact that Applicant's alleged mark is virtually identical to Opposer's Marks.

34. Use and registration of the alleged mark by Applicant will deprive Opposer of the ability to control and protect its reputation, persona and goodwill.

35. Applicant's uncontrolled use or registration of YOGA BEAR for the goods listed in her application will tarnish the goodwill symbolized by Opposer's Marks.

36. Likelihood of tarnishment and damage to Opposer's goodwill is enhanced by the fact that Opposer has no control over the nature and quality of any goods or services sold under Applicant's alleged mark, and prospective customers who encounter defects in the quality of Applicant's goods or services will attribute those defects to Opposer and this will tarnish Opposer's goodwill.

37. By reason of the foregoing, Opposer will be damaged by the registration of Applicant's alleged mark and registration should be refused.

WHEREFORE, Opposer prays that this opposition be sustained and that registration be denied.

HANNA-BARBERA PRODUCTIONS, INC.

By



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CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing is being served upon Applicant's counsel H. John Rizvi of Gold & Rizvi, P.A., Suite 309, 11575 Heron Bay Boulevard, Coral Springs, Florida 33076 by first class mail, postage prepaid, on October 21, 2013.


