

ESTTA Tracking number: **ESTTA581894**

Filing date: **01/15/2014**

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	Hearst Holdings, Inc.
Granted to Date of previous extension	01/22/2014
Address	300 W. 57th Street New York, NY 10019 UNITED STATES

Attorney information	Maureen Walsh Sheehan Hearst Corporation 300 W. 57th Street - Office of General Counsel New York, NY 10019 UNITED STATES trademarks@hearst.com Phone:2126492022
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Applicant Information

Application No	85742204	Publication date	09/24/2013
Opposition Filing Date	01/15/2014	Opposition Period Ends	01/22/2014
Applicant	Donoso, Larry A. 9601 Milnor Street Philadelphia, PA 19114 USX		

Goods/Services Affected by Opposition

Class 041. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: EDUCATIONAL SERVICES, NAMELY, PROVIDING EDUCATIONAL PROGRAMS, TRAINING, AND COURSES OF INSTRUCTION IN THE FIELDS OF HEALTH, MEDICAL CARE, VISION, SPORTS AND FITNESS, NUTRITION, ENVIRONMENTAL AWARENESS, COMPUTERS AND INTERNET, SCIENCE, TECHNOLOGY AND INVENTION, MUSIC, AND READING, AND DISTRIBUTION OF PRINTED INSTRUCTIONAL COURSE MATERIAL IN CONNECTION THEREWITH

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. Registration	285410	Application Date	03/03/1931
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No.			
Registration Date	07/28/1931	Foreign Priority Date	NONE
Word Mark	POPEYE		
Design Mark	POPEYE		
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1931/01/30 First Use In Commerce: 1931/01/30 CARTOON STRIP		

U.S. Registration No.	1924819	Application Date	12/15/1992
Registration Date	10/03/1995	Foreign Priority Date	NONE
Word Mark	POPEYE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1995/06/01 First Use In Commerce: 1995/06/01 amusement park services		

U.S. Registration No.	1859452	Application Date	10/01/1993
Registration Date	10/25/1994	Foreign Priority Date	NONE
Word Mark	POPEYE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 006. First use: First Use: 1989/04/01 First Use In Commerce: 1989/04/01 non-luminous, non-mechanical metal signs and non-precious metal sculptures		

U.S. Registration No.	1988840	Application Date	09/30/1993
Registration Date	07/23/1996	Foreign Priority Date	NONE
Word Mark	POPEYE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 014. First use: First Use: 1996/02/12 First Use In Commerce: 1996/02/12 clocks		

U.S. Registration No.	1910360	Application Date	10/01/1993
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Registration Date	08/08/1995	Foreign Priority Date	NONE
Word Mark	POPEYE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1993/03/01 First Use In Commerce: 1993/03/01 advertising services		

U.S. Registration No.	1910483	Application Date	10/01/1993
Registration Date	08/08/1995	Foreign Priority Date	NONE
Word Mark	POPEYE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1986/10/23 First Use In Commerce: 1986/10/23 entertainment services in the nature of providing costumed figures, musical plays and theatrical shows; discotheque services		

U.S. Registration No.	1859769	Application Date	09/30/1993
Registration Date	10/25/1994	Foreign Priority Date	NONE
Word Mark	POPEYE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1991/07/26 First Use In Commerce: 1991/07/26 jackets, [suspenders], hats, socks, boxer shorts, T-shirts, men's tops, caps, ties, [boots]		

Attachments	71311696#TMSN.gif(bytes) NOO POPEYE SAURUS.pdf(207638 bytes)
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Certificate of Service

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

Signature	/Maureen Walsh Sheehan/
Name	Maureen Walsh Sheehan
Date	01/15/2014

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

Hearst Holdings, Inc.)	
)	
)	
Opposer,)	In re Serial No. 85/742204
)	
v.)	Mark: POPEYE SAURUS
)	
Donoso, Larry A.)	Opposition No. _____
)	
Applicant.)	
_____)	

NOTICE OF OPPOSITION

Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22314

Commissioner:

Opposer, Hearst Holdings, Inc., a Delaware corporation having an address of 300 W. 57th Street, New York, New York US 10019, believes that it will be damaged by registration of the mark underlying application Serial No 85/742204, and having been granted the extension of time to oppose up to and including January 22, 2014, hereby opposes same.

As grounds for the opposition, it is alleged that:

1. Opposer is the owner of the well-known and recognized mark POPEYE in the United States and internationally. Opposer is a subsidiary of The Hearst Corporation, one of the world's largest diversified media and information companies. Among its other activities, Opposer's division, King Features Syndicate, is the world's premier distributor of comics, columns, editorial cartoons, puzzles and games, distributing in print and online some 150

features to nearly 5,000 newspapers and other outlets around the globe. It is one of the largest and most experienced organizations in merchandise licensing and entertainment. It represents some of the most recognizable global brands, including, Popeye, Olive Oyl and Betty Boop.

2. Beginning in 1929, more than 80 years prior to the September 30, 2012 filing date of Applicant's application, Opposer and its predecessors-in-interest began using the POPEYE mark and character in connection with comics. Opposer and its predecessors have invested a substantial amount of time, effort, and money in promoting the internationally famous and well-known icon that is POPEYE. Popeye is one of the most recognizable pop culture icons in the world and an entertainment and merchandising powerhouse. The world-famous mariner, arguably the No. 1 licensed character food brand in the world, is a major theme park attraction at Universal Orlando Resort and is also featured in Universal Studios Japan. Most recently, King Features and dBpm Records combined creative forces with the release of a brand-new cartoon and animated music video for Wilco's single, "Dawned On Me," featuring Popeye and the Chicago band. Popeye has also put his fashion foot forward at retail. Popeye and fellow comic icon Beetle Bailey inspired a limited-edition Americana and military-inspired Army vs. Navy collection exclusively for Bloomingdale's that included high-end apparel, accessories and collectibles brands such as Converse, Medicom, Psycho Bunny, Junk Food Clothing and Altru. Other high-profile fashion licensees and retailers who have carried Popeye include Bravado Merchandise GmbH (a worldwide leader in music and entertainment merchandising), Dolce and Gabbana, Monnalisa S.p.A., H&M, Original Marines, Benetton, Gap, Lucien Pellat-Finet, Miss Sixty, Urban Outfitters and Zara.

3. Opposer is the owner of the following United States trademark registrations for the mark POPEYE:

Mark	Reg. No. Reg. Date	Fist Use	Goods/Services
POPEYE	285,410 July 28, 1971	Jan. 30, 1931	16: CARTOON STRIP
POPEYE	1,924,819 October 3, 1995	Jun. 01, 1995	41: AMUSEMENT PARK SERVICES
POPEYE	1,859,452 October 25, 1994	April 1, 1989	6: NON-LUMINOUS, NON-MECHANICAL METAL SIGNS, NON PRECIOUS METAL SCULPTURES
POPEYE	1,988,840 July 23, 1996	February 12, 1996	14: CLOCKS
POPEYE	1,859,769 October 25, 1994	July 26, 1991	25: JACKETS, HATS, SOCKS, BOXER SHORTS, T-SHIRTS, MEN'S TOPS, CAPS
POPEYE	1,910,360 August 8, 1995	March 1, 1993	35: ADVERTISING SERVICES
POPEYE	1,910,483 August 8, 1995	October 23, 1986	41: ENTERTAINMENT SERVICES IN THE NATURE OF PROVIDING COSTUMED FIGURES, MUSICAL PLAYS AND THEATRICAL SHOWS, DISCOTHEQUE SERVICES

4. The foregoing registrations in Paragraph 3 are valid and subsisting and constitute prima facie evidence of the validity of the marks and registrations, of Opposer's ownership or and exclusive right to use the marks in commerce, and provide constructive notice of ownership thereof by Opposer.

5. The name POPEYE is not the name of any living individual but a fictional name created by the Opposer, or its predecessors, for use in relation to its fictional cartoon character and to this extent a *prima facie* distinctive trademark.

6. As a result of widespread advertising, promotion and licensing by Opposer and its predecessors in interest, the POPEYE mark has acquired a high degree of recognition, fame, and distinctiveness. The public and the trade are familiar with the POPEYE mark exclusively with Opposer, and goods and services associated with the mark therefore are understood by the public and the trade to be produced, marketed, and supplied by Opposer.

7. On September 30, 2012, Applicant applied to register the mark POPEYE SAURUS on the Principal Register. This application was assigned application Serial No. 85/742204.

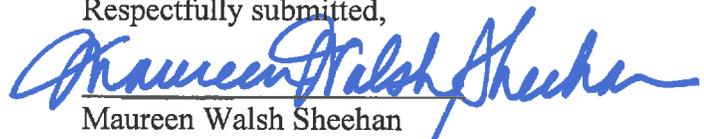
8. Applicant seeks to register the mark POPEYE SAURUS, this applied for mark resembles Opposer's registered POPEYE marks and is likely that the relevant public would be confused, mistaken it is authorized, licensed, endorsed, or sponsored by the Opposer, and potentially mislead the relevant public as to the source of the services because of the commercial impression to the salient element of Opposer's registered POPEYE marks. Registration of Applicant's mark on the Principal Register thus would be inconsistent with Opposer's prior rights in its well-known POPEYE marks.

9. Opposer will additionally be damaged by registration of Applicant's POPEYE SAURUS mark because the mark dilutes and is likely to dilute the distinctiveness of Opposer's famous POPEYE marks by eroding consumers' exclusive identification of that mark with Opposer, and/or by tarnishing and degrading the positive association and prestigious connotations of the famous POPEYE marks, and/or by otherwise lessening the capacity of Opposer's POPEYE marks to identify and distinguish the goods of Opposer.

10. Opposer therefore requests that application Serial No. 85/742204 be refused, and this Opposition be sustained in favor of Opposer.

This 15th day of January, 2014

Respectfully submitted,



Maureen Walsh Sheehan
HEARST CORPORATION
300 West 57th Street
New York NY 10019
msheehan@hearst.com
(212) 649-2022 (telephone)
Attorney for Opposer

CERTIFICATE OF SERVICE

This is to certify that the attached Notice of Opposition has been served upon Applicant's filing correspondent by depositing a copy in the United States mail as first class mail, postage pre-paid, addressed as follows:

John W. Goldschmidt, Jr.
FERENCE & ASSOCIATES LLP
409 BROAD STREET
PITTSBURGH, PA 15143

This 15 day of January, 2014

A handwritten signature in black ink, appearing to read "Samantha A. Favitta". The signature is written in a cursive style with a large initial "S" and "F".

Samantha A. Favitta