

ESTTA Tracking number: **ESTTA657684**

Filing date: **02/24/2015**

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	Startek Invest Limited
Granted to Date of previous extension	02/25/2015
Address	Klimentos 41-43, Klimentos Tower Flat/Office 25 Nicosia, 1061 CYPRUS

Attorney information	Anastasiya Fugett Fugett Firm 2817 West End Ave.Suite 126-423 Nashville, TN 37203-1453 UNITED STATES afugett@fugettfirm.com Phone:6152858338
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Applicant Information

Application No	86130987	Publication date	10/28/2014
Opposition Filing Date	02/24/2015	Opposition Period Ends	02/25/2015
Applicant	MATTEL, INC. M1-1518 EL SEGUNDO, CA 90245 UNITED STATES		

Goods/Services Affected by Opposition

Class 028. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: DOLLS, DOLL CLOTHING AND DOLL ACCESSORIES
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Application No.	86134800	Application Date	12/04/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FAIRY KINGDOM		

Design Mark	FAIRY KINGDOM
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2013/10/15 First Use In Commerce: 2013/10/15 Computer game programs; Downloadable computer game programs; Downloadable electronic game programs; Downloadable electronic game software for use on mobile phones, tablet computers and handheld computers; Electronic game programs; Electronic game software; Interactive game programs; Interactive game software; Interactive video game programs

U.S. Application No.	86134812	Application Date	12/04/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FAIRY KINGDOM		
Design Mark	FAIRY KINGDOM		
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 0 First Use In Commerce: 0 Entertainment services, namely, providing on-line reviews of electronic games and software; Entertainment services, namely, providing on-line, non-downloadable virtual items in the nature of characters, buildings, vehicles, plants, animals, clothing, building materials, land, household goods, weapons, armor, tools, food, drinks, currency, and furniture for use in virtual environments created for entertainment purposes; Entertainment services, namely, providing online electronic games; Entertainment services, namely, providing temporary use of non-downloadable electronic games; Entertainment services, namely, providing virtual environments in which users can interact for recreational, leisure or entertainment purposes; Providing an Internet website portal featuring entertainment news and information specifically in the field of electronic games and software; Providing information on-line relating to computer games and computer enhancements for games; Publishing of electronic publications		

Attachments	86134800#TMSN.png(bytes) 86134812#TMSN.png(bytes) Notice of Opposition.pdf(1999220 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	/Anastasiya Fugett/
Name	Anastasiya Fugett
Date	02/24/2015

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

In the matter of application Serial No. 86/130,987
Filed on November 27, 2013
For the mark FAIRY KINGDOM
Published in the *Official Gazette* on October 28, 2014

STARTEK INVEST LIMITED,

Opposer,

v.

MATTEL, INC.,

Applicant.

Opposition No.: _____

United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, Virginia 22313-1451

NOTICE OF OPPOSITION

Opposer Startek Invest Limited (the “**Opposer**”), a private company limited by shares organized and existing under the laws of Cyprus with a business address of Klimentos 41-43, Klimentos Tower, Flat/Office 25, Nicosia, Cyprus 1061, believes that it will be damaged by registration of the mark that is the subject of Application Serial No. 86/130,987. Opposer requested and received an extension of time to February 25, 2015 in which to oppose the challenged trademark following its publication on October 28, 2014 in the *Official Gazette*. Opposer therefore opposes this application.

The grounds for this Opposition are as follows:

1. Mattel, Inc. (the “**Applicant**”) is, upon information and belief, a corporation organized and existing under the laws of the State of Delaware, having its principal place of

business at 333 Continental Boulevard, El Segundo, California 90245.

2. As evidenced by the publication of the FAIRY KINGDOM mark in the October 28, 2014 *Official Gazette*, Applicant seeks to register the mark FAIRY KINGDOM (the “**Proposed Mark**”) as a trademark for “dolls, doll clothing and doll accessories” in International Class 28.

3. Applicant filed the application for the Proposed Mark on November 27, 2013 based upon its alleged *bona fide* intent to use the Proposed Mark in United States commerce under Section 1(b) of the Lanham Act, 15 U.S.C. § 1051(b), and has yet to file a Statement of Use claiming a date of first commercial use of the Proposed Mark in connection with the listed goods.

4. Opposer is a successful company engaged in the development and worldwide distribution of computer and video game programs and related software available for download to mobile devices and also accessible via computer browsers.

5. Since as early as October 15, 2013, Opposer adopted and commenced use of FAIRY KINGDOM as a mark in connection with its computer and video games and related software, and has used the FAIRY KINGDOM mark for such products continuously since that date throughout the United States and in other countries.

6. On December 4, 2013, Opposer filed two U.S. Trademark Applications Serial Nos. 86/134,800 and 86/134,812 for registration of the FAIRY KINGDOM mark for its goods and services. Opposer’s applications were suspended pending the outcome of the Applicant’s application due to a likelihood of confusion between the Proposed Mark and Opposer’s FAIRY KINGDOM mark.

7. Opposer has spent considerable time, money, and effort promoting its FAIRY

KINGDOM mark and developing customer recognition and goodwill in the mark throughout the United States, and has achieved significant sales under and in connection with its use of the FAIRY KINGDOM mark nationwide.

8. Opposer's FAIRY KINGDOM mark has achieved substantial consumer recognition, and the mark and its associated goodwill are assets of significant value to Opposer.

9. The priority date of Opposer's first use of the FAIRY KINGDOM mark in United States commerce is prior to Applicant's filing date for the Proposed Mark, as well as any first use in commerce or other priority date that could be asserted by Applicant.

10. The Proposed Mark is confusingly similar to Opposer's FAIRY KINGDOM mark because the Proposed Mark is identical to the Opposer's mark in appearance, sound, and commercial impression.

11. Applicant's goods are closely related to the goods and services Opposer offers and provides under its FAIRY KINGDOM mark.

12. Upon information and belief, Applicant's goods will be advertised and sold in the same or similar types of media and trade channels as the goods and services offered by Opposer.

13. Upon information and belief, Applicant's goods will be offered and sold to the same or similar types of consumers who purchase and Opposer's goods and services provided under the FAIRY KINGDOM mark.

14. Applicant's intended use of the Proposed Mark is likely to cause confusion, mistake, or deception in the minds of prospective purchasers as to the origin, source, sponsorship, or association of Applicant's goods, thereby causing loss, damage, and injury to Opposer.

15. Consumers familiar with the FAIRY KINGDOM mark are likely to mistakenly

believe that Applicant's goods are sponsored, authorized, associated with, or otherwise approved by Opposer because the Proposed Mark is identical to Opposer's FAIRY KINGDOM mark.

16. Applicant's intended use of the Proposed Mark falsely suggests a relationship between Applicant's goods and Opposer's goods and is likely to cause confusion, mistake or deception with respect to the source or sponsorship of Applicant's goods. Applicant's intended use of the Proposed Mark is therefore likely to result in Applicant's trading off of and benefiting from the goodwill associated with Opposer.

17. Registration of Applicant's Proposed Mark would be a further source of damage to Opposer because it would confer upon Applicant various statutory presumptions to which it is not entitled in view of Opposer's prior use of the FAIRY KINGDOM mark.

18. Applicant applied for registration of the Proposed Mark without the consent or agreement of Opposer.

19. For the foregoing reasons, the registration sought by Applicant is contrary to the provisions of Sections 2 and 43 of the Lanham Act, 15 U.S.C. §§ 1052 and 1125, and Opposer would be damaged thereby.

20. In order to protect the public against confusion and deceit, and to protect Opposer's FAIRY KINGDOM mark from infringement, registration of Applicant's Proposed Mark should be refused under Sections 2(d) and 13 of the Lanham Act, 15 U.S.C. §§ 1052(d) and 1063.

WHEREFORE, Opposer respectfully prays for the following:

a. a finding that Opposer's FAIRY KINGDOM mark has priority as to Applicant's application to register the FAIRY KINGDOM mark in connection with the goods listed in Serial No. 86/130,987;

b. a finding that Applicant's proposed FAIRY KINGDOM mark is likely to cause confusion with Opposer's FAIRY KINGDOM mark; and

c. pursuant to Section 13 of the Lanham Act, 15 U.S.C. §1063, that the opposition be sustained and Application Serial No. 86/130,987 and the mark therein sought, for the goods identified therein, be denied and refused.

Anastasiya Fugett

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Attorney for Opposer Startek Invest Limited

Date: February 24, 2015

CERTIFICATE OF SERVICE

I, Anastasiya Fugett, hereby certify that a copy of the foregoing **NOTICE OF OPPOSITION** has been mailed by U.S. first-class mail, postage prepaid, on February 24, 2015, to below identified attorney of record for Applicant:

Michael Moore, Esq.
Mattel, Inc.
333 Continental Blvd.
El Segundo, California 90245-5032



Anastasiya Fugett, Esq.

February 24, 2015