

ESTTA Tracking number: **ESTTA674870**

Filing date: **05/28/2015**

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	Lego Juris A/S		
Entity	Corporation	Citizenship	Switzerland
Address	KOLDINGVEJ 2 DK-7190 BILLUND, . SWITZERLAND		

Attorney information	Laura Popp-Rosenberg Fross Zelnick Lehrman & Zissu, P.C. 866 United Nations Plaza New York, NY 10017 UNITED STATES lpopp-rosenberg@fzlz.com Phone:212-813-5900
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### Applicant Information

Application No	86465184	Publication date	04/28/2015
Opposition Filing Date	05/28/2015	Opposition Period Ends	05/28/2015
Applicant	ROMANOFF PRODUCTS INC. 11 BROOKSIDE AVE. CHATHAM, NY 12037 UNITED STATES		

### Goods/Services Affected by Opposition

Class 028. First Use: 2014/11/01 First Use In Commerce: 2014/11/01 All goods and services in the class are opposed, namely: TOY BUILDING BLOCK ACCESSORY IN THE NATURE OF A PLASTIC ROTATING TURNABLE SPECIFICALLY ADAPTED FOR EASY ACCESS TO TOY BUILDING BLOCK PROJECTS
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### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
The mark is merely descriptive	Trademark Act section 2(e)(1)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Other	void ab initio

### Mark Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	long use of knights-centered interlocking plastic brick construction		

	toys and sets, and the close association in the marketplace between Opposer and interlocking plastic bricks,
Goods/Services	construction toys and sets

Attachments	F1700177.PDF(85616 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	/Laura Popp-Rosenberg/
Name	Laura Popp-Rosenberg
Date	05/28/2015

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

-----X		
LEGO JURIS A/S,	:	
	:	
<i>Opposer,</i>	:	
	:	
- against -	:	Opposition No.
	:	
ROMANOFF PRODUCTS INC.,	:	
	:	
<i>Applicant.</i>	:	
-----X		

Opposer LEGO Juris A/S (“Opposer) believes that it will be damaged by the issuance of a registration for the mark BRICKS OF THE ROUND TABLE, as applied for in Application Serial No. 86465184, and therefore opposes the same. As grounds for the opposition, Opposer, by its attorneys Fross Zelnick Lehrman & Zissu, P.C., alleges as follows:

1. Opposer and its predecessors, through licensees, have long sold and now sell, in commerce in the United States, construction toys and construction toy playsets containing interlocking plastic bricks in various configurations under the famous trademark LEGO.
2. Upon information and belief, applicant Romanoff Products Inc. (“Applicant”) is a Connecticut corporation located and doing business at 11 Brookside Ave., Chatham, New York 12037.
3. Upon information and belief, on or about November 25, 2014, Applicant filed Application Serial No. 86465184 (the “Application”) to register the mark BRICKS OF THE ROUND TABLE on the basis of use of the mark in commerce, under Section 1(a) of the Lanham Act, 15 U.S.C. § 1051(a), for “toy building block accessory in the nature of a plastic rotating

turntable specifically adapted for easy access to toy building block projects” in International Class 28.

FIRST GROUND FOR RELIEF  
UNDER 15 U.S.C. § 1052(e)

4. Opposer incorporates by reference paragraphs 1 through 3 above as if fully set forth herein.

5. Upon information and belief, the phrase “toy building block” in the recitation of goods covered by the Application means an interlocking plastic brick of the type sold by Opposer and third parties. This is clear from the specimen of use filed in connection with the Application, which depicts a studded surface to which interlocking plastic bricks can be affixed. *See Exhibit A.*

6. Accordingly, in the context of the goods in connection with which the mark BRICKS OF THE ROUND TABLE is to be used, the term “bricks” is descriptive.

7. The words “brick” and “bricks” are extensively used descriptively by Opposer’s licensees and by third parties in connection with goods and services consisting of or relating to interlocking plastic bricks.

8. Thus, the term “bricks” in Applicant’s mark BRICKS OF THE ROUND TABLE cannot function as part of a trademark because it is descriptive of the goods of both Applicant and Applicant’s competitors, including Opposer’s licensees.

9. If the Application is allowed to mature to registration without a disclaimer of the term “bricks,” Applicant will be granted rights in a descriptive term that should be freely available for use by Opposer and Opposer’s licensees, as well as other competitors of Applicant.

10. Registration to Applicant of the Application without a disclaimer of the term “bricks” will harm Opposer by giving Applicant presumptive exclusivity in and to a term widely

in use by others, including Opposer, thereby impairing Opposer's and Opposer's licensee's ability to use this common, descriptive term in connection with their products and businesses.

11. By reason of the foregoing, Opposer is likely to be harmed by registration of the mark BRICKS OF THE ROUND TABLE without disclaimer of the descriptive term "bricks."

SECOND GROUND FOR RELIEF  
UNDER 15 U.S.C. § 1052(d)

12. Opposer incorporates by reference paragraphs 1 through 11 above as if fully set forth herein.

13. Upon information and belief, the mark BRICKS OF THE ROUND TABLE is a play on the phrase "Knights of the Round Table," a reference to a storied group of knights in the legends of King Arthur.

14. Opposer, through its licensees, has long sold and now sells interlocking plastic brick construction toys and construction toy playsets around the theme of knights. Such sets include Opposer's long-running CASTLE theme sets, its current LEGO Juniors Knight's Castle set, its recent KINGDOM theme sets, and many, many retired sets and figures.

15. As a result of Opposer's long use of knights-centered interlocking plastic brick construction toys and sets, and the close association in the marketplace between Opposer and interlocking plastic bricks, use by Applicant of the mark BRICKS OF THE ROUND TABLE for the goods identified in the Application is likely to create the erroneous impression that Applicant's goods originate with, are sponsored or approved by, or are otherwise connected with Opposer or Opposer's business and goods. Any use of the BRICKS OF THE ROUND TABLE mark by Applicant is, therefore, likely to cause confusion, cause mistake or to deceive the public, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

16. By reason of the foregoing, Opposer will be damaged by the registration of the BRICKS OF THE ROUND TABLE mark to Applicant.

THIRD GROUND FOR RELIEF  
UNDER 15 U.S.C. § 1051(a)

17. Opposer incorporates by reference paragraphs 1 through 15 above as if fully set forth herein.

18. Upon information and belief, at the time Applicant filed the Application under Section 1(a) of the Lanham Act, Applicant was not using the mark BRICKS OF THE ROUND TABLE in commerce in connection with the goods set forth in the application, as “use in commerce” is defined in the Lanham Act: “the bona fide use of a mark in the ordinary course of trade, and not made merely to reserve a rights in a mark,” as opposed to merely offering a product for sale, token use, a contrived sale, or producing a sample of the product.

19. Because the BRICKS OF THE ROUND TABLE mark was not in use in commerce on or prior to the filing date of the Application in connection with the goods specified therein, the Application is void *ab initio* under Section 1(a) of the Lanham Act, 15 U.S.C. 1051(a).

20. By reason of the foregoing, Opposer will be damaged by the registration of the BRICKS OF THE ROUND TABLE mark to Applicant.

FOURTH GROUND FOR RELIEF  
FRAUD

21. Opposer incorporates by reference paragraphs 1 through 20 as if fully set forth herein.

22. Upon information and belief, at the time Applicant filed the Application under Section 1(a) of the Lanham Act, Applicant was not using the mark BRICKS OF THE ROUND TABLE in commerce in connection with the goods set forth in the application.

23. Accordingly, upon information and belief, the statements in the Application that “the mark [BRICKS OF THE ROUND TABLE] was first used by the applicant or the applicant’s related company or licensee or predecessor in interest at least as early as 11/01/2014, and first used in commerce at least as early as 11/01/2014, and is now in use in such commerce” were false.

24. Upon information and belief, Applicant knew that as of the filing date of the Application it was not using the mark BRICKS OF THE ROUND TABLE in interstate commerce and that, therefore, its statements in the Application to that effect were false.

25. Upon information and belief, by falsely asserting that it was using the BRICKS OF THE ROUND TABLE mark in interstate commerce as of the filing date of the Application, Applicant intended to and did deceive the United States Patent and Trademark Office (“USPTO”). Upon information and belief, Applicant’s false statements were made for the purpose of obtaining a registration to which Applicant was not entitled.

26. Applicant’s false statement that it was using the BRICKS OF THE ROUND TABLE mark in interstate commerce as of the filing date of the Application was material to the USPTO’s examination of the Application for registrability and therefore was a material misstatement of fact.

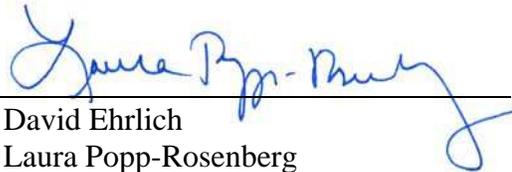
27. As a result of Applicant’s willful and material false statements in connection with the Application, Applicant has committed fraud against the USPTO.

28. By reason of the foregoing, Opposer will be damaged by the registration of the BRICKS OF THE ROUND TABLE mark to Applicant.

WHEREFORE, it is respectfully requested that this opposition be sustained and that the registration sought by Applicant be denied.

Dated: New York, New York  
May 28, 2015

Fross Zelnick Lehrman & Zissu, P.C.

By:   
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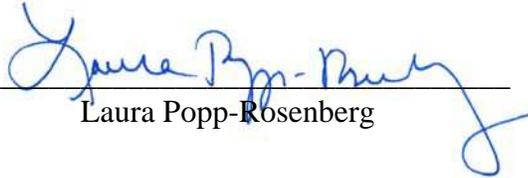
*Attorneys for Opposer LEGO Juris A/S*

# EXHIBIT A



**CERTIFICATE OF SERVICE**

I hereby certify that on this 28<sup>th</sup> day of May, 2015, I caused a true and correct copy of the foregoing Notice of Opposition to be sent by pre-paid First Class U.S. mail upon the Applicant at the correspondence address of record: David Romanoff, Romanoff Products Inc., 11 Brookside Ave., Chatham, New York 12037-1053.

  
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Laura Popp-Rosenberg