

ESTTA Tracking number: **ESTTA736825**

Filing date: **03/30/2016**

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

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| Name | Moose Creative Pty Ltd |
| Granted to Date of previous extension | 03/30/2016 |
| Address | 29 Grange Rd Cheltenham, 3192 AUSTRALIA |

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| Attorney information | Sheila Fox Morrison Davis Wright Tremaine LLP 1300 S.W. 5th Avenue, Suite 2400 Portland, OR 97201 UNITED STATES sheilafoxmorrison@dwt.com, sandilyn@dwt.com Phone:(503) 241-2300 |
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Applicant Information

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|------------------------|--|------------------------|------------|
| Application No | 86739249 | Publication date | 12/01/2015 |
| Opposition Filing Date | 03/30/2016 | Opposition Period Ends | 03/30/2016 |
| Applicant | Jay At Play International Hong Kong Limited Suite 1003-04 Houston Centre Kowloon, HONG KONG | | |

Goods/Services Affected by Opposition

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| Class 028. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Stuffed and plush toys; Stuffed toy animals |
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Grounds for Opposition

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

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|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 4528193 | Application Date | 04/26/2013 |
| Registration Date | 05/13/2014 | Foreign Priority Date | 10/29/2012 |
| Word Mark | SHOPKINS | | |

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| Design Mark | SHOPKINS |
| Description of Mark | NONE |
| Goods/Services | <p>Class 016. First use: First Use: 0 First Use In Commerce: 0</p> <p>Paper and paper products in the nature of craft items, namely, arts and crafts paint kits and children's arts and crafts paper kits, cardboard and card products in the nature of craft items, namely, arts and crafts paint kits and children's arts and crafts paper kits; arts and crafts kits, namely, arts and crafts paint kits and children's arts and crafts paper kits; stickers; craft activity kits for making and decorating comprising paints, stickers, patterned templates and plastic embellishments for stickers, namely, plastic gem stones and plastic decorations; modeling clay and plastic modeling paste for children; printed patterns; printed instructions and booklets for hobby crafts; printed instruction cards in the field of hobbies and crafts; punches for paper for craft use; paper drawing templates; greeting cards and gift bags of paper for children's educational activities and children's playing activities; patterned stationery; stationery for children's educational activities and children's playing activities; artists materials in the nature of moulds for modeling clays and plastic modeling paste; writing material, namely, writing pens and writing instruments for children's educational activities and children's playing activities; erasers; adhesives for stationery and household purposes for children's educational activities and children's playing activities; trading cards</p> <p>Class 028. First use: First Use: 0 First Use In Commerce: 0</p> <p>Toys, games and playthings, namely, card games, collectible figurines, collectible animal figurines, collectible toys, namely, toy figures and collectible toy characters and collectible bendable toy characters, outfits for toys, pouches for toys and collector cases for toys; puppets; puzzles; packaged amusement and educational games, namely, electronic educational game machines for children; toy environments for use with toy characters, namely, play pieces in the nature of toy buildings, toy vehicles, toy building structures, toy construction sets; playsets for toy characters, play toy costumes, fantasy character toys, toy action figures and accessories therefor</p> |

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| Attachments | 85915375#TMSN.png(bytes) Notice of Opposition - DR_001.pdf(2357395 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 | /Sandi Lyn/ |
| Name | Sandi Lyn, Davis Wright Tremaine LLP |
| Date | 03/30/2016 |

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

9 MOOSE CREATIVE PTY LTD, an Australian
10 limited liability company,

11 Opposer,

12 v.

13 JAY AT PLAY INTERNATIONAL HONG
14 KONG LIMITED, a Hong Kong corporation,

15 Applicant.

Opposition No.

Application Serial No. 86/739,249

NOTICE OF OPPOSITION

16 TO THE COMMISSIONER FOR TRADEMARKS
17 TRADEMARK TRIAL AND APPEAL BOARD:

18 Moose Creative Pty Ltd, a limited liability company of Australia, having a place of
19 business at 29 Grange Road, Cheltenham, Victoria, Australia 3192 (hereinafter "Opposer"),
20 believes that it will be damaged by registration of the trademark shown in Application Serial
21 No. 86/739,249, and hereby opposes the same. As grounds for the opposition, Opposer alleges
22 as follows:

23 1. On information and belief, Jay At Play International Hong Kong Limited is a
24 corporation of Hong Kong, with an address of Suite 1003-04 Houston Centre, 63 Mody Road,
25 TST East, Kowloon, Hong Kong (hereinafter "Applicant").

26 2. Continuously since long prior to any date upon which Applicant can rely,
27 Opposer has used the trademark SHOPKINS, in association with toys, games and playthings.

3. Opposer is the owner of U.S. Trademark Registration No. 4,528,193, for the mark

NOTICE OF OPPOSITION - 1

DWT 29216492v2 0094288-000009

1 SHOPKINS, for goods claimed in International Classes 16 and 28. Said registration issued
2 May 13, 2014. Registration No. 4,528,193 is currently valid and subsisting.

3 4. The mark DROPKINS, shown in Application Serial No. 86/739,249, so resembles
4 Opposer's mark SHOPKINS, that when used in association with the goods claimed by
5 Application Serial No. 86/739,249, such use is to likely cause consumer confusion, or cause
6 mistake, or deceive within the meaning of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

7 5. Opposer will be damaged by the registration sought by Applicant insofar as the
8 registration will be *prima facie* evidence of the validity of the registration, Applicant's ownership
9 of the mark DROPKINS for the goods claimed by Application Serial No. 86/739,249, and
10 Applicant's exclusive right to use the mark DROPKINS in association with the goods claimed by
11 Application Serial No. 86/739,249 when, in fact, Applicant is not entitled to the full scope of
12 such rights by virtue of Opposer's prior and continuous use of the mark SHOPKINS for toys,
13 games and playthings, which may be sold in the same channels of trade and offered to the same
14 class of purchasers as Applicant's applied-for goods.

15 6. Based upon the foregoing, registration of the mark shown by Application Serial
16 No. 86/739,249, filed August 27, 2015, is likely to cause injury and damage to Opposer.

17 WHEREFORE, Opposer respectfully requests that registration of the mark DROPKINS
18 as shown by Application Serial No. 86/739,249, be denied under Section 2(d) of the Lanham
19 Act, 15 U.S.C. § 1052(d), and that this Opposition be sustained.

20 Please charge the filing fee of US\$300.00 to Deposit Account No. 04-0258 of Opposer's
21 counsel noted below.

22 Please direct all correspondence to Sheila Fox Morrison of Davis Wright Tremaine LLP
23 at the following address:

24 Sheila Fox Morrison
25 Davis Wright Tremaine LLP
26 1300 SW. 5th Avenue, Suite 2400
27 Portland, OR 97201

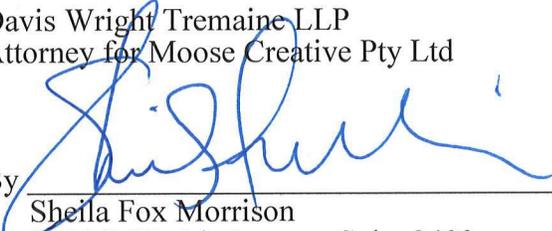
27 // // // //

1 Please direct all telephone calls to Sheila Fox Morrison at (503) 778-5311.

2 DATED this 30th day of March, 2016.

3 Davis Wright Tremaine LLP
4 Attorney for Moose Creative Pty Ltd

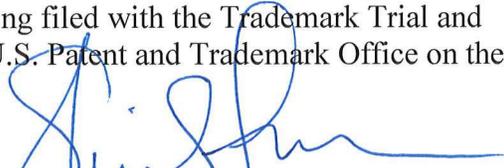
5
6 By


7 Sheila Fox Morrison
8 1300 S.W. 5th Avenue, Suite 2400
9 Portland, OR 97201
10 Tel: (503) 778-5311
11 Fax: (503) 778-5299
12 Email: sheilafoxmorrison@dwt.com

CERTIFICATE OF FILING

I hereby certify that this NOTICE OF OPPOSITION to U.S. Trademark Application Serial No. 86/739,249 for the mark DROPKINS is being filed with the Trademark Trial and Appeal Board using the ESTTA filing system of the U.S. Patent and Trademark Office on the below date.

Date: March 30, 2016



Sheila Fox Morrison

CERTIFICATE OF SERVICE

I hereby certify that this NOTICE OF OPPOSITION to U.S. Trademark Application Serial No. 86/739,249 for the mark DROPKINS is being duly served upon the Applicant and Applicant's Correspondent by mailing a copy thereof via the U.S. Postal Service in a sealed envelope as first-class mail with postage thereupon fully prepaid and addressed to the following address:

Jay At Play International Hong Kong Limited
Suite 1003-04 Houston Centre
63 Mody Road, TST East
Kowloon, Hong Kong

and

Joseph E. Sutton
Law Offices Ezra Sutton P A
900 U.S. Highway 9 N, Suite 201
Woodbridge, New Jersey 07095

Date: March 30, 2016



Sheila Fox Morrison