

ESTTA Tracking number: **ESTTA762788**

Filing date: **08/05/2016**

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

Name	Metro-Goldwyn-Mayer Studios Inc.
Granted to Date of previous extension	08/07/2016
Address	245 N. Beverly Drive Beverly Hills, CA 90210 UNITED STATES
Attorney information	Joan Kupersmith Larkin Seyfarth Shaw LLP 2029 Century Park East, Suite 3500 Los Angeles, CA 90067-3021 UNITED STATES jlarkin@seyfarth.com, mmoore@mgm.com, polly@gandalegal.com Phone:310-201-5240

Applicant Information

Application No	86753596	Publication date	02/09/2016
Opposition Filing Date	08/05/2016	Opposition Period Ends	08/07/2016
Applicant	Rogue Marble Productions, Inc. 21731 Ventura Blvd Suite 300 Woodland Hills, CA 91364 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Apparel, namely, t-shirts, shirts, shorts, pants, sweatshirts, sweatpants, hats, visors, shoes, sandals, jackets, underwear, socks, and belts

Grounds for Opposition

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

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	I MUST BREAK YOU		
Goods/Services	Clothing		

Attachments	Notice of Opposition MGM.pdf(895206 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	/Joan Kupersmith Larkin/
Name	Joan Kupersmith Larkin
Date	08/05/2016

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

In the Matter of Application Serial No. 86/753,596
Published in the Official Gazette of February 9, 2016

METRO-GOLDWYN-MAYER STUDIOS
INC.,

Opposer,

v.

ROGUE MARBLE PRODUCTIONS, INC.

Applicant.

Opposition No.: _____

NOTICE OF OPPOSITION

Opposer Metro-Goldwyn-Mayer Studios Inc. (“Opposer”) believes that it will be damaged by registration of the mark shown in Application Serial No. 86/753,596 and hereby opposes the same. As grounds for opposition, Opposer alleges as follows:

1. Opposer is a Delaware corporation with offices in Beverly Hills, California.
2. Upon information and belief, applicant Rogue Marble Productions, Inc.

(“Applicant”) is a Nevada corporation with an address of record in Woodland Hills, California.

3. On September 11, 2015, Applicant filed Application Serial No. 86/753,596 (the “Opposed Application”) to register the claimed mark I MUST BREAK YOU in standard characters on the Principal Register for goods identified therein as “apparel, namely, t-shirts, shirts, shorts, pants, sweatshirts, sweatpants, hats, visors, shoes, sandals, jackets, underwear, socks, and belts,” on the basis of Applicant’s alleged intention to use the mark in commerce. Upon information and belief, Applicant has not commenced use of its claimed mark in commerce.

4. Opposer and its predecessors-in-interest have long been engaged in the production and distribution of motion pictures, including the iconic *Rocky* motion picture series featuring the professional boxer Rocky Balboa. Opposer owns all right, title, and interest in and to the trademark rights in the *Rocky* series.

5. In *Rocky IV*, which was released in 1985, Rocky Balboa fights Russian Soviet boxer Ivan Drago in a match in the Soviet Union arranged after Drago fatally injured Balboa's onetime-nemesis and later-friend and trainer Apollo Creed in a previous fight. At the beginning of the fight, when Balboa and Drago are receiving instructions from the referee, Drago utters the phrase "I must break you" to Balboa. Balboa then proceeds to win the fight before a hostile crowd whose loyalty he wins by a courageous exhibition of skill and toughness.

6. From a time long prior to the filing date of the Opposed Application, or any earlier date of actual use of the mark shown in the Opposed Application upon which Applicant can rely, and continuously to the present, Opposer has used the mark I MUST BREAK YOU in connection with clothing. Depictions of clothing bearing the I MUST BREAK YOU mark and sold under license from Opposer are attached hereto as Exhibit 1.

7. The goods identified in the Opposed Application are legally identical to the goods on which Opposer has previously used its I MUST BREAK YOU mark and are thus deemed to travel through the same channels of trade as Opposer's goods and to be sold to the same classes of customers as Opposer's goods. Purchasers, prospective purchasers, and observers of Applicant's clothing bearing the I MUST BREAK YOU mark are likely to believe mistakenly that Applicant's goods originate with, or are licensed, sponsored, or authorized by, Opposer.

FIRST CLAIM FOR RELIEF
(Likelihood of Confusion with Previously-Used Trademark)

8. Opposer repeats and realleges the allegations in preceding paragraphs 1-7 as if fully set forth herein.

9. The mark shown in the Opposed Application so resembles the I MUST BREAK YOU mark previously used by Opposer in the United States, and not abandoned, as to be likely, when used on or in connection with the goods identified in the Opposed Application, to cause confusion, to cause mistake, or to deceive, and Applicant's mark is thus unregistrable under § 2(d) of the United States Trademark Act, 15 U.S.C. § 1052(d).

10. Opposer will be damaged by registration of the mark shown in the Opposed Application because such registration will give Applicant prima facie evidence of ownership of and the exclusive right to use a mark that is confusingly similar to Opposer's previously-used and not-abandoned mark, in derogation of Opposer's rights in its mark.

WHEREFORE, opposer Metro-Goldwyn-Mayer Studios Inc. prays for judgment sustaining this opposition and refusing registration of the mark shown in the Opposed Application.

Please charge the filing fees for this opposition to Deposit Account No. 50-2291 and direct all correspondence and communication in this opposition to the undersigned.

Respectfully submitted,

SEYFARTH SHAW LLP

Dated: August 5, 2016

By: s/Joan Kupersmith Larkin

Joan Kupersmith Larkin

Jill A. Jacobs

Attorneys for Opposer

METRO-GOLDWYN-MAYER STUDIOS INC.

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Telephone: (310) 277-7200

Facsimile: (310) 201-5219

EXHIBIT 1



**"I MUST
BREAK YOU!"**

TM & © 1991 UFA/MGM



**"I MUST
BREAK YOU!"**

ROCKY

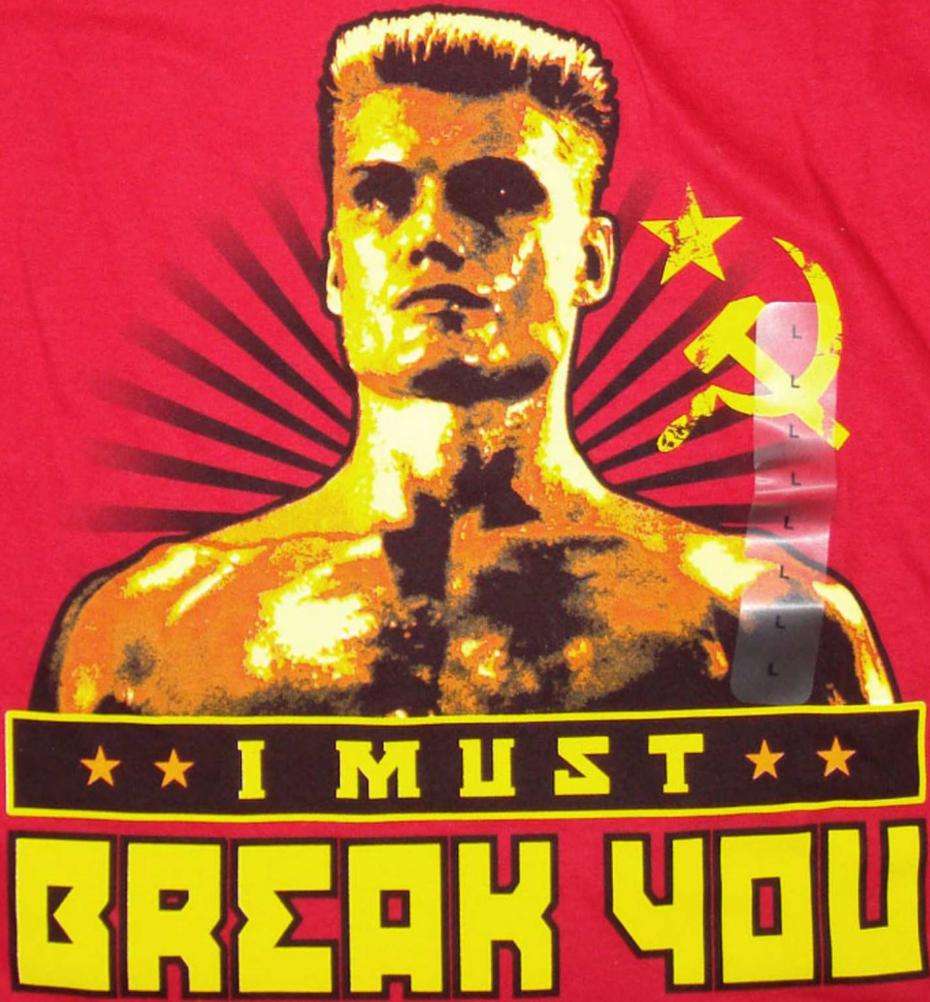
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ROCKY IV

★★★ I MUST ★★★
BREAK YOU

ROCKY IV



★ ★ I MUST ★ ★

BREAK YOU

CERTIFICATE OF SERVICE

I hereby certify that on August 5, 2016, I served the foregoing Notice of Opposition on the applicant by mailing a copy thereof by First Class Mail, postage prepaid, addressed to applicant's counsel of record at applicant's counsel's correspondence address of record in the records of the Patent and Trademark Office as follows:

Pollie Gautsch, Esq.
G&A Legal APC
2033 San Elijo #201
Cardiff by the Sea, CA 92007

s/Eva Salazar

Eva Salazar