

TTAB



08-14-2001

U.S. Patent & TMO/c/TM Mail Rpt Dt. #76

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

In the Matter of Trademark Application Serial No.: 76/100,387
Published in the *Official Gazette* on May 22, 2001

Internet Superbrand, Inc.,)	
)	
Opposer,)	
)	
v.)	
)	Opposition No.
)	
Yesterdayland)	
)	
)	
Applicant.)	
_____)	

BOX TTAB-FEE
Asst. Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

NOTICE OF OPPOSITION

Opposer, Internet Superbrand, Inc. ("ISI" or "Opposer"), a California corporation with a business address of 7545 Irvine Center Drive, Irvine, California 92618, hereby opposes registration of the mark POPOEDIA, that is the subject of application Serial No. 76/100,398, filed with the USPTO on August 1, 2000.

As grounds in support of its opposition, Opposer asserts as follows:

1. Applicant seeks to register the word mark POPOEDIA for "providing an online database in the nature of information and articles encompassing twentieth century pop culture in connection with television, movies, books, toys, food, music, people,

places, fashion, sports and the fads and events that shape our lives” in International Class

42. Applicant’s application is based on intent to use.

2. Opposer has, since at least 1995, used several marks containing the suffix “PEDIA” to identify services providing consumer information on the world wide web. These service marks include AUTOPEDIA, HUSKERPEDIA, and SPORTSPEDIA. For example, AUTOPEDIA, located at autopedia.com, provides information regarding motor vehicles and related topics such as lemon laws, insurance, and financing and leasing information. Similarly, SPORTSPEDIA, located at sportspedia.com, provides information regarding sports, and HUSKERPEDIA, located at huskerpedia.com, provides information regarding the University of Nebraska’s Huskers.

3. To date, ISI has developed numerous web sites on topics of general consumer interest. The subject matters include food (FOODPEDIA), wine (WINEPEDIA), agriculture (AGROPEDIA), health (HEALTHPEDIA), art (ARTPEDIA), legal (LEGALPEDIA), accounting (ACCOUNTINGPEDIA), architecture (ARCHITECTUREPEDIA), music (MUSICPEDIA), fashion (FASHIONPEDIA), travel (TRAVELPEDIA), real estate (REALESTATEPEDIA), entertainment (ENTERTAINMENTPEDIA), computers (COMPUTERPEDIA), insurance (INSURANCEPEDIA), and pets (PETPEDIA), to name a few. All of ISI’s websites are identified by service marks containing the suffix “pedia” in combination with a noun prefix. For example, for information relating to camping, consumers can access the CAMPINGPEDIA web site, at campingpedia.com.

4. In addition to the informational content, ISI has also developed a clearinghouse site, where consumers can see a complete list of all of ISI's "pedia" web sites. This site is identified by the domain name and service mark PEDIA.COM.

5. In January 2000, Opposer established the POPPEDIA website. This site is devoted to providing information regarding "pop music" on the Internet.

6. Applicant's mark, POPOPEDIA, and proposed services are nearly identical to Opposer's mark, POPPEDIA and services.

7. ISI has provided the foregoing services under the aforesaid marks throughout the United States. ISI has also invested substantial effort over the years in the sale, advertising and marketing of its services, to develop goodwill associated with its service marks, and to gain consumer recognition of these marks as part of ISI's "PEDIA" family of marks. As a result, ISI has developed valuable goodwill and reputation in connection with the services under which its marks are used.

6. Applicant's mark so resembles Opposer's previously used marks as to be likely, when applied to the services set forth in Applicant's application, to cause confusion, mistake, or deception.

7. If the Applicant is permitted to use and register the POPOPEDIA mark for its services, as specified in the application, confusion is likely to result, thereby causing irreparable damage and injury to Opposer by reason of the similarity between the Applicant's mark and Opposer's family of marks. Consumers familiar with Opposer's marks will mistakenly believe that Applicant's services either derived from, or are associated with, licensed by, or affiliated with Opposer's services. Any such confusion would likely result in reputation damage and loss of sales to Opposer. Furthermore, any

complaint regarding Applicant's services under its mark would necessarily reflect upon and seriously injure the reputation which Opposer has established for its services.

8. If the Applicant were granted the registration herein opposed, it would thereby obtain at least a *prima facie* exclusive right to the use of its mark. Such registration would be a source of great damage and injury to Opposer.

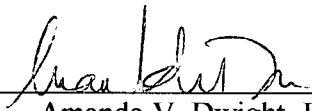
WHEREFORE, in view of the foregoing, Opposer requests the following relief:

1. Registration on the Application, Serial No. 76/100,387 for the mark POPOPEDIA be rejected and refused;
2. The present opposition be sustained in favor of Opposer; and
3. Any and all other relief as the T.T.A.B. deems just and proper.

A duplicate copy of this Notice of Opposition and the requisite filing fee are enclosed herewith.

Respectfully submitted,

Dated: August, 132001

By: 
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(949) 497-7676
(949) 497-7679 (Fax)
Attorneys for Opposer

***** CERTIFICATE OF MAILING *****

Express Mailing Label Number: ET552940930US

Date of Deposit: 8/13/01

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on the date indicated above and is addressed to:

Assistant Commissioner For Trademarks
Before the trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, VA 22202-3513



Mark Dang



08-14-2001

U.S. Patent & TMO/c/TM Mail Rpt Dt. #76

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Patent ♦ Trademark Copyright ♦
Trade Dress ♦ and Related Litigation

Via Express Mail ET552940930US

August 13, 2001

BOX TTAB - FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Re: **Applicant:** Yesterdayland Corporation
 Mark: POPOEDIA
 Serial No.: 76/100,387
 Our File No: 2042.904


Dear Sir:

Enclosed herewith please find the following:

1. Notice of Opposition;
2. Check No. 5497 in the amount of \$300 for the Opposition fee;
3. A self-addressed, stamped acknowledgement card to indicate receipt of the above-referenced documents.

Should you have any questions or comments with regard to the above, please do not hesitate to call (949) 497-7676 and Amanda V. Dwight or the undersigned will be happy to assist you.

Very truly yours,

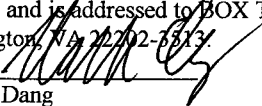

Mark Dang

***** CERTIFICATE OF MAILING *****

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Date of Deposit: August 13, 2001

I hereby certify that the documents listed above and including the fee, if any, is being deposited with the United States Postal Service “Express Mail Post Office to Addressee” service under 37 C.F. R. § 1.10 on the date indicated above and is addressed to BOX TTAB – FEE, Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513


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