

TTAB

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

In re Hubbard Media Group, LLC
Serial No. 76/246,166
Filed April 25, 2001
for **MOVIEWATCH**

Published in the Official Gazette
On January 1, 2002

AMERICAN MULTI-CINEMA, INC.)
)
)
 Opposer,)
)
 v.)
)
 HUBBARD MEDIA GROUP, LLC)
)
 Applicant.)

05-22-2002
U.S. Patent & TMO/TM Mail Rcpt Dt. #70

Opposition No.: _____

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

NOTICE OF OPPOSITION

AMERICAN MULTI-CINEMA, INC., a corporation organized and existing under the laws of the State of Missouri, believes that it will be damaged by registration of the mark shown in Serial No. 76/246,166 in International Class 016 and hereby opposes the same.

As grounds of opposition, it is alleged that:

1. The Applicant seeks to register the word mark, MOVIEWATCH.

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2. Opposer has used its registered service mark 1,635,775 for **MOVIEWATCHER** extensively in connection with its movie theater services featuring frequent-user discounts since February 21, 1990.

3. Opposer has used its registered service mark 2,105,183 for **AMC MOVIEWATCHER and Design** extensively in connection with its movie theater services featuring frequent-user discounts since May 2, 1994.

4. Opposer owns the domain name, MOVIEWATCHER.COM, and has used and continues to use both its registered service marks on that web site in association with advertising and promoting its movie theater services and frequent-user discounts and rewards program on this web site since October 2, 1995.

5. Opposer has used the registered mark Moviewatcher and the marks The Moviewather Review, Moviewatcher Online, and Moviewatcher.com in association with an entertainment newsletter that it provides to its Moviewatcher members.

6. Opposer's use of **MOVIEWATCHER** and **AMC MOVIEWATCHER and Design** registrations have priority over any use of a confusingly similar mark by the applicant.

7. Applicant's proposed mark should not be granted registration because it is not registrable pursuant to Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

8. Applicant's proposed mark substantially incorporates Opposer's word mark. The proposed mark is applied to the related goods of "periodical publications, namely, magazines and newsletters in the fields of motion pictures and the motion picture industry" in International Class 016. Opposer's word mark and composite mark both are applied to "movie theater services featuring frequent-user discounts" in International

Class 041. Applicant's mark so nearly resembles the Opposer's marks as to be likely to be confused therewith and mistaken therefor. The Applicant's mark is deceptively similar to Opposer's word mark and composite mark so as to cause confusion and lead to deception as to the origin of Applicant's goods bearing the Applicant's mark.

9. If the Applicant is permitted to register its mark for its goods, as specified in the application herein opposed, confusion in trade resulting in damage and injury to the Opposer would be caused and would result by reason of the similarity between the Applicant's mark and the Opposer's marks. Persons familiar with Opposer's marks would be likely to buy Applicant's goods as and for a product offered and provided by the Opposer. Any such confusion in trade inevitably would result in loss of sales to the Opposer. Furthermore, any defect, objection or fault found with Applicant's goods marketed under its mark would necessarily reflect upon and seriously injure the reputation which the Opposer has established for services merchandised under their marks.

10. 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 damage and injury to the Opposer.

WHEREFORE, Opposer prays that the application Serial No. 76/246,166 be rejected, and that the mark therein sought for the goods herein specified in International Class 016 be denied and refused.

This Notice of Opposition is being filed in triplicate as required by C.F.R. §
2.6(a)(17).

Respectfully Submitted,

May 22, 2002
Date


Peter C. Knops, Reg. #37,659
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Tel: (816) 292-2000
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Attorneys for Opposer

Certification 37 C.F.R. 1.8(a) and 1.10

I hereby certify that this correspondence, in triplicate, is being deposited with the United States Postal Service, in an envelope addressed to Box TTAB - NO FEE, Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513 as Express Mail Post Office to Addressee."

Mailing Label No. EV 008780965 US

Date: May 22, 2002


Printed Name: WENDY PRECHT

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May 22, 2002

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2900 Crystal Drive
Arlington, Virginia 22202-3513

05-22-2002

U.S. Patent & TMO/TM Mail Rcpt Dt. #70

Re: Opposer: American Multi-Cinema, Inc.
 Applicant: Hubbard Media Group, LLC
 Our File: 370168 and 370162

Dear Sir or Madam:

We enclose for filing on behalf of Opposer, American Multi-Cinema, Inc., a Notice of Opposition against the mark, **MOVIEWATCH**, serial number 76/246,166 in International Class 016. Also enclosed are:

1. Certificate of Express Mail
2. Return Post Card

The \$300.00 filing fee for this opposition, in accordance with C.F.R. § 2.6(a)(17), should be charged to the undersigned attorneys' Deposit Account No. 12-0600. A copy of this letter is enclosed for this purpose.

CERTIFICATE OF EXPRESS MAIL - TM

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

5/22/02 By Wendy P. Knops
Date Name

PCK:rac
Enclosure

Respectfully submitted,

LATHROP & GAGE L.C.

By: 
Peter Knops

1053457.1

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 Applicant: Hubbard Media Group, LLC
 Our File: 370168 and 370162

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LATHROP & GAGE L.C.
By Wendy Pracht
Name:

PCIK: tac
Enclosure

Respectfully submitted,

LATHROP & GAGE L.C.

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Peter Knops

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