

TTAB



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

MILTON SALES, INC.,)
)
)
Opposer,)
)
)
v.)
)
UNIVERSAL MANUFACTURING)
COMPANY, INC.,)
)
)
Applicant.)

Opposition No. _____
Serial No. 76/335,302
Mark: RACE FOR CASH



10-16-2002
U.S. Patent & TMO/TM Mail Rcpt Dt. #72

NOTICE OF OPPOSITION

In the matter of application no. 76/335,302 filed by Universal Manufacturing Company, Inc., a Delaware corporation (hereafter "Applicant"), having an address at 5450 Deramus, Kansas City, Missouri 64120, on November 7, 2001, requesting federal registration of the mark RACE FOR CASH for "game cards for playing games of chance for monetary prizes" based upon actual use; Opposer, Milton Sales, Inc. (hereafter "Opposer"), a West Virginia corporation, and having a business address at P.O. Box 60063, Malden, West Virginia 25306, believes that it will be damaged by the foregoing registration of Applicant's mark and opposes its registration.

The grounds for this opposition are as follows:

1. Opposer is the owner of the trademark RACE FOR CASH for games of chance, namely, raffle pull tab tickets. Opposer has used and is using the mark RACE FOR CASH in commerce since at least as early as June 5, 1995.
2. Petitioner is the owner of the application no. 76/361,232 for the mark RACE FOR CASH which has been refused registration based on Application No. 76/335,302.

TRADEMARK TRIAL AND APPEAL BOARD
02 OCT 29 PM 9:30

3. Applicant's mark is identical in sound, appearance, and connotation to Opposer's common law mark RACE FOR CASH.

4. The products identified in Applicant's application are identical to the products sold by Opposer under the mark RACE FOR CASH. Furthermore, Applicant's products would be marketed in the same channels of commerce and directed toward the same classes of purchasers as Opposer's products; hence, contemporaneous use of Applicant's mark and Opposer's mark is likely to cause confusion.

5. Opposer has expended considerable resources in promoting, protecting, and using its mark RACE FOR CASH. As a result, Opposer has created substantial goodwill in connection with its mark throughout the United States, all of which will be jeopardized by the registration of Applicant's mark and, therefore, must be precluded from registration under Section 2(d) of the Lanham Act of 1946 [15 U.S.C. 1052(d)].

6. The mark set forth in application Serial No. 76/335,302 so resembles a mark previously used in the United States by Opposer, and not abandoned, as to be likely when applied to the services of Applicant to cause confusion, or to cause mistake, or to deceive.

7. Applicant is fraudulently attempting to obtain a federal registration of Opposer's mark RACE FOR CASH. Opposer hired Applicant as a private label manufacturer for the products listed in its application, namely, games of chance. Opposer ordered from Applicant custom manufactured products that Opposer created, including the trademark used thereon. Therefore, Applicant, at the time of filing its application, knew that Opposer was the owner of the mark and falsely claimed ownership of the trademark and, for this reason, the U.S. Patent


and Trademark Office allowed Applicant's application for registration. But for this false statement, the application would not have been allowed.

WHEREFORE, Opposer respectfully requests that this opposition be granted and that Serial No. 76/335,302 be denied registration.

This Notice of Opposition is filed in duplicate, together with the required government filing fee of three hundred dollars (\$300.00).

MILTON SALES, INC.

Date: October 16, 2002

By: 

Bruce A. Tassan, Esq.
Attorney for Opposer
Tassan Law Firm
4143 North 27th Street
Arlington, Virginia 22207-5211
(703) 522-5305
(703) 522-5306 (Fax)
E-mail: tm@tassan.com

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

MILTON SALES, INC.,)	
)	
Opposer,)	
)	Opposition No. _____
v.)	Serial No. 76/335,302
)	Mark: RACE FOR CASH
UNIVERSAL MANUFACTURING)	
COMPANY, INC.,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

In the matter of application no. 76/335,302 filed by Universal Manufacturing Company, Inc., a Delaware corporation (hereafter "Applicant"), having an address at 5450 Deramus, Kansas City, Missouri 64120, on November 7, 2001, requesting federal registration of the mark RACE FOR CASH for "game cards for playing games of chance for monetary prizes" based upon actual use; Opposer, Milton Sales, Inc. (hereafter "Opposer"), a West Virginia corporation, and having a business address at P.O. Box 60063, Malden, West Virginia 25306, believes that it will be damaged by the foregoing registration of Applicant's mark and opposes its registration.

The grounds for this opposition are as follows:

1. Opposer is the owner of the trademark RACE FOR CASH for games of chance, namely, raffle pull tab tickets. Opposer has used and is using the mark RACE FOR CASH in commerce since at least as early as June 5, 1995.

2. Petitioner is the owner of the application no. 76/361,232 for the mark RACE FOR CASH which has been refused registration based on Application No. 76/335,302.

3. Applicant's mark is identical in sound, appearance, and connotation to Opposer's common law mark RACE FOR CASH.

4. The products identified in Applicant's application are identical to the products sold by Opposer under the mark RACE FOR CASH. Furthermore, Applicant's products would be marketed in the same channels of commerce and directed toward the same classes of purchasers as Opposer's products; hence, contemporaneous use of Applicant's mark and Opposer's mark is likely to cause confusion.

5. Opposer has expended considerable resources in promoting, protecting, and using its mark RACE FOR CASH. As a result, Opposer has created substantial goodwill in connection with its mark throughout the United States, all of which will be jeopardized by the registration of Applicant's mark and, therefore, must be precluded from registration under Section 2(d) of the Lanham Act of 1946 [15 U.S.C. 1052(d)].

6. The mark set forth in application Serial No. 76/335,302 so resembles a mark previously used in the United States by Opposer, and not abandoned, as to be likely when applied to the services of Applicant to cause confusion, or to cause mistake, or to deceive.

7. Applicant is fraudulently attempting to obtain a federal registration of Opposer's mark RACE FOR CASH. Opposer hired Applicant as a private label manufacturer for the products listed in its application, namely, games of chance. Opposer ordered from Applicant custom manufactured products that Opposer created, including the trademark used thereon. Therefore, Applicant, at the time of filing its application, knew that Opposer was the owner of the mark and falsely claimed ownership of the trademark and, for this reason, the U.S. Patent

and Trademark Office allowed Applicant's application for registration. But for this false statement, the application would not have been allowed.

WHEREFORE, Opposer respectfully requests that this opposition be granted and that Serial No. 76/335,302 be denied registration.

This Notice of Opposition is filed in duplicate, together with the required government filing fee of three hundred dollars (\$300.00).

MILTON SALES, INC.

Date: October 16, 2002

By: 

Bruce A. Tassan, Esq.
Attorney for Opposer
Tassan Law Firm
4143 North 27th Street
Arlington, Virginia 22207-5211
(703) 522-5305
(703) 522-5306 (Fax)
E-mail: tm@tassan.com

U.S. Patent and Trademark Office allowed Applicant's application for registration. But for this false statement, the application would not have been allowed.

WHEREFORE, Opposer respectfully requests that this opposition be granted and that Serial No. 76/335,302 be denied registration.

This Notice of Opposition is filed in duplicate, together with the required government filing fee of three hundred dollars (\$300.00).

MILTON SALES, INC.

Date: October 16, 2002

By: 

Bruce A. Tassan, Esq.
Attorney for Opposer
Tassan Law Firm
4143 North 27th Street
Arlington, Virginia 22207-5211
(703) 522-5305
(703) 522-5306 (Fax)
E-mail: tm@tassan.com