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

In the Matter of Trademark Application  
Serial No. 75/526,402

Filed: July 28, 1998

For the Mark: WHITE STAR LINE

Published for Opposition in the Official Gazette of  
August 20, 2002 Volume 1261 No. 3 TM7

Cunard Line Limited,

Opposer,

v.

Cyrus Milania,

Applicant.



12-16-2002

U.S. Patent & TMO/TM Mail Rcpt Dt. #22

TRADEMARK TRIAL AND APPEAL BOARD  
02 DEC 26 AM 9:30

Opposition No. \_\_\_\_\_

**NOTICE OF OPPOSITION**

Applicant, Cyrus Milania, is an individual and citizen of the United States, having a business mailing address of 2070 South East 16th Street, Pompano Beach, Florida 33062-7608 with the attorney of record and correspondence address being identified as John H. Oltman, Esq. of the law firm of Oltman, Flynn & Kubler, 415 Galleria Professional Building, 915 Middle River Drive, Fort Lauderdale, Florida 33304-3585.

Applicant is seeking to obtain registration of WHITE STAR LINE as a service mark for “business management of resort hotels, casinos, and the theme parks for others, product merchandising” in International Class 35; and “real estate development” in International Class 37 on the Principal Register of the United States Patent and Trademark Office. This application was filed on July 28, 1998 and was published in the Official Gazette of August 20, 2002.

Opposer, Cunard Line Limited, a corporation organized and existing under the laws of Bermuda, having a business mailing address of 6100 Blue Lagoon Drive, Suite 400, Miami, Florida 33126, believes that it will be damaged by the registration which Applicant is seeking and, through its attorneys, hereby opposes registration.

The grounds for this opposition are as follows:

1. Applicant’s application (Serial No. 75/526,402) was filed on July 28, 1998 under Section 1(b) of the Lanham Act, alleging a bona fide intention to use the mark WHITE STAR LINE in commerce as a service mark for “ business management of resort hotels, casinos, and the theme parks for others, product merchandising” in International Class 35; and “real estate development” in International Class 37.”

2. Applicant has not yet used the mark WHITE STAR LINE anywhere, in interstate commerce or in commerce with the United States on any of the services listed in International Classes 35 and 37.
  
3. Opposer has used in interstate commerce the mark WHITE STAR on the following goods and services: “printed matter, namely posters and postcards in the cruise travel field” in International Class 16 since at least as early as 1988; “cruise ship services” in International Class 39 since at least as early as May of 1998; “entertainment in the form of night club shows and stage shows featuring live bands, dance performances and guest speakers; providing facilities in the nature of swimming pools; physical fitness instruction; party planning; casino services featuring card games” in International Class 41 since at least as early as May of 1998; and “providing temporary housing accommodations; travel agency services, namely, making reservations and bookings for temporary lodging; and food preparation” in International Class 42 since at least as early as May of 1998. As such, Opposer has developed valuable goodwill in the mark WHITE STAR.
  
4. Opposer has also used the mark WHITE STAR on advertising and promotional materials in connection with its health club services, health spa services, golf instruction, dance instruction, beauty salons, restaurant services, catering services and childcare services. As such, Opposer has developed valuable goodwill based on its use in commerce of the mark WHITE STAR for these services.

5. In 1934, Cunard Steamship Company merged with White Star Line to form Cunard White Star Limited. Opposer's use of the mark WHITE STAR on services through its predecessor of interest, White Star Line, began at least as early as 1912. As such, an association between the Opposer and the mark at issue has been in the consumers' minds for at least sixty-five (65) years.
  
6. On April 10, 1998, Opposer filed a trademark application (Application Serial No. 75/466020) with the United States Patent and Trademark Office for the mark WHITE STAR for "cruise ship services" in International Class 39 which has matured into Federal Registration No. 2330874; on April 14, 1998, Opposer filed a trademark application (Application Serial No. 75/467611) with the United States Patent and Trademark Office for the mark WHITE STAR for "printed matter, namely cruise ship travel posters and postcards" in International Class 16; on October 13, 1998, Opposer filed two trademark applications (Application No. 75/570016) with the United States Patent and Trademark Office for the mark WHITE STAR for "casino services, namely entertainment in the nature of conducting card games; health club services; and dance instruction" in International Class 41; and "travel agency services, namely, making reservations and bookings for temporary lodging; restaurant services; catering services; childcare services; and health spa services" in International Class 42. The mark has been in use in commerce at least as early as 1988 in Class 16 and at least as early as May of 1998 in Classes 39, 41 and 42; and (Application No. 75/569105) with the United States Patent and Trademark Office for the mark CUNARD

WHITE STAR SERVICE for “cruise ship services; room service delivery of food by restaurants to ship passengers” in International Class 39; and “casino services; entertainment in the nature of golf instruction, golf driving range and a golf putting area for others; health club services; dance instruction; instruction in the field of card games; physical fitness instruction” in International Class 41; and “travel agency services, namely, making reservations and bookings for temporary lodging; rental of computers; restaurant services; catering services; childcare services; physical fitness consultation; beauty salons; and health spa services” in International Class 42. The mark has been in use in commerce at least as early as early as May of 1998 in Classes 39, 41 and 42.

7. Opposer has clearly established priority with respect to the mark WHITE STAR and has continually used its mark since at least as early as 1988 for goods in Class 16 and has continually used its mark since at least as early as May of 1998 for services in Classes 39, 41 and 42. Applicant’s date of application in the United States of July 28, 1998 is subsequent to Opposer’s dates of first use in commerce of 1988 for its goods and May of 1998 for its services as well as subsequent to both the April 10<sup>th</sup> and April 14<sup>th</sup> applications identified *supra*.
8. Opposer has produced and distributed its goods and advertised and promoted its services in interstate commerce throughout the United States and in commerce with the United States and the United Kingdom, Australia and numerous foreign countries under the mark WHITE STAR. By virtue of this continual use, the

expenditure of considerable sums for promotional and marketing activities and the excellent quality of its goods and services, Opposer's mark WHITE STAR has gained a world renowned and extremely valuable reputation in the minds of consumers.

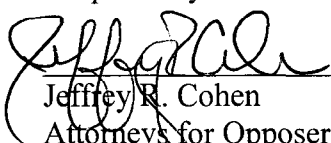
9. The service mark proposed for registration by Applicant, namely, WHITE STAR LINE is essentially identical to Opposer's mark and is used for the related real estate development and business management and merchandising services for hotels, casinos and theme parks. The respective parties' services are directed to the entertainment and tourism industries. Applicant's mark so nearly resembles Opposer's mark as to be likely to be confused with Opposer's mark. Applicant's mark is deceptively similar to Opposer's mark so as to cause confusion and lead to the deception and misunderstanding as to the origin of Applicant's goods and services bearing Applicant's mark.

10. If Applicant is granted the registration herein opposed, confusion in trade resulting in damage and injury to Opposer would be caused and would result by reason of the similarity between Applicant's mark and Opposer's mark. Consumer's familiar with Opposer's mark would be likely to seek Applicant's services mistakenly believing them to be offered by, endorsed by or associated with Opposer. Furthermore, any faults or objections found with Applicant's services would reflect poorly upon and injure the reputation that Opposer has established in its mark WHITE STAR.

11. If Applicant is 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 Opposer.

WHEREFORE, Opposer prays that Application Serial No. 75/526,402 be refused registration and that this opposition be sustained.

Respectfully submitted,



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