

TAB

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

In the Matter of Application Serial No. 76/038,792
Published on December 25, 2001
Mark: DISCOVERY JONES EXPEDITIONS

01-21-2003

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

DISCOVERY COMMUNICATIONS, INC.

Opposition No.

Opposer,

-against-

NOTICE OF OPPOSITION

THE INSPIRATIONAL NETWORK, INC.

Applicant.

01/28/2003 TSM11K 00000034 231705 76036792
01 FC:6402 2100.00 CH

Opposer Discovery Communications, Inc. believes that it will be damaged by registration of the DISCOVERY JONES EXPEDITIONS trademark as shown in the above-referenced application (the "Application") and hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Opposer is a Delaware corporation, located and doing business at 7700 Wisconsin Avenue, Bethesda, Maryland 20814, engaged in providing a wide range of educational and entertainment goods and services to the public.

2. For many years and long prior to May 2, 2000, the filing date of Applicant's Intent to Use application, Opposer has used, and continues to use, the marks DISCOVERY, THE DISCOVERY CHANNEL, DISCOVERY ONLINE and numerous DISCOVERY-formative trademarks on and in connection with a wide range of educational and entertainment services, including cable television broadcasts, Internet websites, advertising services, retail store services, and a wide array of goods, including video tapes, CD Roms,

DVDs, audio tapes, printed publications, games, and clothing (collectively the “DISCOVERY Marks”).

3. Opposer owns, inter alia, the following U.S. trademark registrations:

Reg. No.	Mark	Class(es)	Priority Date	Issue Date
0883953	DISCOVERY	41	October 1, 1962	January 6, 1970
1561407	THE DISCOVERY CHANNEL	38	September 26, 1984	October 17, 1989
2109581	DISCOVERY CHANNEL ONLINE & Design	35, 42	August 31, 1995	October 28, 1997
2368957	DISCOVERY CHANNEL & Design	14, 16, 18, 20, 21, 25, 28, 35, 42	March 21, 1996	July 18, 2000
2334877	DISCOVERY & Design	38, 41	October 8, 1998	March 28, 2000
2092711	DISCOVERY CHANNEL & Design	9, 16, 38, 41	January 1, 1996	September 2, 1997
2172031	DISCOVERY CHANNEL SCHOOL	9, 16, 42	June 25, 1996	July 7, 1998
2455590	DISCOVERY CHANNEL SCHOOL	38, 41	June 25, 1996	May 29, 2001
2209306	DISCOVERY KIDS CHANNEL	38, 41	November 7, 1996	December 8, 1998
2374113	DISCOVERY CIVILIZATION CHANNEL	38, 41	October 30, 1996	August 8, 2000
2209547	DISCOVERY CIVILIZATION CHANNEL & Design	38, 41	October 30, 1996	December 8, 1998
2181302	DISCOVERY SCIENCE CHANNEL	38, 41	October 30, 1996	August 11, 1998
2207515	DISCOVERY SCIENCE CHANNEL & Design	38, 41	October 30, 1996	December 1, 1998
2174728	WILD DISCOVERY	9, 41	October 1, 1995	July 21, 1998
2244685	WILD DISCOVERY & Design	41	September 27, 1997	May 11, 1999
2286757	WILD DISCOVERY	16, 25, 38	April 30, 1997	October 12, 1999

2164096	DISCOVERY ANIMAL PLANET & Design	38, 41	January 29, 1996	June 9, 1998
2173015	DISCOVERY ANIMAL PLANET & Design	9	September 15, 1996	July 14, 1998
2210886	DISCOVERY LIVING CHANNEL & Design	28, 41	January 22, 1997	January 12, 1999
2280053	DISCOVERY WINGS CHANNEL	38, 41	February 3, 1998	September 21, 1999
2323987	DISCOVERY HEALTH CHANNEL & Design	38, 41	June 1998	February 29, 2000
2382827	DISCOVERY HEALTH CHANNEL & Design	38, 41	June 1, 1999	September 5, 2000
2035912	DISCOVERY CHANNEL	42	December 20, 1993	February 4, 1997
2366883	DISCOVERY CHANNEL & Design	28	April 22, 1998	July 11, 2000
2412826	DISCOVERY CHANNEL & Design	9	April 22, 1998	December 12, 2000
2474776	DISCOVERY CHANNEL	16, 35, 38, 41, 42	1989 1995	August 2, 2001
2485730	DISCOVERY TRAVEL ADVENTURES	16	February 24, 1999	September 4, 2001
2455722	DISCOVERY FACT	28	March 10, 1998	May 29, 2001
2471868	DISCOVERY FACT	25	March 10, 1998	July 24, 2001
2559143	DISCOVERY FACT	16	March 10, 1998	April 9, 2002
2669419	DISCOVERY FACT	9	March 10, 1998	December 31, 2002
2108208	DISCOVERY CHANNEL MONTHLY	16	December 6, 1995	October 28, 1997
1749149	THE DISCOVERY INTERACTIVE LIBRARY	9, 16	May 25, 1990	January 26, 1993
2056711	DISCOVERY CHANNEL MUSIC	9	August 3, 1995	April 29, 1997

4. During its long, widespread and continuous use of the DISCOVERY Marks, Opposer has expended considerable time, effort and money in the advertisement, promotion and sale of goods and services bearing such marks. As a result, the DISCOVERY Marks embody great and valuable goodwill exclusively belonging to Opposer, and have become famous among the consuming public as identifiers of Opposer's goods and services. To consumers, the mark "DISCOVERY" is synonymous with Opposer.

5. By the Application herein opposed, Applicant The Inspiration Network, Inc. seeks to register the designation DISCOVERY JONES EXPEDITIONS as a trademark in following Classes for the following goods and services:

Class	Description of Goods/Services
9	Decorative refrigerator magnets; audio-visual and electronic devices, namely, audio tapes, video tapes, compact discs, CD-ROMS, DVDs, computer disks, all featuring children's television shows and music; calculators.
16	Publications, namely, magazines, newsletters, books, pamphlets, other periodicals, featuring children's television shows; books featuring Bible study topics; calendars; greeting cards; posters; pens; pencils; coasters made of paper; paperweights; and paper table linens
18	Luggage, tote bags, and knapsacks
25	Clothing, namely, T-shirts, sweat shirts, sweat pants, sport shirts, slacks, jackets, caps, and socks
28	Hand held unit for playing video games; toys, namely, action figures, dolls, stuffed toys, and board games; sporting goods, namely, baseballs, basketballs, footballs, softballs, playground balls, soccer balls, golf balls, bats, and gloves
38	Providing on-line chat rooms for transmission of messages among computer users concerning educational information, fictional

	works, dramatic works, and/or music; electronic mail services; television broadcasting
41	Fan club services

6. Applicant's DISCOVERY JONES EXPEDITIONS trademark is likely, when used in conjunction with the above goods and services, to cause confusion or mistake or to deceive, with consequent injury to Opposer and to the public. Use of such mark would also likely lead to the mistaken belief that Applicant's goods originate with, or are affiliated with, or are sponsored by Opposer.

7. Opposer will be damaged by the registration sought by Applicant because such registration will support and assist Applicant in the confusing and misleading use of the DISCOVERY JONES EXPEDITIONS mark, and will give color of exclusive statutory rights to Applicant in violation and derogation of the prior and superior rights of Opposer.

8. Registration should, therefore, be refused pursuant to Section 2(d) of the Trademark Act of 1946, as amended (15 U.S.C. § 1052(d)), on the grounds that Applicant's DISCOVERY JONES EXPEDITIONS mark so resembles Opposer's DISCOVERY Marks as to cause confusion, mistake and/or deception, all to the damage of Opposer.

9. Applicant's DISCOVERY JONES EXPEDITIONS trademark is likely, when used in conjunction with the above goods and services, to diminish and blur the distinctiveness of Opposer's famous DISCOVERY Marks, thereby diluting their distinctive quality.

10. Opposer will be damaged by the registration sought by Applicant because such registration will support and assist Applicant in the use of the DISCOVERY JONES EXPEDITIONS mark, and will give color of exclusive statutory rights to Applicant in violation and derogation of the prior and superior rights of Opposer.

11. Registration should, therefore, be refused pursuant to Sections 2(f) and 13(a) of the Trademark Act of 1946, as amended (15 U.S.C. §§ 1052(f), 1063(a)), on the grounds that Applicant's DISCOVERY JONES EXPEDITIONS mark when used would cause dilution of Opposer's DISCOVERY Marks under Section 43(c) of the Trademark Act of 1946, as amended (15 U.S.C. § 1125(c)).

WHEREFORE, Opposer believes it will be damaged by the registration by Applicant of the DISCOVERY JONES EXPEDITIONS trademark and requests that the opposition be sustained and registration of said mark be denied.

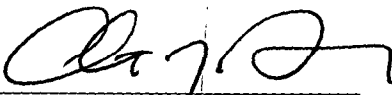
This Notice of Opposition is filed in duplicate as required by 37 C.F.R. § 2.104(a). Pursuant to 37 C.F.R. § 2.6(a)(17), please charge the requisite fee of two thousand one hundred dollars (\$2,100) for filing a notice of opposition against all seven classes in the subject application and any additional amounts to Deposit Account No. 23-1705.

Please recognize as attorneys for Opposer in this proceeding Robert L. Raskopf, Alan Blum, Christopher J. Glancy and Justin M. Brown of the firm of White & Case LLP, 1155 Avenue of the Americas, New York, New York 10036.

Dated: January 21, 2003
New York, New York

Respectfully submitted,

WHITE & CASE LLP

By: 
Robert L. Raskopf
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ATTORNEYS FOR OPPOSER

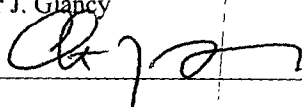
CERTIFICATE OF EXPRESS MAIL UNDER 37 CFR 1.10

"Express Mail" mailing number: EV121019359 45

Date of Deposit: January 21, 2003

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Assistant Commissioner of Patents and Trademarks, Arlington, VA 22202.

Name: Christopher J. Glancy

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January 21, 2003

BY EXPRESS MAIL

EV121019359US

Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-2513
BOX TTAB FEE

Re: Notice of Opposition against Application of
The Inspiration Network for the Mark:
DISCOVERY JONES EXPEDITIONS, Serial No. 76/038,792

To the Assistant Commissioner:

I enclose the original and one copy of the Notice of Opposition by Discovery Communications, Inc. to the above-referenced application. Please charge the requisite \$2,100 statutory fee for filing a notice of opposition against 7 classes in the above application and any additional amounts to Deposit Account No. 23-1705.

Please stamp and return the enclosed postcard to acknowledge receipt for our files.

Sincerely,

Christopher J. Glancy

Enclosures

cc: Marlin Dohlman, Esq.
Robert L. Raskopf, Esq.
Claudia M. Bogdanos, Esq.

01-21-2003

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