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

In the Matter of Application Serial No. 76/389,560  
Published in the Official Gazette on April 22, 2003

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VIACOM INTERNATIONAL INC., :  
 :  
                   Opposer, :  
 :  
 - against - :  
 :  
 MARTIN PERLMUTTER, :  
 :  
                   Applicant. :  
-----X

Opposition No.

**NOTICE OF OPPOSITION**



08-22-2003

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

Viacom International Inc. (“Viacom” or “Opposer”), a corporation duly organized and existing under the laws of the state of Delaware with a principal place of business at 1515 Broadway, New York, New York 10036, believes that it will be damaged by the issuance of a registration for the trademark “ME-TV” applied for in Application Serial No. 76/389,560, filed March 29, 2002, for “computer hardware; computer software for viewing and manipulating entertainment content by means of digital, cable, television and web hardware appliances; digital cable and television tabletop boxes, programmable digital television recorders” in International Class 9 by Martin Perlmutter, an individual (“Applicant”), and therefore opposes the same. As grounds for the opposition, Opposer alleges as follows, with knowledge with respect to its own acts and information and belief as to all other allegations:

1. Opposer, through its wholly owned division MTV Networks, operates the famous MTV: Music Television cable television programming service (“MTV”). The MTV programming service was launched on August 1, 1981. MTV has become a viewing destination

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as well as one of the most strongly branded basic cable networks in the United States and one of the most successful television program services around the world. The service is available in 140 territories worldwide and reaches over 340 million households. In the United States alone, MTV reaches in excess of 79 million households. The MTV television programming service features music and related programming including, *inter alia*, music videos, concerts, interviews, documentaries, entertainment information, news and special events.

2. Opposer is the owner of over fifty (50) U.S. trademark registrations for the mark “MTV” and variants of the same, as partially evidenced by U.S. Registration Nos. 1,985,017 for among other things “video recordings featuring music and television programming and sound recordings featuring music” in International Class 9; 1,955,606 for “cable television broadcasting” in International Class 38 and in “television and entertainment services” in International Class 41; 1,310,411 for “cable television broadcasting services” in International Class 38; 1,818,179 for “cable television broadcasting services” in International Class 38 and “education and entertainment services” in International Class 41. Each of the foregoing registrations is valid and in full force and effect. Opposer will file certified copies of these and other Certificates of Registration for the mark with its Notice of Reliance during its testimony period.

3. Pursuant to 15 U.S.C. § 1057(c), Opposer’s priority dates back at least as early as 1984, its earliest filing date for the above-referenced registrations, and such date is the date on which Applicant was presumed to have constructive notice of Opposer’s rights.

4. Opposer has also established extensive common law rights in its family of “MTV” marks by virtue of its use, directly or through licensed third parties’ use, of such marks on a variety of goods and services including, *inter alia*, posters, postcards, stationery, bumperstickers,

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coasters, luggage, mugs, entertainment services, television broadcasting services, computer software, and Internet services.

5. As a result of Opposer's exclusive use and promotion of its family of "MTV" marks, such marks have acquired enormous value and have become well known to the consuming public and trade as identifying and distinguishing goods and services emanating exclusively from, or authorized by, Opposer.

6. In addition, Opposer owns a pair of registrations for the mark ME TV, as evidenced by U.S. Registration No. 2,315,147 for television production services in International Class 41; and Registration No. 2,403,051 for "television production services" in International Class 41. Each of the foregoing registrations is valid and in full force and effect. Opposer will file certified copies of these registrations during its testimony period.

7. On March 29, 2003, Applicant Martin Perlmutter, an individual, filed Application Serial No. 76/389,560 to register the mark "ME-TV" for "computer hardware; computer software for viewing and manipulating entertainment content by means of digital, cable, television and web hardware appliances; digital cable and television tabletop boxes; programmable digital television recorders" in International Class 9 based on an *intent to use* the mark in commerce.

8. Opposer adopted, first used, and/or registered its "MTV" and "ME TV" marks for a variety of goods and services, long prior to Applicant's application for, adoption and use (if any) of the mark "ME-TV" for the goods listed in the subject application. Opposer's ME TV registrations also predate any date upon which Applicant could rely for purposes of priority. Thus, Opposer clearly has priority over any use by Applicant of the mark "ME-TV."

9. Applicant's mark, as shown in Application Serial No. 76/389,560, is virtually identical in all material respects to Opposer's prior used and registered "MTV" mark, and is in

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fact identical to its ME TV mark. The marks of the parties present the same general commercial impressions and are virtually identical in appearance, sound and meaning.

10. The online Internet services of Application Serial No. 76/389,560 are identical to, or within the natural zone of expansion of, the goods and services with which Opposer has used and continues to use its family of "MTV" marks.

11. Consumers familiar with Opposer's "MTV" television programming service, its family of "MTV" marks and its existing goods and services are likely to believe that Opposer has licensed or otherwise authorized the use of the mark "ME-TV" by Applicant.

12. For the foregoing reasons, the registration of Applicant's mark would be inconsistent with Opposer's prior rights in its family of "MTV" and marks established under common law, as well as inconsistent with Opposer's statutory grant of exclusivity of use to such registered marks, and would destroy Opposer's investment and goodwill in its marks. The same is true with regard to Opposer's ME TV mark. Accordingly, Opposer respectfully requests that this opposition be sustained and that the registration sought by Applicant in Application Serial No. 76/389,560 be denied.

CLAIM FOR RELIEF

13. Opposer repeats and realleges each and every allegation contained in Paragraphs 1 through 11 as if fully set forth herein.

14. The "MTV" and "ME TV" marks are exclusively associated with Opposer and have been used continuously by Opposer since a date prior to any date on which Applicant can rely.

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15. By adopting a mark which is virtually identical to those of Opposer, Applicant is likely to cause consumers to be deceived or mistaken as to the association between Applicant and Opposer or as to whether or not Applicant's services under the "ME-TV" mark are licensed or authorized by Opposer.

16. By virtue of Opposer's widespread use of its family of "MTV" marks, the promotion, advertising and distribution of goods and services bearing such marks, and the goodwill and fame associated with such marks, as well as by virtue of Opposer's registration for the "ME TV" mark, the registration by Applicant of the mark "ME-TV" in connection with the services identified in Application Serial No. 76/389,560 is likely to confusion, cause mistake, or to deceive the public into the belief that the services offered under the mark "ME-TV" originate from, or are otherwise authorized or sponsored by Opposer in violation of § 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

17. Furthermore, the registration of the mark "ME-TV" in connection with the services identified in Application Serial No. 76/389,560 is likely to dilute and/or impair Opposer's rights in the "MTV" mark, and will eventually result in a lack of designation or indication of origin of Opposer in such mark.

18. By reason of the foregoing, Opposer is likely to be harmed by the registration of Application Serial No. 76/389,560 for the mark "ME-TV."

WHEREFORE, Opposer respectfully requests that this opposition be sustained and that the registration sought by Applicant in Application Serial No. 76/389,560 denied.

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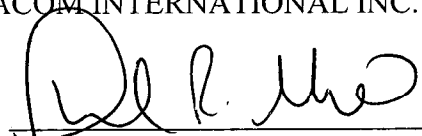
Duplicate copies of this Notice of Opposition are enclosed herewith. The Trademark Trial and Appeal Board is hereby authorized to charge the opposition filing fee of \$300.00 to Opposer's Deposit Account No. 22-0287.

Dated: New York, New York  
August 20, 2003

Respectfully submitted,

VIACOM INTERNATIONAL INC.

By:



Joseph R. Molko  
Counsel, MTV Networks  
a division of Viacom International Inc.  
1515 Broadway, 34th Floor  
New York, New York 10036  
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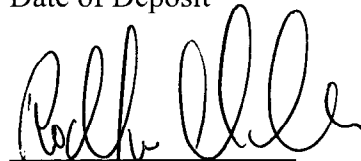
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CERTIFICATE OF EXPRESS MAILING

I, Rodlyne Marcellus, do hereby certify that the foregoing document is being deposited with the United States Postal Service as Express Mail, postage prepaid, in an envelope addressed to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3514, on the date below.

EL697208033US  
Express Mail Label No.

August 20, 2003  
Date of Deposit

  
Rodlyne Marcellus

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Martin Perlmutter

Serial No.: 76/389,560

Class: 9

Filed: March 24, 2002

Express Mail No.: EL697208033US

For: ME-TV

Published in the Official Gazette on April 22, 2003

Commissioner for Trademarks  
BOX TTAB FEE  
2900 Crystal Drive  
Arlington, VA 22202-3514



08-22-2003

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

EXPRESS MAIL TRANSMITTAL LETTER FOR NOTICE OF OPPOSITION

Pursuant to 37 C.F.R. § 1.10, enclosed for filing is the attached Notice of Opposition.

This Notice of Opposition and fee is being filed on August 20, 2003, by mailing said notice, in duplicate, together with Opposer's authorization to charge the opposition fee of \$300.00 to Opposer's Deposit Account No. 22-0287, to Commissioner for Trademarks, BOX TTAB FEE, 2900 Crystal Drive, Arlington, VA 22202-3514 via the United States Postal Service "Express Mail Post Office to Addressee" Service under 37 C.F.R. §1.10. The Express Mail Label No. appears in the heading of this paper which is attached to the Notice of Opposition pursuant to 37 C.F.R. § 1.10(b).



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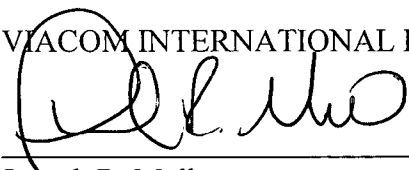
All correspondence concerning this Notice of Opposition should be mailed to:  
Joseph R. Molko, Esq., MTV Networks, a division of Viacom International Inc., 1515 Broadway  
- 34th Fl., New York, New York 10036.

If any additional fees are required, please charge Deposit Account No. 22-0287.

Dated: August 20, 2003

Respectfully submitted,

VIACOM INTERNATIONAL INC.



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# MTV NETWORKS

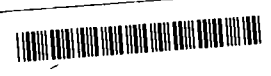
A VIACOM COMPANY

Joseph R. Molko  
Counsel  
Intellectual Property & Litigation

August 20, 2003

VIA EXPRESS MAIL

Commissioner for Trademarks  
BOX TTAB FEE  
2900 Crystal Drive  
Arlington, VA 22202-3514



08-22-2003  
U.S. Patent & TMO/c/TM Mail Rcpt Dt. #22

Re: Notice of Opposition for Application Serial No. 76/389,560 for "ME-TV" in International Class 9 by Martin Perlmutter, an individual

Dear Sir or Madam:

On behalf of Viacom International Inc., enclosed please find duplicate copies of the following: (i) an Express Mail transmittal letter; and (ii) Notice of Opposition. Please charge the fee of \$300.00 for filing the Notice of Opposition to Deposit Account No. 22-0287.

Please address all communication, either by mail or telephone, to the undersigned at MTV Networks, a division of Viacom International Inc., 1515 Broadway - 34th Fl., New York, NY 10036 or by telephone at (212) 846-6075.

Respectfully submitted,  
  
Joseph R. Molko

Enclosures