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



LOEWS CINEPLEX THEATRES, INC.,)
)
Opposer,)
)
v.)
)
RKO PICTURES, INC.,)
)
Applicant.)

07-20-2004

U.S. Patent & TMO/TM Mail Rcpt Dt. #78

Opposition No. _____
Serial No. 76/402,255
Mark: RKO MAGIC and Design

NOTICE OF OPPOSITION

In the matter of the application of RKO Pictures, Inc. (hereafter "Applicant"), having an address at 1875 Century Park East, Suite 2140 Los Angeles, California 90067, filed on August 29, 2001, and accorded Serial No. 76/402,255 an application seeking federal registration of the alleged mark RKO MAGIC and Design for services in International Class 41 based upon an intent to use; Opposer, Loews Cineplex Theatres, Inc. (hereafter "Opposer"), a Delaware corporation, and having a business address at 711 5th Avenue, 10th Floor, New York, New York 10022, believes that it will be damaged by the foregoing registration of Applicant's mark and hereby opposes its registration for those services in International Class 41.

The grounds for this opposition are as follows:

1. Opposer is the owner of the marks and trade names RKO, RKO CENTURY, and RKO CENTURY WARNER THEATRES. Opposer has used these marks and trade names for "entertainment services, namely, leasing and exhibiting motion picture films" since 1950 through its predecessors-in-interest well before the filing date of the opposed application.

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2. Applicant's mark is identical and/or similar in sound and connotation to Opposer's common law marks.

3. The services identified in Applicant's application are related or identical to the services offered by Opposer under the marks RKO, RKO CENTURY, and RKO CENTURY WARNER THEATRES. Furthermore, Applicant's services would be marketed in the same channels of commerce and directed toward the same classes of purchasers as Opposer's services; hence, contemporaneous use of Applicant's mark and Opposer's mark is likely to cause confusion.

4. Opposer has expended considerable resources in promoting, protecting, and using its above-described mark. 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)].

5. Applicant does not have a bona fide intent to use the mark in connection with all of the services identified in the application for registration.

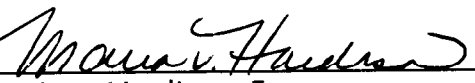
6. The mark set forth in application Serial No. 76/402,255 so resembles a mark or trade name previously used in the United States by Opposer, and not abandoned, as to be likely when applied to the services of Applicant to cause confusion, or to cause mistake, or to deceive.

WHEREFORE, Opposer respectfully requests that this opposition be granted and that Serial No. 76/402,255 be denied registration.

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

LOEWS CINEPLEX THEATRES, INC.

Date: July 14, 2004

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