

ESTTA Tracking number: **ESTTA20237**

Filing date: **11/29/2004**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	WNBA Enterprises, LLC
Granted to Date of previous extension	11/28/2004
Address	450 Harmon Meadow Blvd. Secaucus, NJ 07094 UNITED STATES

Attorney information	Anil V. George NBA Properties, Inc. 645 5th Avenue New York, NY 10022 UNITED STATES avgeorge@nba.com
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Applicant Information

Application No	76502311	Publication date	06/01/2004
Opposition Filing Date	11/29/2004	Opposition Period Ends	11/28/2004
Applicant	Imagination Holdings Pty Ltd. 64 North Terrace Kent Town, South Australia 5067,		

AUSTRALIA

Goods/Services Affected by Opposition

Class 009.

All goods and services in the class are opposed, namely: DVDs and CD-ROMs containing games, board games, interactive games, video games, computer games, game shows, and games containing interactive questions and answers, instructions relevant to games, and video games from television shows, cartoons, and films; multimedia games that may be played via a DVD machine, computer and television or monitor; software, namely multimedia software recorded on DVD or CD-ROM to provide the above functions

Class 028.

All goods and services in the class are opposed, namely: Toys, playthings, and games, namely board games, party games and parlor games; interactive games that may be played via a DVD machine, computer and television or monitor and that comprise component pieces, namely game boards, cards and game pieces that are associated with content contained on a DVD or CD-ROM

Attachments	MysticBall.pdf (3 pages)
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Signature	/Anil V. George/
Name	Anil V. George
Date	11/29/2004

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

In re Application of

Imagination Holdings Pty Ltd.

Serial No. : 76/502,311
MARK : MYSTIC BALL
FILING DATE : March 28, 2003
Published : Official Gazette
June 1, 2004
Page TM 121

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: :
WNBA ENTERPRISES, LLC : :
Petitioner : :
: : Opposition No. _____
v. : :
: :
IMAGINATION HOLDINGS PTY LTD. : :
Applicant : :
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NOTICE OF OPPOSITION

WNBA Enterprises, LLC (“Opposer”) believes that it will be damaged by the registration of the proposed mark, MYSTIC BALL (the “Mark”), identified in application serial number 76/502,311 and, hereby, opposes registration of the same.

1. Opposer is a Delaware limited liability company having its principal office and place of business at 450 Harmon Meadow Boulevard, Secaucus, New Jersey 07094.
2. Since long prior to June 1, 2004, the filing date of the above application, Opposer has and now is engaged in the business of providing assorted basketball entertainment services through the Women’s National Basketball Association (the “WNBA”) and the WNBA team known as the Washington Mystics (the “Mystics”).

3. The Mystics have provided such basketball entertainment services under assorted WASHINGTON MYSTICS and Design, MYSTICS, and WASHINGTON MYSTICS trademarks and service marks (collectively, the "Mystics Marks").

4. Since long prior to June 1, 2004, the filing date of the above application, Opposer has and now is engaged in the business of providing assorted related, collateral goods and services, including, but not limited to assorted audio recordings, video recordings, toys, and sporting goods in connection with the Mystics Marks.

5. Opposer has used the Mystics Marks extensively and continuously. In connection thereto, Opposer has engaged in wide ranging promotional efforts and generated substantial sales. As a result, the Mystics Marks have become known to the public; is closely associated with Opposer, the WNBA, the Mystics, and Opposer's goods and services; is identified as a source of origin; and has generated substantial goodwill.

6. Opposer owns several registrations for the Mystics Marks, issued by the United States Patent and Trademark Office, which are validly subsisting and uncancelled, in assorted classes, including International Classes 9, 28, and 41.

7. Notwithstanding Opposer's rights, Applicant seeks registration of the Mark for assorted electrical and scientific apparatus and toys and sporting goods.

8. The Mark contains the wording MYSTIC and the sports reference wording BALL.

9. The Mystics Marks contain the wording MYSTICS and relate to the sport of basketball.

10. Upon information and belief, Applicant made no use anywhere or in commerce of the Mark in connection with the goods identified in the application.

11. Applicant's adoption and use of the Mark is without license or permission of Opposer.

12. Use of the Mark likely will cause people to believe that the relevant goods and services are authorized, endorsed, or sponsored by, and, therefore, connected or associated with the Mystics and the WNBA when that is not the case.

13. Registration of the Mark would be contrary to and violate Trademark Act Sections 2(a), 15 U.S.C. § 1052(a), and 2(d), 15 U.S.C. § 1052(d), and, therefore, violate and diminish the prior and superior rights of WNBAE in the Mystics Marks.


14. Opposer will be damaged if Application Serial No. 76/502,311 is granted registration because Applicant will obtain statutory rights in violation and derogation of the established prior and superior rights of Opposer.

15. WHEREFORE, Opposer prays that its opposition be sustained and that Application Serial No. 76/502,311 be refused and denied registration.

November 29, 2004

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Olympic Tower
645 Fifth Avenue
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WNBA Enterprises, LLC.

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