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TTAB

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March 22, 2005

VIA EXPRESS MAIL
EV660087938US

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Re: In re: Application Serial No. 78/336,056, COOL STUFF


Dear Sir or Madam:

I enclose a Notice of Opposition, in duplicate, concerning the above-referenced matter and a check in the amount of \$300.00 in payment of the filing fees. Please charge any deficiencies in opposition filing fees to Deposit Account no. 190011.

Please mail the enclosed post card upon receipt of the enclosed Notice of Opposition.

Please do not hesitate to call me if you have any questions concerning the enclosed.

Sincerely,


E. Leonard Rubin

cc: Catherine Buckley
James E. Beifuss



03-23-2005

U.S. Patent & TMOtc/TM Mail RcptDt. #39

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

NOTICE OF OPPOSITION

LSM Consulting Corporation)	
)	
Opposer)	
)	
v.)	Opposition No. _____
)	
Kent Healy,)	Application Serial No. 78/336,056
)	
Applicant.)	Published in the Official Gazette on February 22, 2005

Opposer, LSM Consulting Corporation, an Illinois Corporation, located at 9396 Landings, Des Plaines, Illinois, 60016, believes that it will be damaged by registration of the mark shown in Serial No. 78/336,056, and hereby opposes the same.

Description of Applicant's application: filed on December 3, 2003. Published for Opposition in the Official Gazette of February 22, 2005. Mark: COOL STUFF, in Class 16, for "a series of non fiction books directed at providing information and insight to young people from a young person's perspective."

As grounds for this opposition, Opposer states:

1. Opposer is the owner of U.S. Trademark Registration Number 2,920,465 for the mark, WAY COOL STUFF for "Providing an online magazine via a global computer network in the fields of topics of interest to children, issues and news related to various localities, celebrations, culture, ideas and book reviews, and multimedia." The mark was registered on January 25, 2005. The registered mark of Opposer is valid and subsisting and is prima facie evidence of Opposer's exclusive right to use the said mark in commerce on the goods specified in the registration. In view of the similarity of the respective marks, the similarity of the consumers, and the related nature of the goods and services of the respective parties, it is alleged that Applicant's mark so resembles Opposer's registered mark as to be likely to cause confusion, or to cause mistake, or to deceive.

2. Opposer, since at least July 31, 2001, has been and is now using the mark WAY COOL STUFF with the goods stated in Opposer's Registration. Such use has been valid and continuous since the date of first use and has not been abandoned. Opposer's mark is symbolic of extensive good will and consumer recognition built up by Opposer through substantial amounts of time and effort in advertising and promotion. In view of

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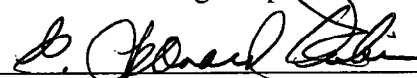
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the similarity of the respective marks and the related nature of the goods of the respective parties, Opposer states that Applicant's mark so resembles Opposer's mark previously used in the United States, and not abandoned, as to be likely to cause confusion, or to cause mistake, or to deceive.

3. Applicant alleges a date of first use of Applicant's mark in commerce as of November 20, 2003. The date of first use of Opposer's mark in commerce is at least as early as July 31, 2001. Opposer therefore has priority of use of its mark over Applicant.

WHEREFORE, Opposer prays that said Application Serial No. 78/336,056 be rejected, that no registration be issued thereon to Applicant, and that this Opposition be sustained in favor of Opposer.

LSM Consulting Corporation


By: 
One of its Attorneys

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CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE ON MARCH 22, 2005 AS EXPRESS MAIL NO. EV660087938US IN AN ENVELOPE ADDRESSED TO COMMISSIONER FOR TRADEMARKS, PO BOX 1451, ALEXANDIA, VIRGINIA 22313-1451.

Margaret M. Cullen
Name of Individual Depositing Package in the U.S. Post Office


Signature

3/22/05
Date of Signature