

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEALBOARD

TTAB

LSM CONSULTING CORPORATION)
)
 Opposer)
)
 v.)
)
 KENT HEALY & KYLE HEALY)
)
 Applicant.)

Opposition No. **91164755**
Serial No. 78/336,056

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

DISMISSAL OF OPPOSITION WITH PREJUDICE

The Parties, having settled this Opposition No. 91164755 in accordance with the terms of a Settlement Agreement dated as of February 20, 2006. Opposer LSM Consulting Corporation withdraws the above captioned Opposition with prejudice.

LSM CONSULTING CORPORATION

By: *E. Leonard Rubin*

Its Attorney: E. Leonard Rubin
Sachnoff & Weaver, Ltd.
10 S. Wacker Drive
Chicago, IL 60606-7507
(312) 207-1000



03-08-2006

U.S. Patent & TMO/TM Mail Rcpt Dt. #26

CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS EXPRESS MAIL NO. EV776710931US IN AN ENVELOPE ADDRESSED TO COMMISSIONER FOR TRADEMARKS, P.O. BOX 1451, ALEXANDRIA, VA 22313-1451.

PATRICIA J. CONTRERAS
Name of Individual Depositing Package in the U.S. Post Office

Patricia J. Contreras 3.8.2006
Signature Date of Signature

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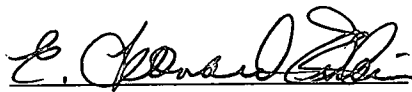
LSM CONSULTING CORPORATION)	
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)	
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CERTIFICATE OF SERVICE

The undersigned attorney certifies and states that he caused a copy of this Certificate of Service and attached **DISMISSAL OF OPPOSITION WITH PREJUDICE** to be served upon the persons to whom it is addressed below via U.S. Mail first-class, postage prepaid, on or before 5:00 p.m. on March 8, 2006 and via facsimile on even date.

Charles E. Weinstein
Foley Hoag LLP
Seaport World Trade Center West
155 Seaport Blvd.
Boston, MA 02210-2600

Respectfully submitted,



E. Leonard Rubin

E. Leonard Rubin
Sachnoff & Weaver, Ltd.
10 South Wacker Drive
Chicago, IL 60606-7507
Tel.: (312) 207-1000
Fax: (312) 207-6400

AGREEMENT

This agreement (“Agreement”), executed as of the respective dates of acceptance set forth below, is by and between **LSM Consulting Corporation**, an Illinois corporation with a place of business at 9396 Landings, Des Plaines, Illinois 60016 (“LSM”), on the one hand, and **Kent Healy and Kyle Healy**, U.S. citizens residing at 1525 Buena Vista Avenue, San Clemente, California 92672 (the “Healys”) on the other hand.

Factual Background

A. LSM is the owner of the mark WAY COOL STUFF, U.S. Reg. No. 2,920,465, which has been registered in International Class 42 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,” with a claimed date of first use and first use in commerce of July 31, 2001.

B. The Healys have filed an application to register the mark COOL STUFF, Serial No. 78/336056, in International Class 16, for a “Series of non-fiction books directed at providing information and insight to young people from a young person’s perspective,” with a claimed date of first use of November 15, 2003 and a claimed date of first use in commerce of November 20, 2003.

C. LSM has filed an Opposition to the Healys’ application for registration of COOL STUFF, which Opposition is currently pending under No. 91164755.

D. The parties wish to resolve their dispute and provide for the mutual use of their respective marks pursuant to the terms and conditions set forth below.

Terms and Conditions

1. The Healys agree not to use the mark COOL STUFF in connection with discussing or promoting the fictional wizard known as Harry Potter, the books, films and entertainment media related thereto, and other entertainment media in the fields of science fiction, fantasy and fictional and non-fictional mystery/detection.

2. The Healys will not challenge LSM's use and registration of the mark WAY COOL STUFF in connection with discussing or promoting the fictional wizard known as Harry Potter, the books, films and entertainment media related thereto, and other entertainment media in the fields of science fiction, fantasy and fictional and non-fictional mystery/detection.


3. Pursuant to the foregoing, LSM consents to the Healys' use and registration of the mark COOL STUFF.

4. Upon the execution of this Agreement by both parties, LSM will withdraw its pending Opposition to the Healys' application, Serial No. 78/336056, with prejudice.

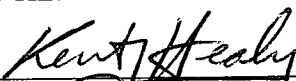
5. The parties agree to cooperate in taking reasonable action to avoid confusion between their respective marks and to correct any instances of confusion which come to their attention.

NOW THEREFORE, in consideration of the foregoing and the mutual covenants contained herein, the parties have caused this Agreement to be executed as an instrument under seal.


LSM CONSULTING CORPORATION

By: 
Name: CATHERINE BUCKLEY
Title: PRESIDENT
Date: JANUARY 23, 2006

KENT HEALY


Date: 2/20/06

KYLE HEALY


Date: 02/20/06