

ESTTA Tracking number: **ESTTA41624**

Filing date: **08/09/2005**

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

|                                              |                                                                 |
|----------------------------------------------|-----------------------------------------------------------------|
| <b>Name</b>                                  | Fox Broadcasting Company                                        |
| <b>Granted to Date of previous extension</b> | 08/10/2005                                                      |
| <b>Address</b>                               | 10201 West Pico Blvd.<br>LOS ANGELES, CA 90035<br>UNITED STATES |

|                                   |                                                                                                                                                                 |
|-----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Correspondence information</b> | Jason Zedeck<br>Fox Group Legal<br>P.O. Box 900<br>Beverly Hills, CA 90213<br>UNITED STATES<br>jason.zedeck@fox.com, beth.allegretti@fox.com Phone:310-369-5040 |
|-----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|

#### Applicant Information

|                               |                                                            |                               |            |
|-------------------------------|------------------------------------------------------------|-------------------------------|------------|
| <b>Application No</b>         | 78195541                                                   | <b>Publication date</b>       | 04/12/2005 |
| <b>Opposition Filing Date</b> | 08/09/2005                                                 | <b>Opposition Period Ends</b> | 08/10/2005 |
| <b>Applicant</b>              | Steve Dahl & Company, Inc.<br>250 Parkway Drive. Suite 110 |                               |            |

|                                         |
|-----------------------------------------|
| Lincolnshire, IL 60069<br>UNITED STATES |
|-----------------------------------------|

### **Goods/Services Affected by Opposition**

Class 009.

All goods and services in the class are opposed, namely: Pre-recorded audio and video recordings, audio and video tapes, audio and video cassettes, compact discs, and digital video discs featuring entertainment related performances on the subject of marital relationships

Class 016.

All goods and services in the class are opposed, namely: Printed materials, namely, books and pamphlets on the subject of marital relationships

Class 025.

All goods and services in the class are opposed, namely: Clothing, namely headwear, hats, caps, shirts, T-shirts

Class 038.

All goods and services in the class are opposed, namely: Broadcasting services via television, radio, cable, telephone, computer, microwave, and satellite for entertainment programming purposes

Class 041.

All goods and services in the class are opposed, namely: Entertainment services in the nature of a continuing program on the subject of marital relationships, namely, a spouse from one family temporarily replaces the spouse of another family and vice versa, and the resulting interactions of family members

|                    |                                               |
|--------------------|-----------------------------------------------|
| <b>Attachments</b> | TRADING SPOUSES Notice of Opp.pdf ( 4 pages ) |
|--------------------|-----------------------------------------------|

|                  |                |
|------------------|----------------|
| <b>Signature</b> | /jasonpzedeck/ |
| <b>Name</b>      | Jason Zedeck   |
| <b>Date</b>      | 08/09/2005     |

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

In the Matter of Application Serial No. 78195541  
Filed December 17, 2002  
For the mark TRADING SPOUSES  
Published in the *Official Gazette* on April 12, 2005

|                            |   |                      |
|----------------------------|---|----------------------|
| _____                      | ) |                      |
| FOX BROADCASTING COMPANY   | ) |                      |
| Opposer,                   | ) |                      |
|                            | ) |                      |
| v.                         | ) | Opposition No. _____ |
|                            | ) |                      |
| STEVE DAHL & COMPANY, INC. | ) |                      |
| Applicant.                 | ) |                      |
| _____                      | ) |                      |

NOTICE OF OPPOSITION

Opposer FOX BROADCASTING COMPANY, a corporation organized and existing under the laws of the State of Delaware, United States of America, with a principal place of business located at 10201 W. Pico Boulevard, Los Angeles, California 90035, United States of America, (hereinafter "Opposer") believes that it has or will be damaged by the registration of the trademark TRADING SPOUSES, Application Serial No. 78195541 referenced above, and therefore hereby opposes STEVE DAHL & COMPANY, INC.'s (hereinafter "Applicant") application for the trademark TRADING SPOUSES in accordance with the provisions of section 13 of the Trademark Act (15 U.S.C. § 1063).

As grounds for opposition, Opposer alleges:

1. Opposer is a major television network that produces and broadcasts a variety of television programming. Opposer airs primetime programming, late night entertainment, sports and news.

2. Upon information and belief, Applicant is an Illinois corporation with its principal place of business at 250 Parkway Drive, Suite 110, Lincolnshire, Illinois 60069, United States of America.

3. According to the records of the United States Patent and Trademark Office, Applicant filed Intent-to-Use Application Serial No. 78195541 on December 17, 2002, seeking to register the mark TRADING SPOUSES for the following goods and services.

“Pre-recorded audio and video recordings, audio and video tapes, audio and video cassettes, compact discs, and digital video discs featuring entertainment related performances on the subject of marital relationships” in International Class 9;

“Printed materials, namely, books and pamphlets on the subject of marital relationships” in International Class 16;

“Clothing, namely headwear, hats, caps, shirts, T-shirts” in International Class 25;

“Broadcasting services via television, radio, cable, telephone, computer, microwave, and satellite for entertainment programming purposes” in International Class 38; and

“Entertainment services in the nature of a continuing program on the subject of marital relationships, namely, a spouse from one family temporarily replaces the spouse of another family and vice versa, and the resulting interactions of family members” in International Class 41.

4. The application was published for opposition in the April 12, 2005 edition of the *Official Gazette* and Opposer obtained an extension of time until August 10, 2005 in which to file an opposition.

5. The term TRADING SPOUSES when used on or in connection with the goods and services identified with Application Serial No. 78195541, is descriptive of an ingredient, quality, characteristic, function, feature, purpose, or use of the goods and services.

6. Applicant's mark TRADING SPOUSES, when used on or in connection with the goods or services set forth in the application has not become and is not distinctive of Applicant's goods or services. Rather, the mark when used with Applicant's goods/services is intended to describe a characteristic or feature of the goods and services and is not registrable.

7. Opposer is currently using the term "TRADING SPOUSES" descriptively in association with its entertainment services and has a present and continuing right to use TRADING SPOUSES descriptively in connection with such services.

8. If Applicant were granted a registration for the mark at issue, Applicant would be granted a presumption of exclusive rights to use TRADING SPOUSES, a descriptive term, and could preclude others, including Opposer, from using that term or similar terms on or in connection with their competing goods or services. Opposer, and others similarly situated, will be damaged by the existence of a registration for TRADING SPOUSES for the goods and/or services identified in the application at issue since such registration would prevent Opposer, and others similarly situated, from using this descriptive term to identify similar goods or services and would furnish Applicant with the means of unfairly protesting such use and prohibiting Opposer and others from describing their products and services.

9. Based on the above, the TRADING SPOUSES mark, when used on or in connection with the goods and services identified in the application herein opposed, is merely descriptive and thus can neither function as a trademark nor, under Lanham Act Section 2(e)(1), 15 U.S.C. § 1052(3)(1), be registered absent a showing of secondary meaning under Lanham Act Section 2(f), 15 U.S.C. § 1052(f). Because TRADING SPOUSES has not acquired secondary meaning signifying Applicant as the exclusive source of the goods and services offered under the mark, registration of the TRADING SPOUSES mark must be denied.

WHEREFORE, Opposer respectfully requests that the opposition be sustained, that judgment be entered in favor of Opposer refusing registration of TRADING SPOUSES as shown in Application Serial No. 78195541, and that the Board grant such other and further relief as it deems just and proper.

Please charge the statutory fee for filing a notice of opposition in the amount of \$300.00, pursuant to 37 C.F.R. § 2.6, to Deposit Account No. 06-1824.

Respectfully submitted,

Dated: August 9, 2005

Opposer FOX BROADCASTING COMPANY.

by: \_\_\_\_\_

Jason Zedeck  
Attorney for Opposer  
FOX BROADCASTING COMPANY