

ESTTA Tracking number: **ESTTA62434**

Filing date: **01/18/2006**

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	Discovery Communications, Inc.
Granted to Date of previous extension	01/18/2006
Address	One Discovery Place Silver Spring, MD 20910 UNITED STATES

Attorney information	Jennifer Myron Arent Fox PLLC 1050 Connecticut Ave. NW Suite 400 Washington, DC 20036 UNITED STATES myron.jennifer@arentfox.com, tmdocket@arentfox.com
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**Applicant Information**

Application No	78291762	Publication date	09/20/2005
Opposition Filing Date	01/18/2006	Opposition Period Ends	01/18/2006
Applicant	Susan R. Gottschalk 7239 Memorial Drive Canton, MI 48187 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 041. All goods and services in the class are opposed, namely: Educational enrichment services in the field of crafts, drama, music, cooking, soccer, football, basketball, gymnastics and skiing for adults and school age youth; entertainment in the nature of magic for adults and school age youth
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Attachments	Opposition.pdf ( 5 pages )
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Signature	/jmyron/
Name	Jennifer Myron
Date	01/18/2006

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

In re Application No. 78/291762 for the mark DISCOVERY ENRICHMENT filed on August 25, 2003, and published on September 20, 2005

DISCOVERY COMMUNICATIONS, INC. :  
:   
Opposer :   
:   
v. : Opp. No. \_\_\_\_\_  
:   
SUSAN R. GOTTSCHALK :   
:   
Applicant :

**NOTICE OF OPPOSITION**

Discovery Communications, Inc. believes that it will be damaged by the registration of the above identified mark and hereby opposes registration of the mark under the provisions of Section 13 of the Trademark Act of 1946, 15 U.S.C. §1063.

As grounds for the opposition, Opposer alleges that:

1. Opposer, Discovery Communications, Inc., is a corporation organized and existing under the laws of Delaware, with a principal place of business located at One Discovery Place, Silver Spring, Maryland 20910.

2. Applicant, Susan R. Gottschalk., is a sole proprietorship, residing at 7239 Memorial Drive, Canton, Michigan 48187.

3. Opposer is the owner of all right, title and interest in and to the marks DISCOVERY, DISCOVERY CHANNEL, and variations thereof (the "Marks") for a variety of educational and entertainment services.

4. For several decades, Opposer has extensively used and promoted its DISCOVERY Marks and owns numerous federal registrations for its Marks, including without limitation DISCOVERY, Registration No. 1997850; DISCOVERY, Registration No. 0883953;

DISCOVERY, Registration No. 2965415; DISCOVERY.COM, Registration No. 2868223; DISCOVERY CHANNEL, Registration No. 2092711; DISCOVERY CHANNEL, Registration No. 2474776; and DISCOVERY CHANNEL SCHOOL, Registration No. 2455590, among others. As a result of extensive use, advertising, and promotion, Opposer's Marks have become well-known and famous as a distinctive indicator of the origin of Opposer's educational services and the mark has become a valuable symbol of Opposer's goodwill.

5. The DISCOVERY Marks have a high degree of distinctiveness due to the duration and extent of Opposer's use, advertising and publicity

6. Notwithstanding Opposer's prior rights in its Marks, on or about August 25, 2003, Applicant filed the above-referenced application for registration of the mark DISCOVERY ENRICHMENT for "educational enrichment services in the field of crafts, drama, music, cooking, soccer, football, basketball, gymnastics and skiing for adults and school age youth; entertainment in the nature of magic for adults and school age youth" in Class 41.

7. Although the disclaimer is not noted in the TESS/TARR status records available at the PTO web site, Applicant, by way of correspondence dated March 12, 2005, agreed to disclaim the term "ENRICHMENT", thereby claiming rights only to the DISCOVERY portion of the mark.

8. Opposer believes it will be damaged by registration sought by Applicant because such registration will lead to consumer confusion as to the source of educational services provided under the mark DISCOVERY ENRICHMENT.

**Likelihood of Confusion - §2(d)**

9. The mark which Applicant seeks to register so closely resembles Opposer's DISCOVERY Marks that the use and registration thereof is likely to cause confusion, mistake

and deception as to the source or origin of Applicant's services and will injure and damage Opposer and the goodwill and reputation symbolized by Opposer's Marks.

10. The services of Applicant are so closely related to the services of Opposer that the public is likely to be confused and to assume erroneously that Applicant's services are those of Opposer or that Applicant is in some way connected with or sponsored by or affiliated with Opposer, all of which may cause Opposer irreparable damage.

11. Likelihood of confusion in this case is enhanced by the popularity of Opposer's Marks and by the fact that consumers associate the DISCOVERY Marks with services sold, approved or endorsed by Opposer.

12. By reason of the foregoing, Opposer will be damaged by the registration of Applicant's alleged mark and registration should be refused.

#### **Dilution - §43(d)**

13. Opposer's DISCOVERY Marks became well known and famous prior to the filing date of Applicant's application.

14. Applicant's use or registration of the mark DISCOVERY ENRICHMENT will cause dilution of the distinctive quality of Opposer's Marks.

15. Applicant's use or registration of the mark DISCOVERY ENRICHMENT will lessen the capacity of Opposer's famous Marks to identify and distinguish Opposer's services.

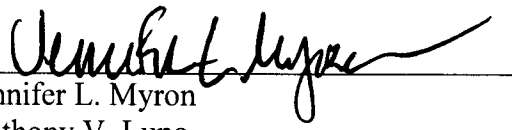
16. Applicant's use or registration of the mark DISCOVERY ENRICHMENT will tarnish the goodwill symbolized by Opposer's Marks.

17. Likelihood of tarnishment and damage to Opposer's goodwill is enhanced by the fact that Opposer will have no control over the nature and quality of the services offered under Applicant's mark.

18. Likelihood of confusion, dilution and tarnishment is enhanced by the fact that Applicant has disclaimed the term ENRICHMENT, thereby claiming rights only to the mark DISCOVERY, which is identical in sound, appearance, pronunciation, meaning and commercial impression to Opposer's famous Marks, and consumers will assume that services offered under Applicant's mark originate with or are sponsored by Opposer.

WHEREFORE, Opposer respectfully requests that Application No. 78/291762 be refused.

DISCOVERY COMMUNICATIONS, INC.


By   
Jennifer L. Myron  
Anthony V. Lupo  
Arent Fox PLLC  
1050 Connecticut Avenue, NW  
Washington, D.C. 20036  
(202) 857-6000

Attorneys for Opposer

January 18, 2006

**CERTIFICATE OF SERVICE**

It is hereby certified that a copy of the foregoing has been served upon Applicant Susan R. Gottschalk, 7239 Memorial Drive, Canton, Michigan 48187, this 18<sup>th</sup> day of January 2006 by first class mail, postage prepaid.

  
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