

ESTTA Tracking number: **ESTTA85286**

Filing date: **06/14/2006**

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	Vibe Ventures LLC
Granted to Date of previous extension	06/18/2006
Address	11100 Santa Monica Boulevard, Suite 1910 Los Angeles, CA 90025 UNITED STATES
Attorney information	Edward H. Rosenthal Frankfurt Kurnit Klein & Selz, PC 488 Madison Avenue 9th Floor New York, NY 10022 UNITED STATES pto@fkks.com Phone:212-980-0120

**Applicant Information**

Application No	78468533	Publication date	12/20/2005
Opposition Filing Date	06/14/2006	Opposition Period Ends	06/18/2006
Applicant	MeadWestvaco Corporation One High Ridge Park Stamford, CT 06905 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 016. All goods and services in the class are opposed, namely: Stationery-type portfolios, binders, notebooks, desktop and personal organizers, memo books and pencil pouches
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Attachments	Mead-Vibe Notice of Opp.pdf ( 6 pages )(144808 bytes )
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Signature	/ehr8022/
Name	Edward H. Rosenthal
Date	06/14/2006

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

Applicant: MeadWestvaco Corporation

Trademark: VIBE

Serial No.: 78/468,533

Filed: August 17, 2004

Published: December 20, 2005

International Class: 16 (Stationary-type portfolios, binders, notebooks, desktop and personal organizers, memo books, and pencil pouches.)

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VIBE VENTURES LLC,

Opposer,

Opposition No.

v.

MEADWESTVACO CORPORATION,

Applicant.

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**NOTICE OF OPPOSITION**

Opposer, Vibe Ventures LLC (“Opposer”), a Delaware limited liability company, with an address at 1110 Santa Monica Boulevard, Suite 1910, Los Angeles, California 90025, believes that it would be damaged by registration of the mark shown in Serial No. 78/468,533 and hereby opposes same.

As grounds for opposition, it is alleged as follows:

1. Opposer has been using the mark VIBE (the “Mark”) in commerce in connection with a general interest magazine since at least as early as 1992.
2. Opposer also has been using the Mark in commerce in connection with clothing since at least as early as 1992.
3. Opposer also has been using the Mark in commerce in connection with computer services, namely providing an on-line magazine in the fields of urban culture and entertainment since at least as early as 1994.
4. Opposer has also been using the Mark in commerce in connection with entertainment services, namely various ongoing television series since at least as early as 1997 and a television awards show since at least as early as 2003.
5. Opposer also has been using the mark MVIBE in commerce in connection with communication services, namely electronic transmission of voice, data, images, signals, audio, video, ring tones, software, messages, publications and text messaging for cellular telephones and two-way phones since at least as early as 2003.
6. Opposer also has been using the mark MOBILE VIBE in commerce in connection with communication services, namely electronic transmission of voice, data, images, signals, audio, video, ring tones, software, messages, publications and text messaging for cellular telephones and two-way phones since at least as early as 2003.
7. Opposer owns a registration for the mark VIBE in Class 16 (No. 1,800,105 dated October 19, 1993).

8. Opposer also owns a registration for VIBE (Stylized) in Class 16 (No. 2,144,655 dated March 17, 1998).
9. Opposer also owns a registration for VIBE in Class 25 (No. 2,563,930 dated April 23, 2002).
10. Opposer also owns a registration for VIBE in Classes 41 and 42 (No. 2,303,664 dated December 28, 1999).
11. Opposer also owns a registration for VIBE in Class 41 (No. 2,841,002 dated May 11, 2004).
12. Opposer also owns a registration for VIBE CONFIDENTIAL in Class 16 (No. 2,922,158 dated February 1, 2005).
13. Opposer also owns a registration for VIBE'S 20 QUESTIONS in Class 16 (No. 2,907,411 dated November 30, 2004).
14. Opposer also owns a registration for VIBE RECORDS [by assignment] (No. 1,819,799 dated February 8, 1994) in Class 9.
15. Opposer also has applications pending before the Patent and Trademark Office for the following marks:

<u>Mark</u>	<u>Serial No.</u>	<u>Filing Date</u>	<u>Class</u>
VIBE	78/625633	05/9/05	41
VIBE VIXEN	76/612185	09/15/04	16
VIBE MUSICFEST	78/589519	03/17/05	41
MVIBE	78/632157	05/18/05	9, 38, 41
MOBILE VIBE	78/711675	09/13/05	9, 38, 41

16. Opposer's longstanding, continuous, and successful use of the Mark has created, in the mind of the public, a strong association between the Mark and Opposer.
17. Opposer's Mark is famous due to its longstanding use of the Mark in commerce, the duration and extent of Opposer's advertising of the Mark and associated goods and services, the nationwide nature of Opposer's use of the Mark, the federal registration of the Mark, and the degree of recognition of the Mark by the public.
18. Applicant, MeadWestvaco Corporation ("Applicant"), has applied for a trademark registration based on its intent to use the mark VIBE in commerce for "Stationary-type portfolios, binders, notebooks, desktop and personal organizers, memo books, and pencil pouches" in International Class 16 (the "Application").
19. Applicant's mark is confusingly similar to the Mark and Opposer's other marks which incorporate the Mark (as identified above) and dilutes the distinctive quality of Opposer's famous VIBE mark and name.
20. Applicant's intended use of the mark VIBE is likely to cause confusion, or to cause mistake or to deceive by suggesting that Applicant's goods are endorsed, authorized, sponsored, associated with, or approved by Opposer.

WHEREFORE, Opposer requests that this opposition be sustained pursuant to Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), and that Application Serial No. 78/468,533 be rejected.

Dated: June 14, 2006

Respectfully submitted,

FRANKFURT KURNIT KLEIN  
& SELZ, PC

By: 

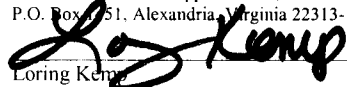
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Attorneys for Opposer Vibe Ventures LLC

**CERTIFICATE OF ELECTRONIC TRANSMISSION**

Date: June 14, 2006

I hereby certify that this paper is being transmitted electronically to the United States Patent and Trademark Office through the ESTTA electronic filing system on the date indicated above and is addressed to Trademark Trial and Appeal Board, Commissioner for Trademarks, P.O. Box 51, Alexandria, Virginia 22313-1451


  
Loring Kemp

CERTIFICATE OF SERVICE

I, Loring Kemp, certify that a copy of the foregoing Notice of Opposition was served on:

Thomas A. Boshinski  
Legal Department  
MeadWestvaco Corporation  
Courthouse Plaza, Northeast  
Dayton, OH 45463-0001

By placing same with the U.S. Postal Service, via first class mail, postage pre-paid, this 14<sup>th</sup> day of June 2006.

  
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Loring Kemp  
Trademark Paralegal