

ESTTA Tracking number: **ESTTA100601**

Filing date: **09/22/2006**

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	Miramax Film Corp.
Granted to Date of previous extension	10/01/2006
Address	161 Avenue of the Americas New York, NY 10013 UNITED STATES

Attorney information	David M. Kelly Finnegan, Henderson, Farabow, Garrett & Dunner, LLP 901 New York Avenue, N.W. Washington, DC 20001-4413 UNITED STATES docketing@finnegan.com, linda.mcleod@finnegan.com, judy.valusek@finnegan.com Phone:202-408-4000
----------------------	--

Applicant Information

Application No	78662163	Publication date	04/04/2006
Opposition Filing Date	09/22/2006	Opposition Period Ends	10/01/2006
Applicant	The House On F Street, LLC Suite 800, 1660 West Second Street Cleveland, OH 44113 UNITED STATES		

Goods/Services Affected by Opposition

Class 041. First Use: 2003/08/09 First Use In Commerce: 2003/08/09 All goods and services in the class are opposed, namely: Educational services, namely, conducting workshops and seminars in the field of espionage, cryptology, disguises, surveillance, chemistry and devices used in espionage, and magic; and entertainment services in the nature of live and prerecorded presentations in the field of espionage, cryptology, disguises, surveillance, chemistry and devices used in espionage, and magic
--

Related Proceedings	Opposition against 78662168
---------------------	-----------------------------

Attachments	0001416.PDF (3 pages)(283082 bytes)
-------------	--

Signature	/Linda K. McLeod/
Name	Linda K. McLeod
Date	09/22/2006

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

MIRAMAX FILM CORP. Opposer v. THE HOUSE ON F STREET, LLC Applicant.	Opposition No. Serial No. 78/662,163 Mark: KIDSPY Filing Date: June 30, 2005
---	---

NOTICE OF OPPOSITION

Opposer Miramax Film Corp. ("Opposer"), a corporation of New York, having a business address at 161 Avenue of the Americas, New York, New York 10013, believes that it is being and will be damaged by the registration of the mark KIDSPY shown in Application Serial No. 78/662,163, and hereby oppose the same. As grounds for its opposition, Opposer alleges that:

Opposer and its SPY KIDS Mark

1. Opposer Miramax Film Corp. is a corporation of New York, having a business address at 161 Avenue of the Americas, New York, New York 10013.
2. Opposer, through its predecessors-in-interest, related companies, and licensees, is a leading producer and provider of entertainment services; films; prerecorded videotapes, DVDs, and CD-ROMs featuring entertainment, stories, games, and activities; and consumer products.
3. Opposer has used and continues to use the SPY KIDS mark in commerce in connection with, among other things, a series of motion picture films; prerecorded

videotapes, and DVDs since at least 2001 (collectively "Opposer's Products and Services"). These goods and services relate, in part, to the subjects of intrigue and espionage.

4. Opposer owns Registration No. 2,809,645, issued February 3, 2004, for the mark SPY KIDS for a wide variety of goods and services. Opposer's Registration No. 2,809,645 is valid and subsisting and constitutes *prima facie* evidence of the validity of the mark and registration, and Opposer's ownership of and exclusive right to use the mark SPY KIDS in commerce.

Applicant and its KIDSPY Application

5. On information and belief, Applicant The House on F Street, LLC ("Applicant"), is a limited liability company of Delaware with an address of Suite 800, 1660 West Second Street, Cleveland, Ohio 44113.

6. On information and belief, Applicant is the current owner of Application Serial No. 78/662,163, filed June 30, 2005, for the mark KIDSPY for "educational services, namely, conducting workshops and seminars in the field of espionage, cryptology, disguises, surveillance, chemistry and devices used in espionage, and magic; and entertainment services in the nature of live and prerecorded presentations in the field of espionage, cryptology, disguises, surveillance, chemistry and devices used in espionage, and magic" in International Class 41, and claiming a date of first use in commerce of August 9, 2003.

Likelihood of Confusion, 15 U.S.C. §1052(d)

7. Opposer repeats and realleges each and every allegation set forth in Paragraphs 1 through 6.

8. Opposer has used its SPY KIDS mark in commerce in connection with Opposer's Products and Services since at least 2001, and prior to the June 30, 2005 filing date of the opposed application, prior to the August 9, 2003 date of first use claimed by Applicant. Further, Opposer's Registration No. 2,809,645 issued prior to the filing date of the opposed application. Opposer's registration issued from Application Serial No. 75/846,178, which was filed on November 10, 1999, prior to the filing date of the opposed application and any date of first use claimed by Applicant.

9. In view of the similarity of the parties' marks and the identical and/or closely related nature of the parties' goods and services, Applicant's mark KIDSPY so resembles Opposer's previously used and registered mark SPY KIDS, as to be likely to cause confusion, or to cause mistake, or to deceive.

WHEREFORE, Opposer respectfully requests that Application Serial No. 78/662,163 be refused registration, and that this opposition be sustained.

Respectfully submitted,

MIRAMAX FILM CORP.

Dated: September 22, 2006

By:  _____

David M. Kelly
Linda K. McLeod
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER L.L.P.
901 New York Avenue, N.W.
Washington, D.C. 20001-4413
(202) 408-4000

Attorneys for Opposer