

ESTTA Tracking number: **ESTTA116546**

Filing date: **12/22/2006**

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	New Line Productions, Inc.
Granted to Date of previous extension	12/24/2006
Address	888 Seventh Avenue New York, NY 10106 UNITED STATES
Attorney information	Erin S. Hennessy Time Warner Inc. One Time Warner Center14th Fl. New York, NY 10019 UNITED STATES erin.hennessy@timewarner.com, daretia.austin@timewarner.com Phone:212-484-8140

Applicant Information

Application No	78736828	Publication date	06/27/2006
Opposition Filing Date	12/22/2006	Opposition Period Ends	12/24/2006
Applicant	B.J. Alan Company 555 Martin Luther King, Jr. Blvd. Youngstown, OH 445021102 UNITED STATES		

Goods/Services Affected by Opposition

Class 013. First Use: 1992/05/07 First Use In Commerce: 1992/05/07
All goods and sevicees in the class are opposed, namely: Fireworks

Attachments	shagadellicmojoOPP.pdf (5 pages)(231768 bytes)
Signature	/erin hennessy/
Name	Erin S. Hennessy
Date	12/22/2006

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

-----X	:	
NEW LINE PRODUCTIONS, INC.	:	
Opposer,	:	Opposition No.: _____
v.	:	
B.J. ALAN COMPANY	:	
Applicant.	:	
-----X		

NOTICE OF OPPOSITION

In the matter of the application for registration of an alleged trademark SHAGADELLIC MOJO for “fireworks,” in Class 13, Application No. 78/736,828, filed on October 20, 2005 by B.J. Alan Company, with an address at 555 Martin Luther King, Jr. Blvd., Youngstown, Ohio, 44502, (hereinafter “Applicant”), which was published for opposition in the Official Gazette on June 27, 2006 with extensions of time to file an opposition granted until December 24, 2006.

New Line Productions, Inc., a corporation organized under the laws of California, with an office at 888 Seventh Avenue, New York, New York, 10106 (hereinafter, “Opposer”), believes that it is or would be damaged by registration of the alleged mark shown in Application No. 78/736,828, and hereby opposes registration of said application.

As grounds for opposition, it is alleged that:

1. Opposer is the owner of Registration No. 2,547,824 for the mark SHAGADELIC covering printed matter and paper goods-namely, books featuring characters from animated action adventure, comedy and/or drama features, comic books, children's books, magazines featuring characters from animated, action adventure, comedy and/or drama features, coloring books, children's activity books; stationery, writing paper, envelopes, notebooks, diaries, note cards, greeting cards, trading cards; lithographs; pens, pencils, cases therefor, erasers, crayons, markers, colored pencils, painting sets, chalk and chalkboards; decals, heat transfers; posters; mounted and/or unmounted photographs; book covers, book marks, calendars, gift wrapping paper; paper party favors and paper party decorations-namely, paper napkins, paper doilies, paper place mats, crepe paper, paper hats, invitations, paper table cloths, paper cake decorations; printed transfers for embroidery or fabric appliques; printed patterns for costumes, pajamas sweatshirts and t-shirts in International Class 16.

2. Opposer is the owner of Registration No. 2,677,644 for SHAGADELIC covering clothing for men, women and children, namely, shirts, t-shirts, sweatshirts, jogging suits, trousers, pants, shorts, tank tops, rainwear, cloth bibs, skirts, blouses, dresses, suspenders, sweaters, jackets, coats, raincoats, snow suits, ties, robes, hats, caps, sunvisors, belts, scarves, sleepwear, pajamas, lingerie, underwear, boots, shoes, sneakers, sandals, booties, slipper socks, swimwear and masquerade and Halloween costumes and masks sold in connection therewith in International Class 16.

3. The SHAGADELIC mark has been continuously used since at least as early as May 2, 1997.

4. The mark SHAGADELIC is an arbitrary and unique mark as applied to Opposer's goods, and therefore is entitled to a broad scope of protection.

5. Opposer has expended substantial time, money and effort in advertising, promoting and marketing such services and goods under the SHAGADELIC mark, and sales thereunder have generated revenues in the millions of dollars.

6. As a result of Opposer's efforts, the public has come to know, recognize and rely on the SHAGADELIC mark as identifying goods which originate with Opposer, and Opposer has created and acquired substantial good will in the SHAGADELIC mark.

7. Opposer is using its mark SHAGADELIC in connection with its *Austin Powers'* film series which features use of the phrase SHAGADELIC in the films as well as the phrase YEAH, BABY and MOJO and colorful, psychedelic, counter-culture 1960's style designs and images (see Exhibit A).

8. Applicant has applied for registration of the alleged mark SHAGADELIC MOJO for "fireworks," in International Class 13.

9. Applicant is using the alleged mark SHAGADELLIC MOJO and YEAH BABY with 1960's designs in the specimens of use submitted with its application (see Exhibit B).

10. Upon information and belief, Opposer's SHAGADELIC goods and/or services and Applicant's alleged SHAGADELIC MOJO goods are capable of sale to and use by the same purchasers.

11. Upon information and belief, Opposer's SHAGADELIC goods and Applicant's alleged SHAGADELIC MOJO goods are capable of being advertised and sold in the same channels of trade.

12. Applicant's alleged mark SHAGADELIC MOJO is confusingly similar to Opposer's SHAGADELIC mark.

12. Applicant's alleged mark SHAGADELIC MOJO is confusingly similar to Opposer's SHAGADELIC mark.

13. Opposer believes and alleges that Applicant's alleged SHAGADELIC MOJO mark, when applied to the goods of Applicant, is likely to cause confusion or mistake or to deceive or will cause confusion or mistake, and will deceive and mislead the trade and the purchasing public into believing that Applicant's products are the products of Opposer or that Applicant is authorized, licensed or controlled by Opposer, or that Applicant is a subsidiary of, or in some way related to Opposer.

14. Opposer's SHAGADELIC mark is famous and distinctive and Opposer believes and alleges that Applicant's alleged mark SHAGADELIC MOJO, when applied to the goods in Application Serial No. 78/736,828, is likely to dilute Opposer's SHAGADELIC mark.

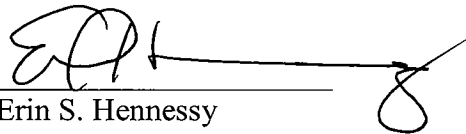
15. By reason of the foregoing, Opposer will be irreparably damaged by the registration of Applicant's confusingly similar SHAGADELIC MOJO mark.

WHEREFORE, Opposer prays that this opposition be sustained.

New Line Productions, Inc.

Dated:

By:



Erin S. Hennessy
Time Warner, Inc.
One Time Warner Center
14th Floor
New York, New York 10019
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Attorney for Opposer

EXHIBIT A

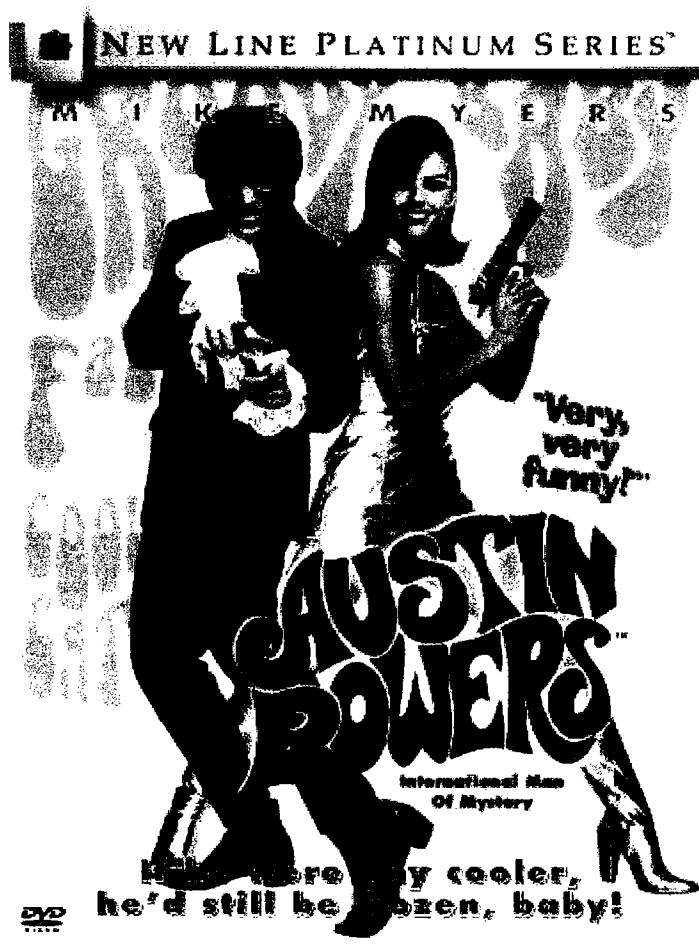


EXHIBIT B

