ESTTA Tracking number: **ESTTA316384**

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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	Disney Consumer Products, Inc.
Granted to Date of previous extension	11/11/2009
Address	500 South Buena Vista Street Burbank, CA 91521 UNITED STATES

Attorney information	Melanie Bradley Kirkland & Ellis LLP 601 Lexington Avenue New York, NY 10022 UNITED STATES melanie.bradley@kirkland.com Phone:212-446-4800

Applicant Information

Application No	77311598	Publication date	07/14/2009
Opposition Filing Date	11/11/2009	Opposition Period Ends	11/11/2009
International Registration No.	NONE	International Registration Date	NONE
Applicant	THOIP 4th Floor Aldwych House, 81 Aldwych London, WC2B4HN UNITED KINGDOM		

Goods/Services Affected by Opposition

Class 009.
All goods and services in the class are opposed, namely: Audio and video tapes, and discs, namely, audio and video tapes and audio and video recordings in the form of discs, DVDs, DVD-ROM, CD-ROM, compact discs, laser discs, floppy discs, hard discs, optical discs, pre-recorded magnetic data carriers, phonograph records, magnetic and digital tapes, all featuring music, musical sound recordings, musical video recordings and video recordings featuring cartoon characters, optionally also with live action sequences or images; jackets for video cassettes; prerecorded compact discs and pre-recorded video tapes relating to children's entertainment and education; television films, namely, animated films, live action films, all featuring musical sound recordings, musical video recordings and video recordings featuring cartoon characters with live action sequences and images; phonograph records featuring music, speech, or educational or entertainment materials, namely, children's educational material, reading educational material and music; motion picture films, sound recordings and video recordings, featuring comedy, dramatic, documentary, musical; electronic downloadable publications, namely, books, comics, magazines, newsletters, journals, pamphlets, brochures, booklets and a series of fiction or non-fiction books all featuring children's entertainment; downloadable software, namely, for the display, organization, transmission, reception or searching of

educational or entertainment information; musical sound recordings, musical video recordings and video recordings all featuring cartoon characters, optionally also with live action sequences or images downloadable from the Internet; blank magnetic computer audio and video tapes, cassettes and cartridges; radios; radios for use in the shower; audio cassette recorders; videocassette recorders; compact disc players; MP3 players; karaoke machines, namely, audio components for use in karaoke, namely, compact disc players, audio amplifiers, audio mixers, microphones, audio speakers, and cables for use with audio components; cameras; projectors, namely, movie projector and slide projector; calculators; sunglasses; office requisites, namely, computer mouse mats; video games, namely, video game machines for use with televisions; electronic amusement apparatus for use with television receivers, namely, computer game hardware and peripherals; computer game programs; electronic computer game programs downloadable from the Internet; computer software for the display, organization, transmission, reception or searching of educational or entertainment information; cell phones; snorkels; bicycle helmets, football helmets, baseball and softball batting helmets, skateboard helmets, ski helmets, snowboarding helmets; goggles for skiing, swimming, racket sports, or sledding; swimming aids, namely, life jackets; nose plugs for swimming
Class 016. All goods and services in the class are opposed, namely: Books and magazines, all for children; comic books, comic strips in general; children's activity books, children's pop-up books; printed matter, namely, magazines, journals, pamphlets, brochures, booklets and a series of fiction or non-fiction books, all featuring children's entertainment; coloring books; bookmarks of paper or card; children's books featuring interactive magnetic or felt elements; posters; paper banners; mounted photographs, unmounted photographs; postcards; printed charts of paper or card such as growth charts, space charts, alphabet charts, and multiplication charts; greeting cards, blank cards, Christmas cards, gift cards, note cards; wrapping paper; paper tags; paper and cardboard bags and boxes for packaging; cardboard and cardboard articles, namely, cartons and containers; packing paper; paper ribbons; paper gift wrapping ribbons; stationery, notepaper, envelopes, note books; blank, printed or partially printed paper labels; address labels; loose leaf binders; exercise books; writing pads; address books; pens, pencils, pencil cases, pen cases; pencil holders; stationery boxes; artists' materials, namely, artists' pencils, artists' brushes, artists' pens, stencils, poster art sets, paint boxes, paint brushes, drawing materials, namely, instruments, pads and paper; coloring materials, namely, crayons, felt tip pens, coloring pencils, marker pens, highlighters and brush pens, ink pens; adhesives for stationery or household purposes; modeling materials and compounds for use by children; modeling clay; modeling compounds; stamp pads and ink therefor; writing ink, rubber commemorative stamps; printed tickets; printed souvenir programs, flyers, posters, leaflets, brochures, pamphlets and booklets commemorating charitable events; printed instructional, educational and teaching material all for use with infants, babies and children; flashcards; printed teaching materials in the form of games for use in the fields of mathematics, language arts, social studies, art, music, theatre arts or literature; stickers; paper and plastic transfers, namely, rub-on, stick-on and iron-on temporary tattoos, decalcomanias, iron-on transfers; stencils; paper and plastic transparencies; calendars; tear-off calendars; diaries; office requisites, namely, type correcting fluid, punches, rubber bands, paper clips, binder clips and fasteners, staplers, adhesive tape dispensers, erasers, pencil sharpeners, note binders, namely, paper fasteners, loose leaf binders, three-ring binders, mechanical binder sets comprising rings; files, namely, document files, card files, file folders and file sorters; folders; memo pads; electric typewriters; printing blocks; receptacles for holding rubber bands, paper clips, binder clips and paper fasteners; disposable diapers; paper bibs; paper napkins and paper tablecloths; bathroom tissue; facial tissues; paper handkerchiefs; absorbent paper for use in the kitchen; paper towels; paper face towels; table mats made of paper; and paper place mats; coasters made of paper; plastic sandwich bags; general purpose plastic and paper bags; plastic and paper garbage bags; photo, scrap, coin and stamp albums; scrapbooks; almanacs; announcement cards; blackboards; blotters; book ends; bookmarks; bottle wrappers of cardboard or paper; paper and cardboard boxes; trading cards and trivia cards; printed charts; book bindings; embroidery design patterns; printed dress making patterns; paper mache figurines; paper flags; paper flower pot covers; construction paper; craft paper; loose leaf paper; tissue paper; tracing paper; checkbook covers; passport holders; book covers; personal organizers; pocket secretaries; chalk boards and easels for home or school use; wooden book ends
Class 025. All goods and services in the class are opposed, namely: Clothing for adults and children, namely, t-shirts and sweatshirts, footwear, slippers, flip flops, sports shoes, basketball shoes, tennis shoes, boots, beach sandals, rain boots, ski boots; shirts, pants, jeans, dungarees, sweaters; fleece tops,

namely, pullovers, vests, sweatshirts; blouses; jackets; trousers; ties; shorts; socks; belts; scarves; suits; coats; vest; dresses; skirts; miniskirts; leggings; nightwear; pajamas; shorts; nightdresses; singlets; fleece dressing gowns; dressing gowns made of terry cloth or cotton; tracksuits, training suits, sweat pants; hooded tops, namely, pullovers, vests, sweatshirts; zip up jogging suits; headwear, namely, caps and hats; headbands; overalls; cardigans; gloves; over-coats; underwear; boxer shorts; bras; briefs; camisoles; bodysuits; swimwear; toweling robes; eye masks, namely, sleep masks of fabric; babies and infants clothes, namely, bibs made of cloth, t-shirts for babies, and romper suits; aprons; tabards; gardening aprons; costumes, namely, party costumes for Halloween and masquerades, costumes for live events, namely, dance and role-playing; belts as parts of clothes; suspenders; plastic baby bibs; bathing caps

Class 028.
All goods and services in the class are opposed, namely: Toy figures representing cartoon characters; games and playthings, namely, soft-sculpture toys; wooden toys, namely, building blocks, alphabet blocks and pull out wooden puzzles; electrical and mechanical action toys; electronic action toys; radio controlled toys; swimming aids, namely, pool rings, arm floats for recreational use, kick board flotation device for recreational use, swim rings, floating recreational lounge chairs, air beds, namely, inflatable float mattresses for recreational use; inflatable ride-on toys; swim fins; beach balls; paddling pools, namely, play swimming pools; play mats containing infant toys; dolls; action figures and play figures; plush toys; beanbag toys; stuffed toy animals; toy figures; puppet toys for babies and infants, namely, rattles, mobiles, play quilts as doll accessory and multiple activity toys; toys designed to be attached to car seats, strollers, cribs, high chairs; play sets designed to interact with dolls, play figures and action figures; make-believe sets, namely, play houses and play tea sets; vehicles for dolls, action figures and play figures; carrying or collecting cases for dolls, play figures and action figures; doll clothing and accessories; children's multiple activity toys, namely, picture activity sets comprised of felt, wipe-away sets comprised of dry erase writing boards and writing surfaces, slate boards for writing, water color boards, decorative glitter sets; children's multiple activity toys, namely, knitting sets comprised of stitch markers, stitch gauges, stitch holders, yarn bobbins, needles, and toy construction sets; jokes and novelty items, namely, paper face masks, rude noise-makers, false faces, false noses, false eyeglasses, false beards, false moustaches, windup toys, water squirting toys, magic tricks; party favors in the nature of small toys; kaleidoscopes; balloons; jigsaw puzzles, manipulative puzzles and cube-type puzzles; tic-tac-toe; domino sets; equipment sold as a unit for board, card and skill action games and floor games; Christmas tree decorations, not including confectionery or illumination articles; knee, elbow and wrist protectors for use in skating and other sports; toy vehicles; construction toys; wooden toy model train sets; ride-on toys; ride on toys, namely, pedal cars and pedal planes; toy bicycles, toy tricycles, toy scooters; gymnastic apparatus; sporting articles, namely, sport balls; tennis, squash, badminton, racquetball, paddle ball and table tennis rackets and racket covers; baseball and softball mitts; baseball and softball gloves, bats, catcher's masks; leg guards for athletic use, athletic supporters and protective cups, shin, thigh, leg, hip, shoulder, rib and arm pads for athletic use; baseball and softball bases; kicking tees; field hockey and lacrosse sticks; mouth guards for athletic use; archery bows, bow strings, arrows, targets, quivers; basketball goals, nets, and backboards; croquet sets; boxing gloves; barbells; skis, ski poles; snowboards; bowling balls; golf equipment and accessories, namely, clubs, bags, golf tees, gloves, ball markers, club head covers, divot repair tools; ice hockey sticks and pucks; shuffleboard sticks; badminton shuttlecocks; volleyball, tennis, and table tennis nets; cricket sticks and wickets; snow sleds for recreational use; surf boards; body boards; skim boards; windsurfing boards; ice skates; roller skates; in-line skates; skate boards; stationery exercise bicycles; flying discs; water skis; dartboards; darts; fishing rods, reels and lures; trampolines; bounce-on inflatable toys; wooden skittles; yo-yos; skipping ropes; kites; toy phones, toy torches; arcade games; coin-operated ride-on toys; confetti; hobby craft sets consisting of felt shapes for making pictures

Class 041.
All goods and services in the class are opposed, namely: Television production and television program services, namely, scheduling, programming, syndication; production and distribution of radio and television programs for others; radio entertainment production; and distribution of radio and television programs for others; radio entertainment production; television show production; motion picture film and videotape production; distribution of motion pictures; rental of videotapes, cinematographic films, sound and video recordings; publication of books, magazines, journals; music publishing services; entertainment in the nature of theatre productions or live performances by a musical group; educational services for children, namely, conducting classes, workshops or seminars

in the fields of language arts, mathematics, science, social studies, computer skills, family education, visual arts, theatre or music, all by means of radio or television; entertainment services, namely, on-line based computer games

Grounds for Opposition

The mark is merely descriptive	Trademark Act section 2(e)(1)
Torres v. Cantine Torresella S.r.l.Fraud	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)

Attachments	LMDAREDEVILOPP.pdf (7 pages)(28228 bytes)

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/mbradley/
Name	Melanie Bradley
Date	11/11/2009

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

DISNEY CONSUMER PRODUCTS, INC. and DISNEY DESTINATIONS LLC, Opposers, v. THOIP, Applicant.	Opposition No.: **Mark: LITTLE MISS DAREDEVIL** **App. No.: 77/311,598** **Published: July 14, 2009**

NOTICE OF OPPOSITION

Opposers, Disney Consumer Products, Inc., a California Corporation having its principal place of business at 500 South Buena Vista Street, Burbank, California, 91521, and Disney Destinations LLC, a Florida Limited Liability Company having its principal place of business at 1375 Buena Vista Drive, Lake Buena Vista, Florida, 32830, believe that they will be damaged by THOIP's registration of the LITTLE MISS DAREDEVIL mark shown in Application No. 77/311,598. As grounds for this Opposition, Opposers allege the following upon actual knowledge with respect to themselves and their own acts, and upon information and belief as to other matters.

1. Opposer, Disney Consumer Products, Inc. ("DCP") is a California corporation with its principal place of business at 500 South Buena Vista Street, Burbank, California 91521.

2. Opposer, Disney Destinations LLC ("DD") is a Florida Limited Liability Company having its principal place of business at 1375 Buena Vista Drive, Lake Buena Vista, Florida, 32830.

3. Opposers and their related companies, together form one of the world's leading producers and providers of entertainment, films, music, and consumer products.

4. Applicant has sought registration of the descriptive phrase LITTLE MISS DAREDEVIL, for use in connection with the following goods and services:

Class 9: Audio and video tapes, and discs, namely, audio and video tapes and audio and video recordings in the form of discs, DVDs, DVD-ROM, CD-ROM, compact discs, laser discs, floppy discs, hard discs, optical discs, pre-recorded magnetic data carriers, phonograph records, magnetic and digital tapes, all featuring music, musical sound recordings, musical video recordings and video recordings featuring cartoon characters, optionally also with live action sequences or images; jackets for video cassettes; prerecorded compact discs and pre-recorded video tapes relating to children's entertainment and education; television films, namely, animated films, live action films, all featuring musical sound recordings, musical video recordings and video recordings featuring cartoon characters with live action sequences and images; phonograph records featuring music, speech, or educational or entertainment materials, namely, children's educational material, reading educational material and music; motion picture films, sound recordings and video recordings, featuring comedy, dramatic, documentary, musical; electronic downloadable publications, namely, books, comics, magazines, newsletters, journals, pamphlets, brochures, booklets and a series of fiction or non-fiction books all featuring children's entertainment; downloadable software, namely, for the display, organization, transmission, reception or searching of educational or entertainment information; musical sound recordings, musical video recordings and video recordings all featuring cartoon characters, optionally also with live action sequences or images downloadable from the Internet; blank magnetic computer audio and video tapes, cassettes and cartridges; radios; radios for use in the shower; audio cassette recorders; videocassette recorders; compact disc players; MP3 players. karaoke machines, namely, audio components for use in karaoke, namely, compact disc players, audio amplifiers, audio mixers, microphones, audio speakers, and cables for use with audio components; cameras; projectors, namely, movie projector and slide projector; calculators; sunglasses; office requisites, namely, computer mouse mats; video games, namely, video game machines for use with televisions; electronic amusement apparatus for use with television receivers, namely, computer game hardware and peripherals; computer game programs; electronic computer game programs downloadable from the Internet; computer software for the display, organization, transmission, reception or searching of educational or entertainment information; cell phones; snorkels; bicycle helmets, football helmets, baseball and softball batting helmets, skateboard helmets, ski helmets, snowboarding helmets; goggles for skiing, swimming, racket sports, or sledding; swimming aids, namely, life jackets; nose plugs for swimming

Class 016: Books and magazines, all for children; comic books, comic strips in general; children's activity books, children's pop-up books; printed matter, namely, magazines, journals, pamphlets, brochures, booklets and a series of fiction or non-fiction books, all featuring children's entertainment; coloring books; bookmarks of paper or card; children's books featuring

interactive magnetic or felt elements; posters; paper banners; mounted photographs, unmounted photographs; postcards; printed charts of paper or card such as growth charts, space charts, alphabet charts, and multiplication charts; greeting cards, blank cards, Christmas cards, gift cards, note cards; wrapping paper; paper tags; paper and cardboard bags and boxes for packaging; cardboard and cardboard articles, namely, cartons and containers; packing paper; paper ribbons; paper gift wrapping ribbons; stationery, notepaper, envelopes, note books; blank, printed or partially printed paper labels; address labels; loose leaf binders; exercise books; writing pads; address books; pens, pencils, pencil cases, pen cases; pencil holders; stationery boxes; artists' materials, namely, artists' pencils, artists' brushes, artists' pens, stencils, poster art sets, paint boxes, paint brushes, drawing materials, namely, instruments, pads and paper; coloring materials, namely, crayons, felt tip pens, coloring pencils, marker pens, highlighters and brush pens, ink pens; adhesives for stationery or household purposes; modeling materials and compounds for use by children; modeling clay; modeling compounds; stamp pads and ink therefor; writing ink, rubber commemorative stamps; printed tickets; printed souvenir programs, flyers, posters, leaflets, brochures, pamphlets and booklets commemorating charitable events; printed instructional, educational and teaching material all for use with infants, babies and children. flashcards; printed teaching materials in the form of games for use in the fields of mathematics, language arts, social studies, art, music, theatre arts or literature; stickers; paper and plastic transfers, namely, rub-on, stick-on and iron-on temporary tattoos, decalcomanias, iron-on transfers; stencils; paper and plastic transparencies; calendars; tear-off calendars; diaries; office requisites, namely, type correcting fluid, punches, rubber bands, paper clips, binder clips and fasteners, staplers, adhesive tape dispensers, erasers, pencil sharpeners, note binders, namely, paper fasteners, loose leaf binders, three-ring binders, mechanical binder sets comprising rings; files, namely, document files, card files, file folders and file sorters; folders; memo pads; electric typewriters; printing blocks; receptacles for holding rubber bands, paper clips, binder clips and paper fasteners; disposable diapers; paper bibs; paper napkins and paper tablecloths; bathroom tissue; facial tissues; paper handkerchiefs; absorbent paper for use in the kitchen; paper towels; paper face towels; table mats made of paper; and paper place mats; coasters made of paper; plastic sandwich bags; general purpose plastic and paper bags; plastic and paper garbage bags; photo, scrap, coin and stamp albums; scrapbooks; almanacs; announcement cards; blackboards; blotters; book ends; bookmarks; bottle wrappers of cardboard or paper; paper and cardboard boxes; trading cards and trivia cards; printed charts; book bindings; embroidery design patterns; printed dress making patterns; paper mache figurines; paper flags; paper flower pot covers; construction paper; craft paper; loose leaf paper; tissue paper; tracing paper; checkbook covers; passport holders; book covers; personal organizers; pocket secretaries. chalk boards and easels for home or school use; wooden book ends

Class 025: Clothing for adults and children, namely, t-shirts and sweatshirts, footwear, slippers, flip flops, sports shoes, basketball shoes, tennis shoes, boots, beach sandals, rain boots, ski boots; shirts, pants, jeans, dungarees, sweaters; fleece tops, namely, pullovers, vests, sweatshirts; blouses; jackets; trousers; ties; shorts; socks; belts; scarves; suits; coats; vest; dresses; skirts; miniskirts; leggings; nightwear; pajamas; shorts; nightdresses; singlets; fleece dressing gowns; dressing gowns made of terry cloth or cotton; tracksuits, training suits, sweat pants; hooded tops, namely, pullovers, vests, sweatshirts; zip up jogging suits; headwear, namely, caps and hats; headbands; overalls; cardigans; gloves; over-coats; underwear; boxer shorts; bras; briefs; camisoles; bodysuits; swimwear; toweling robes; eye masks, namely, sleep masks of fabric; babies and infants clothes, namely, bibs made of cloth, t-shirts for babies, and

romper suits; aprons; tabards; gardening aprons; costumes, namely, party costumes for Halloween and masquerades, costumes for live events, namely, dance and role-playing; belts as parts of clothes; suspenders; plastic baby bibs; bathing caps

Class 28: Toy figures representing cartoon characters; games and playthings, namely, soft-sculpture toys; wooden toys, namely, building blocks, alphabet blocks and pull out wooden puzzles; electrical and mechanical action toys; electronic action toys; radio controlled toys; swimming aids, namely, pool rings, arm floats for recreational use, kick board flotation device for recreational use, swim rings, floating recreational lounge chairs, air beds, namely, inflatable float mattresses for recreational use; inflatable ride-on toys; swim fins; beach balls; paddling pools, namely, play swimming pools; play mats containing infant toys; dolls; action figures and play figures; plush toys; beanbag toys; stuffed toy animals; toy figures; puppet toys for babies and infants, namely, rattles, mobiles, play quilts as doll accessory and multiple activity toys; toys designed to be attached to car seats, strollers, cribs, high chairs; play sets designed to interact with dolls, play figures and action figures; make-believe sets, namely, play houses and play tea sets; vehicles for dolls, action figures and play figures; carrying or collecting cases for dolls, play figures and action figures; doll clothing and accessories; children's multiple activity toys, namely, picture activity sets comprised of felt, wipe-away sets comprised of dry erase writing boards and writing surfaces, slate boards for writing, water color boards, decorative glitter sets; children's multiple activity toys, namely, knitting sets comprised of stitch markers, stitch gauges, stitch holders, yarn bobbins, needles, and toy construction sets. jokes and novelty items, namely, paper face masks, rude noise-makers, false faces, false noses, false eyeglasses, false beards, false moustaches, windup toys, water squirting toys, magic tricks; party favors in the nature of small toys; kaleidoscopes; balloons; jigsaw puzzles, manipulative puzzles and cube-type puzzles; tic-tac-toe; domino sets; equipment sold as a unit for board, card and skill action games and floor games; Christmas tree decorations, not including confectionery or illumination articles; knee, elbow and wrist protectors for use in skating and other sports; toy vehicles; construction toys; wooden toy model train sets; ride-on toys; ride on toys, namely, pedal cars and pedal planes; toy bicycles, toy tricycles, toy scooters; gymnastic apparatus; sporting articles, namely, sport balls; tennis, squash, badminton, racquetball, paddle ball and table tennis rackets and racket covers; baseball and softball mitts; baseball and softball gloves, bats, catcher's masks; leg guards for athletic use, athletic supporters and protective cups, shin, thigh, leg, hip, shoulder, rib and arm pads for athletic use; baseball and softball bases; kicking tees; field hockey and lacrosse sticks; mouth guards for athletic use; archery bows, bow strings, arrows, targets, quivers; basketball goals, nets, and backboards; croquet sets; boxing gloves; barbells; skis, ski poles; snowboards; bowling balls; golf equipment and accessories, namely, clubs, bags, golf tees, gloves, ball markers, club head covers, divot repair tools; ice hockey sticks and pucks; shuffleboard sticks; badminton shuttlecocks; volleyball, tennis, and table tennis nets; cricket sticks and wickets; snow sleds for recreational use; surf boards; body boards; skim boards. windsurfing boards; ice skates; roller skates; in-line skates; skate boards; stationery exercise bicycles; flying discs; water skis; dartboards; darts; fishing rods, reels and lures; trampolines; bounce-on inflatable toys; wooden skittles; yo-yos; skipping ropes; kites; toy phones, toy torches; arcade games; coin-operated ride-on toys; confetti; hobby craft sets consisting of felt shapes for making pictures

Class 41: G & S: Television production and television program services, namely, scheduling, programming, syndication; production and distribution of radio and television programs for others; radio entertainment production; and distribution of radio and television

programs for others; radio entertainment production; television show production; motion picture film and videotape production; distribution of motion pictures; rental of videotapes, cinematographic films, sound and video recordings; publication of books, magazines, journals; music publishing services; entertainment in the nature of theatre productions or live performances by a musical group; educational services for children, namely, conducting classes, workshops or seminars in the fields of language arts, mathematics, science, social studies, computer skills, family education, visual arts, theatre or music, all by means of radio or television; entertainment services, namely, on-line based computer games.

COUNT I

THE MARK IS MERELY DESCRIPTIVE WITH NO SECONDARY MEANING.

5. Applicant's mark is merely descriptive and has not acquired secondary meaning in the marketplace and thus, should be refused pursuant to 15 U.S.C. §1052 (e). Specifically, Applicant's mark consists of the descriptive terms "Little " (a term long established and commonly found in dictionaries meaning "small in size" or "young or younger"), "Miss" (a term long established and commonly found in dictionaries meaning "a term of address, esp. to a young woman or "a title prefixed to a mock surname used to represent a particular attribute of the person, especially one excessively prominent: Miss Innocent; Miss Congeniality" and "daredevil" (a term commonly found in dictionaries meaning "recklessly and often ostentatiously daring"), which are lacking inherent distinctiveness and Applicant has not shown acquired distinctiveness.

6. Applicant's mark is not registerable subject matter since it immediately and aptly describes a feature, function or characteristic of Applicant's products/services. To grant Applicant trademark rights in its purported mark is to inappropriately grant superior rights to Applicant and inhibit the legitimate interests of competitors to make non-trademark use to accurately describe their own products using these terms.

COUNT II

APPLICANT HAS SUBMITTED FALSE STATEMENTS TO THE PATENT & TRADEMARK OFFICE

7. Applicant is aware that there are numerous third parties who have used and/or registered "LITTLE MISS" formative marks in commerce on various goods identified in its application, including LITTLE MISS, LITTLE MISSMATCHED, LITTLE MISS PRIDE, LITTLE MISS PINK, and LIL MISS DANGEROUS, just to name a few.

8. Nevertheless, Applicant submitted an affirmation in connection with its application that, *inter alia*, it believed it was entitled to use LITTLE MISS DAREDEVIL in commerce "and *that no one else*, to the best of his or her knowledge and belief, *has the right to use the mark in commerce*, either in the identical form or in such near resemblance as to be likely, when applied to the goods or services of the other person, to cause confusion or mistake, or to deceive." *See* 15 U.S.C. §1051(b)(3)(A); 37 C.F.R. §2.33(b)(2). (emphasis added).

9. As a result, Applicant has committed fraud on the Patent & Trademark Office by knowingly submitting a false statement with the intent to deceive the Office into granting registration of Applicant's mark.

10. WHEREFORE, Opposers believe that they will be damaged by the registration of the mark shown in Application No.77/311,598, and requests that the opposition be sustained, and that registration to Applicant be refused.

11. A filing fee has been submitted electronically.

Dated: November 11, 2009

/Mbradley/

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