

ESTTA Tracking number: **ESTTA421505**

Filing date: **07/25/2011**

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	Califon Productions, Inc.		
Entity	Corporation	Citizenship	California
Address	10202 W. Washington Blvd. Culver City, CA 90232 UNITED STATES		

Attorney information	Lynn S. Fruchter Cowan, Liebowitz & Latman, P.C. 1133 Avenue of the Americas New York, NY 10036-6799 UNITED STATES trademark@cll.com Phone:212-790-9200		
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Applicant Information

Application No	85245821	Publication date	06/28/2011
Opposition Filing Date	07/25/2011	Opposition Period Ends	07/28/2011
Applicant	3DP Fusion, Inc. 137 E Woodworth PL Roselle, IL 60172 UNITED STATES		

Goods/Services Affected by Opposition

Class 028. All goods and services in the class are opposed, namely: Board games
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Grounds for Opposition

Immoral or scandalous matter	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1491261	Application Date	04/21/1987
Registration Date	06/07/1988	Foreign Priority Date	NONE
Word Mark	WHEEL OF FORTUNE		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 028. First use: First Use: 1985/01/00 First Use In Commerce: 1985/06/25 BOARDGAMES

U.S. Registration No.	1491571	Application Date	04/21/1987
Registration Date	06/07/1988	Foreign Priority Date	NONE

Word Mark	WHEEL OF FORTUNE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1974/06/00 First Use In Commerce: 1975/01/06 ENTERTAINMENT SERVICES RENDERED THROUGH THE MEDIA OF TELEVISION, NAMELY, A TELEVISION SERIES GAME SHOW		

U.S. Registration No.	1542716	Application Date	08/18/1988
Registration Date	06/06/1989	Foreign Priority Date	NONE

Word Mark	WHEEL OF FORTUNE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 028. First use: First Use: 1988/04/29 First Use In Commerce: 1988/04/29 COMPUTER GAME PROGRAMS		

U.S. Registration No.	2228652	Application Date	03/04/1998
Registration Date	03/02/1999	Foreign Priority Date	NONE

Word Mark	WHEEL OF FORTUNE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1996/12/10 First Use In Commerce: 1996/12/10 SLOT MACHINES		

Attachments	WHEELOPP.pdf (18 pages)(725861 bytes)
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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	/Lynn S. Fruchter/
Name	Lynn S. Fruchter

Date	07/25/2011
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No. 85/245,821
Published in the *Official Gazette* of June 28, 2011

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CALIFON PRODUCTIONS, INC., : Opposition No.

Opposer, :

- against - : **NOTICE OF OPPOSITION**

3DP FUSION, INC., :

Applicant. :

-----X

CALIFON PRODUCTIONS, INC. ("Opposer"), a corporation organized and existing under the laws of California, believes that it will be damaged by registration of the mark shown in Application Serial No. 85/245,821 filed February 18, 2011 and hereby opposes same.

As grounds of opposition, Opposer alleges as follows:

1. For many years, Opposer, its predecessors in interest and/or related companies have been engaged in the business of producing, distributing and licensing audiovisual entertainment properties in various media and merchandising goods associated with such properties, including, without limitation, board games.

2. As early as January 6, 1975, Opposer's predecessor began using the WHEEL OF FORTUNE mark in the United States in connection with the most popular game show in the history of television and the highest rated series ever in national syndication. To date, more than 5,000 episodes of WHEEL OF FORTUNE have been exhibited nationwide in more than 200 U.S. television markets as well as in 55 international territories. The WHEEL OF FORTUNE

series has been and is viewed nationwide by tens of millions of U.S. consumers and has been and is extensively advertised and promoted.

3. Further increasing the widespread recognition and fame of the WHEEL OF FORTUNE mark, Opposer and Opposer's predecessors have licensed it for use on and in connection with a wide variety of products including, but not limited to, board games.

4. As a result of the foregoing efforts by Opposer and its predecessors and related companies, Opposer has achieved a goodwill of incalculable value in the WHEEL OF FORTUNE mark, which is exclusively associated with Opposer and its WHEEL OF FORTUNE game show.

5. Opposer is also the owner of, *inter alia*, the following federal trademark registrations:

<u>MARK</u>	<u>REG. NO.</u>	<u>GOODS/SERVICES</u>	<u>REG. DATE</u>
WHEEL OF FORTUNE	1,491,261	board games	6/7/88
WHEEL OF FORTUNE	1,491,571	entertainment services rendered through the media of television, namely, a television series game show	6/7/88
WHEEL OF FORTUNE	1,542,716	computer game programs	6/6/89
WHEEL OF FORTUNE	2,228,652	slot machines	3/2/99

These registrations are all valid, subsisting, in full force and effect and have become incontestable. Copies of the TARR records for these registrations are annexed hereto as Exhibit A.

6. On or about February 18, 2011, long after Opposer's first use of its WHEEL OF FORTUNE mark, Applicant filed an intent-to-use application in the United States Patent and Trademark Office, Serial No. 85/245,821, for registration on the Principal Register of the trademark WHEEL OF FORNICATION for "board games" International Class 28.

7. Upon information and belief, Applicant made no use of the WHEEL OF FORNICATION mark prior to its filing date of February 18, 2011.

8. The words WHEEL OF FORNICATION have an obvious sexual connotation and Applicant's mark is intended and will be understood to refer to Opposer's WHEEL OF FORTUNE game and is also intended, and will be understood to be, a sexually offensive term.

9. Upon information and belief, the goods for which Applicant seeks registration of the mark WHEEL OF FORNICATION are identical or closely related to the goods and services offered in connection with Opposer's WHEEL OF FORTUNE mark and will be offered through the same channels of distribution and/or to the same classes of purchasers as the goods and services offered by Opposer under the mark WHEEL OF FORTUNE.

10. Applicant's mark WHEEL OF FORNICATION so resembles Opposer's mark WHEEL OF FORTUNE as to be likely, when used in connection with the Applicant's goods, to cause confusion or to cause mistake or to deceive in that prospective consumers of Applicant's goods are likely to believe, erroneously, that the goods are provided, approved, endorsed or sponsored by Opposer or associated in some way with Opposer and/or its WHEEL OF FORTUNE goods and services.

11. Opposer would be further injured by the granting of a certificate of registration to Applicant because Applicant's WHEEL OF FORNICATION mark, when used in connection with the applied for goods, would falsely suggest a connection between Applicant, which has no connection with or authorization from Opposer, and Opposer.

12. Registration of Applicant's WHEEL OF FORNICATION mark will further injure Opposer because such mark may disparage Opposer or bring it into contempt or disrepute.

13. Registration of Applicant's WHEEL OF FORNICATION mark should also be refused because the mark consists of immoral or scandalous matter.

EXHIBIT A

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-07-21 11:40:48 ET

Serial Number: 73656613 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 1491261

Mark (words only): WHEEL OF FORTUNE

Standard Character claim: No

Current Status: The registration has been renewed.

Date of Status: 2008-02-19

Filing Date: 1987-04-21

Transformed into a National Application: No

Registration Date: 1988-06-07

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 40S -Scanning On Demand

Date In Location: 2008-06-25

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. CALIFON PRODUCTIONS, INC.

Address:

CALIFON PRODUCTIONS, INC.
10202 W. WASHINGTON BLVD.
CULVER CITY, CA 90232
United States

Legal Entity Type: Corporation

State or Country of Incorporation: California

GOODS AND/OR SERVICES

International Class: 028

Class Status: Active

BOARDGAMES

Basis: 1(a)**First Use Date:** 1985-01-00**First Use in Commerce Date:** 1985-06-25

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2008-06-25 - Case File In TICRS

2008-02-19 - First renewal 10 year

2008-02-19 - Section 8 (10-year) accepted/ Section 9 granted

2008-02-11 - Assigned To Paralegal

2008-01-30 - TEAS Section 8 & 9 Received

1994-01-13 - Section 8 (6-year) accepted & Section 15 acknowledged

1993-08-24 - Section 8 (6-year) and Section 15 Filed

1988-06-07 - Registered - Principal Register

1988-03-15 - Published for opposition

1988-02-13 - Notice of publication

1988-01-04 - Approved for Pub - Principal Register (Initial exam)

1987-12-07 - Communication received from applicant

1987-06-24 - Non-final action mailed

1987-06-18 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Lynn S. Fruchter

Correspondent

Lynn S. Fruchter

COWAN, LIEBOWITZ & LATMAN, P.C.

1133 AVENUE OF THE AMERICAS

NEW YORK NY 10036-6799

Phone Number: 212-790-9200

Fax Number: 212-575-0671

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-07-21 11:41:33 ET

Serial Number: 73656614 Assignment Information Trademark Document Retrieval

Registration Number: 1491571

Mark (words only): WHEEL OF FORTUNE

Standard Character claim: No

Current Status: The registration has been renewed.

Date of Status: 2008-02-18

Filing Date: 1987-04-21

Transformed into a National Application: No

Registration Date: 1988-06-07

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 40S -Scanning On Demand

Date In Location: 2008-06-13

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. CALIFON PRODUCTIONS, INC.

Address:

CALIFON PRODUCTIONS, INC.
10202 WEST WASHINGTON BLVD.
CULVER CITY, CA 90232
United States

Legal Entity Type: Corporation

State or Country of Incorporation: California

GOODS AND/OR SERVICES

International Class: 041

Class Status: Active

ENTERTAINMENT SERVICES RENDERED THROUGH THE MEDIA OF TELEVISION,
NAMELY, A TELEVISION SERIES GAME SHOW

Basis: 1(a)

First Use Date: 1974-06-00

First Use in Commerce Date: 1975-01-06

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2008-06-13 - Case File In TICRS

2008-02-18 - First renewal 10 year

2008-02-18 - Section 8 (10-year) accepted/ Section 9 granted

2008-02-04 - Assigned To Paralegal

2008-01-31 - TEAS Section 8 & 9 Received

1994-01-13 - Section 8 (6-year) accepted & Section 15 acknowledged

1993-08-24 - Section 8 (6-year) and Section 15 Filed

1988-06-07 - Registered - Principal Register

1988-03-15 - Published for opposition

1988-02-13 - Notice of publication

1988-01-04 - Approved for Pub - Principal Register (Initial exam)

1987-12-07 - Communication received from applicant

1987-06-24 - Non-final action mailed

1987-06-18 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Lynn S. Fruchter

Correspondent

Lynn S. Fruchter

COWAN, LIEBOWITZ & LATMAN, P.C.

1133 AVENUE OF THE AMERICAS

NEW YORK NY 10036-6799

Phone Number: 212-790-9200

Fax Number: 212-575-0671

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-07-21 11:41:57 ET

Serial Number: 73746910 Assignment Information Trademark Document Retrieval

Registration Number: 1542716

Mark (words only): WHEEL OF FORTUNE

Standard Character claim: No

Current Status: The registration has been renewed.

Date of Status: 2009-02-18

Filing Date: 1988-08-18

Transformed into a National Application: No

Registration Date: 1989-06-06

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2009-02-18

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. CALIFON PRODUCTIONS, INC.

Address:

CALIFON PRODUCTIONS, INC.
10202 W. WASHINGTON BLVD.
CULVER CITY, CA 90232
United States

Legal Entity Type: Corporation

State or Country of Incorporation: New York

GOODS AND/OR SERVICES

International Class: 028

Class Status: Active

COMPUTER GAME PROGRAMS

Basis: 1(a)**First Use Date:** 1988-04-29**First Use in Commerce Date:** 1988-04-29

ADDITIONAL INFORMATION

Prior Registration Number(s):

1491571

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2009-02-18 - First renewal 10 year

2009-02-18 - Section 8 (10-year) accepted/ Section 9 granted

2009-02-05 - Assigned To Paralegal

2009-02-03 - TEAS Section 8 & 9 Received

2008-08-22 - Case File In TICRS

1996-01-16 - Section 8 (6-year) accepted & Section 15 acknowledged

1995-05-19 - Section 8 (6-year) and Section 15 Filed

1989-06-06 - Registered - Principal Register

1989-03-14 - Published for opposition

1989-02-10 - Notice of publication

1988-12-14 - Approved for Pub - Principal Register (Initial exam)

1988-12-01 - Communication received from applicant

1988-10-31 - Non-final action mailed

1988-10-06 - Assigned To Examiner

1988-10-04 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Lynn S. Fruchter

Correspondent

Lynn S. Fruchter

COWAN, LIEBOWITZ & LATMAN, P.C.

1133 Avenue of the Americas

NEW YORK NY 10036-6799

Phone Number: 212-790-9200

Fax Number: 212-575-0671

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-07-21 11:42:11 ET

Serial Number: 75444750 Assignment Information Trademark Document Retrieval

Registration Number: 2228652

Mark (words only): WHEEL OF FORTUNE

Standard Character claim: No

Current Status: The registration has been renewed.

Date of Status: 2008-10-30

Filing Date: 1998-03-04

Transformed into a National Application: No

Registration Date: 1999-03-02

Register: Principal

Law Office Assigned: LAW OFFICE 102

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2008-10-30

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Califon Productions, Inc.

Address:

Califon Productions, Inc.
10202 W. Washington Boulevard
Culver City, CA 90232
United States

Legal Entity Type: Corporation

State or Country of Incorporation: California

GOODS AND/OR SERVICES

International Class: 009

Class Status: Active

SLOT MACHINES

Basis: 1(a)**First Use Date:** 1996-12-10**First Use in Commerce Date:** 1996-12-10

ADDITIONAL INFORMATION

Prior Registration Number(s):

1491261

1491571

1542716

1688496

1690905

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2008-10-30 - First renewal 10 year

2008-10-30 - Section 8 (10-year) accepted/ Section 9 granted

2008-10-24 - Assigned To Paralegal

2008-10-20 - TEAS Section 8 & 9 Received

2007-07-17 - Case File In TICRS

2004-12-23 - Section 8 (6-year) accepted & Section 15 acknowledged

2004-11-26 - Section 8 (6-year) and Section 15 Filed

2004-11-26 - PAPER RECEIVED

1999-03-02 - Registered - Principal Register

1998-12-08 - Published for opposition

1998-11-06 - Notice of publication

1998-10-15 - Approved for Pub - Principal Register (Initial exam)

1998-10-13 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

LYNN S FRUCHTER

Correspondent

LYNN S FRUCHTER

COWAN LIEBOWITZ & LATMAN PC

1133 AVENUE OF THE AMERICAS

NEW YORK NY 10036-6799

Phone Number: 212-790-9200

Fax Number: 212-575-0671

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this Notice of Opposition was served upon the correspondent for the opposed application by mailing a copy thereof by first class mail, postage prepaid, on July 25, 2011 addressed as follows:

3DP FUSION, INC.
137 E. Woodworth Place
Roselle, IL 60172-2236

/Lynn S. Fruchter/
Lynn S. Fruchter, Esq.