

ESTTA Tracking number: **ESTTA458515**

Filing date: **02/24/2012**

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	Free Spirit Publishing Inc.
Granted to Date of previous extension	02/29/2012
Address	217 Fifth Avenue North, Suite 200 Minneapolis, MN 55401-1299 UNITED STATES

Attorney information	Alan M. Anderson Alan Anderson Law Firm LLC 5500 Wayzata Blvd. Suite 1260 The Colonnade Minneapolis, MN 55416 UNITED STATES aanderson@anderson-lawfirm.com Phone:612-756-7010
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Applicant Information

Application No	85293572	Publication date	11/01/2011
Opposition Filing Date	02/24/2012	Opposition Period Ends	02/29/2012
Applicant	Styles, Robert L. 1503 Elberta Rd. #115 Warner Robins, GA 31093 UNITED STATES		

Goods/Services Affected by Opposition

Class 014. First Use: 2011/03/25 First Use In Commerce: 2011/04/06
All goods and services in the class are opposed, namely: Rubber or silicon wristbands in the nature of a bracelet

Grounds for Opposition

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.	3298792	Application Date	07/28/2004
Registration Date	09/25/2007	Foreign Priority Date	NONE
Word Mark	BULLY FREE		

Design Mark	BULLY FREE
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2003/08/00 First Use In Commerce: 2003/08/00 Prerecorded compact discs featuring information, forms, checklists, surveys, handouts, and letters related to bullying, teasing, meanness and other inappropriate behavior Class 016. First use: First Use: 1999/00/00 First Use In Commerce: 1999/00/00 Printed materials, namely, a series of books, workbooks, posters, handouts, and catalogs featuring information related to bullying, teasing, meanness and other inappropriate behavior

U.S. Registration No.	3303443	Application Date	07/28/2004
Registration Date	10/02/2007	Foreign Priority Date	NONE
Word Mark	BULLY FREE ZONE		
Design Mark	BULLY FREE ZONE		
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 2002/00/00 First Use In Commerce: 2002/00/00 Printed materials, namely, posters		

U.S. Registration No.	3548180	Application Date	07/28/2004
Registration Date	12/16/2008	Foreign Priority Date	NONE
Word Mark	BULLY FREE CLASSROOM		
Design Mark	BULLY FREE CLASSROOM		
Description of	NONE		

Mark	
Goods/Services	<p>Class 009. First use: First Use: 2003/08/00 First Use In Commerce: 2003/08/00 Prerecorded compact discs featuring information, forms, checklists, surveys, handouts, and letters related to bullying, teasing, meanness and other inappropriate behavior</p> <p>Class 016. First use: First Use: 1999/00/00 First Use In Commerce: 1999/00/00 Printed materials, namely, a series of books, workbooks, posters, handouts, and catalogs featuring information related to bullying, teasing, meanness and other inappropriate behavior</p>

Attachments	<p>78458323#TMSN.gif (1 page)(bytes) 78458354#TMSN.jpeg (1 page)(bytes) 78458344#TMSN.jpeg (1 page)(bytes) FreeSpiritStylesNotice of Opposition.pdf (4 pages)(89473 bytes)</p>
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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	/s/ Alan M. Anderson
Name	Alan M. Anderson
Date	02/24/2012

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

Serial No. 85293572

Free Spirit Publishing Inc.,

Opposer,

v.

Robert L. Styles,

Applicant.

Opposition No. _____

Notice of Opposition

Opposer Free Spirit Publishing Inc. (“Free Spirit”), for its Notice of Opposition against Registration Application Serial No. 85293572 (“the Application”), filed by Applicant Robert L. Styles (“Styles”), alleges and states as follows:

1. Free Spirit is a Minnesota corporation with its principle place of business located at 217 Fifth Avenue North, Suite 200, Minneapolis, MN 55401-1299.
2. Upon information and belief, and based on the information available on his trademark registration application, Styles is an individual whose address is 1503 Elberta Rd., #115, Warner Robins, GA 31093.
3. Free Spirit is an internationally known and award winning publisher of educational books and related materials for children and young adults.
4. Free Spirit is particularly known for its educational materials and books relating to “bullying.”

5. Free Spirit is the owner of U.S. Trademark Registration No. 3,298,792 for the mark “BULLY FREE,” which was registered on September 25, 2007, with a date of first use in interstate commerce of August 2003.

6. Free Spirit is the owner of U.S. Trademark Registration No. 3,303,443 for the mark “BULLY FREE ZONE,” which was registered on October 2, 2007, with a date of first use in interstate commerce of 2002.

7. Free Spirit is the owner of U.S. Trademark Registration No. 3,548,180 for the mark “BULLY FREE CLASSROOM,” which was registered on December 16, 2008, with a date of first use in interstate commerce of August 2003.

8. The three (3) trademark registrations referenced in paragraphs 5-7 (collectively hereinafter “the Free Spirit Trademarks”) have been used in interstate commerce by Free Spirit continuously since their respective dates of first use, are valid, and presently registered.

9. The Free Spirit Trademarks have been used, and are currently being used, by Free Spirit in interstate commerce throughout the United States and internationally.

10. The Free Spirit Trademarks have become well-known and famous trademarks and are associated by consumers with Free Spirit.

11. The Application filed by Styles is for the mark “A Bully Free World,” and claims a date of first use in interstate commerce of April 6, 2011 (“the Styles mark”).

12. The Free Spirit Trademarks have each been used in interstate commerce by Free Spirit for nearly eight years prior to the date of first use for the Styles mark as set forth in the Application. Accordingly, the Free Spirit Trademarks are senior in use and registration to the Application and the Styles mark. Free Spirit has priority of use with regard to the Free Spirit Trademarks.

13. Free Spirit opposes the Application to register the Styles mark in its entirety.

14. Free Spirit reasonably believes that it will be damaged by the Application to register the Styles mark if allowed.

15. Based on Free Spirit's ownership and long use of the Free Spirit Trademarks and the resemblance of the Styles mark to Free Spirit's Trademarks, the Styles mark is likely, when used on or in connection with goods or services of Styles, to cause confusion, or to cause mistake, or to deceive, in violation of Trademark Act § 2(d), 15 U.S. C. § 1052(d). A likelihood of confusion would exist between the Free Spirit Trademarks and the Styles mark if the Application was allowed. Consumers likely would be confused between the source and ownership of goods sold under the Styles mark and the Free Spirit Trademarks.

16. Accordingly, the Application filed by Styles should be refused registration based on Free Spirit's priority of use and the existence of a likelihood of confusion.

17. In addition, the Free Spirit Marks are famous and became famous and associated with Free Spirit before Style's alleged first use of the Styles mark. The Free Spirit Marks are recognized throughout the United States and are associated with Free Spirit.

18. Allowance of the Application for the Styles mark would dilute the distinctive quality of the Free Spirit Marks in violation of Trademark Act §§ 13(a), 43(c), 15 U.S.C. § 1063(a).

19. Accordingly, the Application filed by Styles should be refused registration based on Free Spirit's priority of use, the famous character of the Free Spirit Trademarks, and the dilution that would result to the distinctive quality of the Free Spirit Trademarks if the Styles mark was allowed to be registered.

WHEREFORE, Opposer Free Spirit Publishing Inc. respectfully requests that the Trademark Trial and Appeal Board refuse and reject the application for registration of the mark “A Bully Free World” filed by Applicant Robert L. Styles in its entirety on the grounds and for the reasons stated herein.

Dated: February 24, 2012.

s/Alan M. Anderson
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