

ESTTA Tracking number: **ESTTA628983**

Filing date: **09/24/2014**

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	Take-Two Interactive Software, Inc.
Granted to Date of previous extension	09/24/2014
Address	662 Broadway New York, NY 10012 UNITED STATES

Attorney information	Aryn M. Emert COWAN LIEBOWITZ & LATMAN, P.C. 1133 Avenue of the Americas New York, NY 10036 UNITED STATES ame@cll.com, jmn@cll.com, trademark@cll.com Phone:212-790-9200
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Applicant Information

Application No	86157616	Publication date	05/27/2014
Opposition Filing Date	09/24/2014	Opposition Period Ends	09/24/2014
Applicant	Styles, Robert Lee 1503 Elberta Rd#115 Warner Robins, GA 31093 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 028. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Action figure toys; Board games; Card games; Children's educational toys for developing Cognitive skills; Decorative toy mobiles and plush toys for children made of felt; Dolls and doll accessories, namely, clothing for dolls, doll rooms, doll beds, doll houses, toy fabrics and linens for dolls and strollers for dolls; Educational card games; Electronic interactive board games for use with external monitor; Electronic novelty toys, namely, toys that electronically record, play back, and distort or manipulate voices and sounds; Equipment sold as a unit for playing board games; Equipment sold as a unit for playing card games; Game equipment set sold as a unit comprised primarily of a playing board and playing cards and also including rules of play, dry erase boards and erasers, markers, a timer and T-shirts; Gaming paper, namely, paper printed with regular grid and hexagon patterns for use in playing war games, role playing games and miniature games; Hand held units for playing electronic games; Infant development toys; Infant toys; Memory games; Parlour games; Playing card game accessories, namely, playing card cases, playing card holders, mats for use in connection with playing card games, playing card shuffling devices and dice; Playing cards and card games; Plush toys; Positionable printed toy figures for use in games; Role playing games; Squeezable squeaking toys; Squeeze toys; Stuffed and plush toys</p>

Grounds for Opposition

Other	Please see attached pleading.
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Attachments	UNBULLY ME - NOO.pdf(20085 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	/Aryn M. Emert/
Name	Aryn M. Emert
Date	09/24/2014

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

In the Matter of Application Serial No. 86/157,616

Filed: January 4, 2014

For Mark: UnBully Me!

Published in the Official Gazette: May 27, 2014

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TAKE-TWO INTERACTIVE SOFTWARE, INC.,

Opposer,

Opposition No.

-against-

NOTICE OF OPPOSITION

ROBERT LEE STYLES,

Applicant.

----- X

Commissioner for Trademarks

Attn: Trademark Trial and Appeal Board

P.O. Box 1451

Alexandria, VA 22313-1451

TAKE-TWO INTERACTIVE SOFTWARE, INC. (“Take-Two”), a Delaware corporation, with a business address at 622 Broadway, New York, New York 10012, believes it will be damaged by registration of the mark UnBully Me! shown in Application Serial No. 86/157,616 for “action figure toys; board games; card games; children's educational toys for developing cognitive skills; decorative toy mobiles and plush toys for children made of felt; dolls and doll accessories, namely, clothing for dolls, doll rooms, doll beds, doll houses, toy fabrics and linens for dolls and strollers for dolls; educational card games; electronic interactive board games for use with external monitor; electronic novelty toys, namely, toys that electronically record, play back, and distort or manipulate voices and sounds; equipment sold as a unit for playing board games; equipment sold as a unit for playing card games; game equipment set sold as a unit comprised primarily of a playing board and playing cards and also including rules of play, dry erase boards and erasers, markers, a timer and t-shirts; gaming paper, namely, paper

printed with regular grid and hexagon patterns for use in playing war games, role playing games and miniature games; hand held units for playing electronic games; infant development toys; infant toys; memory games; parlour games; playing card game accessories, namely, playing card cases, playing card holders, mats for use in connection with playing card games, playing card shuffling devices and dice; playing cards and card games; plush toys; positionable printed toy figures for use in games; role playing games; squeezable squeaking toys; squeeze toys; stuffed and plush toys,” in International Class 28, and having been granted an extension of time to oppose up to and including September 24, 2014, hereby opposes the same.

As grounds of opposition, Take-Two alleges as follows:

1. Take-Two, including its predecessors-in-interest, and its related and affiliated companies, such as its wholly-owned subsidiary Rockstar Games, Inc. (collectively “Opposer”), is one of the world’s most famous and successful video game developers and publishers of software for all ages and game play platforms. Opposer publishes a number of best-selling video games, and its Rockstar Games label publishes some of the most popular and best-selling video game series of all time, such as the GRAND THEFT AUTO series.

2. In addition to the GRAND THEFT AUTO series, Rockstar Games develops and publishes the critically acclaimed BULLY game series. Opposer sells, distributes, promotes and markets the BULLY game under the trademark and service mark BULLY, used alone or with other words and/or designs (“Opposer’s BULLY Mark”).

3. Initially announced on May 9, 2005, the first BULLY game was officially released on October 17, 2006, for use on the Sony Playstation 2 system (“PS2”). As a Rockstar Games release, the BULLY game received a great deal of pre-publication attention in the popular press. Upon its release in fall 2006, BULLY earned widespread critical acclaim,

including being designated IGN's Best Playstation 2 Action Game of the year and winning the coveted British Academy of Film and Television Arts' award for Best Video Game Script.

4. Given the success of the original BULLY game introduced in 2006, Opposer published BULLY: SCHOLARSHIP EDITION for the Wii and XBox systems in March 2008. Consistent with Opposer's practice with its other best-selling games, additional BULLY sequels and related games will also feature Opposer's BULLY Mark as the first word and most important source identifier in its title.

5. The BULLY games take place at the Bullworth boarding school. The main theme of the games is standing up to bullies at the school and protecting weaker classmates. The player ultimately defeats the bullies by bringing together all the different student "cliques."

6. The BULLY series has been immensely popular, selling millions of copies worldwide.

7. In addition to its famous video and computer games, Opposer has used Opposer's BULLY Mark in connection with various additional goods and/or services, including without limitation toys, posters, comic books, and t-shirts.

8. Opposer has promoted Opposer's BULLY Mark and the goods and services it designates extensively in advertising and promotional materials.

9. By virtue of Opposer's distribution, sale, promotion, and advertising of products and services under Opposer's BULLY Mark, and the critical acclaim and press coverage relating to the BULLY game, Opposer's BULLY Mark has become identified with high quality products and services originating with Opposer and has developed tremendous goodwill uniquely identified with Opposer.

10. Opposer owns the following U.S. trademark registrations for Opposer's BULLY Mark:

- A. Reg. No. 3,413,563 for BULLY for "computer game programs and software and computer game cartridges" in International Class 9, issued April 15, 2008
- B. Reg. No. 3,589,232 for BULLY for "printed matter, namely, books, pamphlets, magazines, periodical publications featuring games interactive software and videogames, posters, and pictures" in International Class 16, issued March 10, 2009;
- C. Reg. No. 3,670,955 for BULLY for "entertainment services in the nature of animated motion picture films; entertainment services in the nature of computer games provided and played through a global computer network" in International Class 41, issued August 18, 2009; and
- D. Reg. No. 4,289,379 for BULLY for "clothing, namely, shirts, t-shirts" in International Class 25, issued February 12, 2013.

11. These registrations for Opposer's BULLY Mark are valid and enforceable. The applications maturing into the first three registrations noted above were filed on an intent-to-use basis on December 29, 2004, resulting in a constructive first use date of December 29, 2004. The application maturing into the final registration noted above was filed on August 31, 2006, resulting in a constructive first use date of August 31, 2006.

12. On January 4, 2014, applicant Robert Lee Styles ("Applicant") filed Application Serial No. 86/157,616 (the "Application"), on an intent-to-use basis, to register the mark UnBully Me! ("Applicant's Mark") for "action figure toys; board games; card games; children's educational toys for developing cognitive skills; decorative toy mobiles and plush toys for children made of felt; dolls and doll accessories, namely, clothing for dolls, doll rooms, doll beds, doll houses, toy fabrics and linens for dolls and strollers for dolls; educational card games; electronic interactive board games for use with external monitor; electronic novelty toys, namely, toys that electronically record, play back, and distort or manipulate voices and sounds;

equipment sold as a unit for playing board games; equipment sold as a unit for playing card games; game equipment set sold as a unit comprised primarily of a playing board and playing cards and also including rules of play, dry erase boards and erasers, markers, a timer and t-shirts; gaming paper, namely, paper printed with regular grid and hexagon patterns for use in playing war games, role playing games and miniature games; hand held units for playing electronic games; infant development toys; infant toys; memory games; parlour games; playing card game accessories, namely, playing card cases, playing card holders, mats for use in connection with playing card games, playing card shuffling devices and dice; playing cards and card games; plush toys; positionable printed toy figures for use in games; role playing games; squeezable squeaking toys; squeeze toys; stuffed and plush toys” in International Class 28.

13. Upon information and belief, Applicant did not use Applicant’s Mark in United States commerce in connection with the goods covered by the Application prior to its constructive first use date of January 4, 2014.

14. By virtue of Opposer’s prior use of and registrations for Opposer’s BULLY Mark, Opposer has rights in Opposer’s BULLY Mark prior and superior to any alleged rights of Applicant in Applicant’s Mark covered by the Application.

15. The goods covered by the Application are closely related to goods bearing and services offered in connection with Opposer’s BULLY Mark.

16. Applicant’s Mark so resembles Opposer’s BULLY Mark as to be likely, when applied to Applicant’s goods, to cause confusion, to cause mistake, and to deceive the trade and public, who are likely to believe that Applicant’s goods have their origin with Opposer and/or that such goods are approved, endorsed or sponsored by Opposer or associated in some way

with Opposer. Opposer would therefore be injured by the granting to Applicant of a certificate of registration for Applicant's Mark.

17. Opposer's BULLY Mark is distinctive and famous and enjoyed such fame well prior to January 4, 2014, Applicant's constructive first use date. Opposer would be further injured by the granting of a certificate of registration for Applicant's Mark, which is likely to dilute and impair the distinctive quality of Opposer's BULLY Mark.

WHEREFORE, Opposer believes that it will be damaged by registration of Applicant's Mark and respectfully requests that its opposition be sustained and that the application for said registration be denied.

Please recognize as attorneys for Opposer in this proceeding Jonathan Z. King, Midge Hyman, Aryn M. Emert and the firm Cowan, Liebowitz & Latman, P.C., 1133 Avenue of the Americas, New York, New York 10036.

Dated: New York, New York
September 24, 2014

Respectfully submitted,

COWAN, LIEBOWITZ & LATMAN, P.C.
Attorneys For Opposer

By: /Aryn M. Emert/
Jonathan Z. King
Midge Hyman
Aryn M. Emert

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on September 24, 2014, I caused a true and complete copy of the foregoing Notice of Opposition to be sent via First Class Mail, postage prepaid, to Applicant addressed as follows:

ROBERT LEE STYLES
1503 ELBERTA RD #115
WARNER ROBINS, GA 31093

/Aryn M. Emert/
Aryn M. Emert