

ESTTA Tracking number: **ESTTA675405**

Filing date: **06/01/2015**

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	Home Box Office, Inc.
Granted to Date of previous extension	05/31/2015
Address	1100 Avenue of the Americas New York, NY 10036 UNITED STATES
Attorney information	Tamara F. Carmichael LOEB & LOEB LLP 345 Park Avenue New York, NY 10154 UNITED STATES chdocket@loeb.com, tcarmichael@loeb.com, aprovencio@loeb.com Phone:212-407-4000

Applicant Information

Application No	86268627	Publication date	12/02/2014
Opposition Filing Date	06/01/2015	Opposition Period Ends	05/31/2015
Applicant	Ballistic UAV, Inc. PO.Box 904 Petaluma, CA 949530904 UNITED STATES		

Goods/Services Affected by Opposition

Class 012. First Use: 2013/03/01 First Use In Commerce: 2013/12/01 All goods and services in the class are opposed, namely: Unmanned aerial vehicles (UAVs)
Class 028. First Use: 2013/03/01 First Use In Commerce: 2013/12/01 All goods and services in the class are opposed, namely: Remote control and computer controlled flying toys, namely, aircraft, vehicles, and flying objects
Class 041. First Use: 2013/03/01 First Use In Commerce: 2013/12/01 All goods and services in the class are opposed, namely: Education services, namely, providing on-line training and courses, consisting of video and web content, in-person training classes in the field of unmanned aerial vehicle use and distribution of course materials in connection therewith; Entertainment services in the nature of live events for promotion of unmanned aerial vehicle products; Entertainment services in the nature of development, creation, production and post-production services of multimedia entertainment content

Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
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Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3986288	Application Date	06/10/2009
Registration Date	06/28/2011	Foreign Priority Date	NONE
Word Mark	GAME OF THRONES		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2011/04/17 First Use In Commerce: 2011/04/17 Entertainment services in the nature of an ongoing television series featuring drama, action and adventure; interactive online entertainment in the nature of a website containing photographic, video and prose presentations, related film clips and other multimedia materials featuring an ongoing television series drama, action and adventure		

U.S. Registration No.	4049330	Application Date	04/20/2011
Registration Date	11/01/2011	Foreign Priority Date	NONE
Word Mark	GAME OF THRONES		
Design Mark			
Description of Mark	The mark consists of the wording "GAME OF THRONES" with 3 vertical lines in the letter "O" in each word, along with long "T" that extends over entire word "thrones".		
Goods/Services	Class 041. First use: First Use: 2011/04/17 First Use In Commerce: 2011/04/17 Entertainment services in the nature of an ongoing television series featuring drama, action and adventure; providing online non-downloadable video clips and other multimedia materials featuring content from or related to a dramatic, action and adventure television series		

U.S. Registration No.	4485803	Application Date	05/11/2012
Registration Date	02/18/2014	Foreign Priority Date	NONE

Word Mark	GAME OF THRONES ASCENT
Design Mark	
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 2013/02/21 First Use In Commerce: 2013/02/21 Providing online computer, video and interactive electronic games via computer networks and global communications networks; providing on-line, non-downloadable virtual goods, namely, food and beverage products, clothing, land, real estate, weapons, armor, protective clothing, shields, armies, soldiers, animals, supernatural creatures, vehicles, beverage containers, storage barrels, coins, bags and pouches, magical charms, trinkets, potions, jewelry and crowns for use in virtual environments on social networking sites; all the aforementioned services relating to an ongoing television series

U.S. Registration No.	4485802	Application Date	05/11/2012
Registration Date	02/18/2014	Foreign Priority Date	NONE

Word Mark	GAME OF THRONES ASCENT
Design Mark	
Description of Mark	The mark consists of the words "GAME OF THRONES" shown above the word "ASCENT" in which wings can be found on either side of the said word.
Goods/Services	Class 041. First use: First Use: 2013/02/21 First Use In Commerce: 2013/02/21 Providing online computer, video and interactive electronic games via computer networks and global communications networks; providing on-line, non-downloadable virtual goods, namely, food and beverage products, clothing, land, real estate, weapons, armor, protective clothing, shields, armies, soldiers, animals, supernatural creatures, vehicles, beverage containers, storage barrels, coins, bags and pouches, magical charms, trinkets, potions, jewelry and crowns for use in virtual environments on social networking sites; all the aforementioned services relating to an ongoing television series

U.S. Registration No.	4724981	Application Date	01/29/2014
Registration Date	04/21/2015	Foreign Priority Date	NONE
Word Mark	GAME OF THRONES		

Design Mark	<h1>GAME OF THRONES</h1>		
Description of Mark	NONE		
Goods/Services	Class 014. First use: First Use: 2013/06/01 First Use In Commerce: 2013/06/01 jewelry; watches; key rings and collectible coins		

U.S. Registration No.	4632648	Application Date	02/11/2011
Registration Date	11/04/2014	Foreign Priority Date	NONE

Word Mark	GAME OF THRONES		
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Design Mark	<h1>GAME OF THRONES</h1>		
Description of Mark	NONE		
Goods/Services	Class 024. First use: First Use: 2013/07/18 First Use In Commerce: 2013/07/18 pillowcases, bed blankets		


U.S. Registration No.	4448239	Application Date	09/27/2011
Registration Date	12/10/2013	Foreign Priority Date	NONE

Word Mark	GAME OF THRONES		
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Design Mark	<h1>GAME OF THRONES</h1>		
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Description of Mark	NONE
Goods/Services	Class 030. First use: First Use: 2013/05/22 First Use In Commerce: 2013/05/22 cookies

U.S. Registration No.	4045540	Application Date	04/19/2011
Registration Date	10/25/2011	Foreign Priority Date	NONE
Word Mark	GAME OF THRONES		
Design Mark			
Description of Mark	The mark consists of the wording "GAME OF THRONES" with 3 vertical lines in the letter "O" in each word, along with long "T" that extends over entire word "thrones".		
Goods/Services	Class 025. First use: First Use: 2010/12/31 First Use In Commerce: 2010/12/31 Clothing, namely, shirts, t-shirts		

U.S. Registration No.	4396574	Application Date	12/16/2010
Registration Date	09/03/2013	Foreign Priority Date	NONE
Word Mark	GAME OF THRONES		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 008. First use: First Use: 2013/05/23 First Use In Commerce: 2013/05/23 Swords, daggers		

U.S. Registration No.	4010151	Application Date	12/09/2009
Registration Date	08/09/2011	Foreign Priority Date	NONE
Word Mark	GAME OF THRONES		

Design Mark	<h1>GAME OF THRONES</h1>		
Description of Mark	NONE		
Goods/Services	Class 021. First use: First Use: 2011/03/30 First Use In Commerce: 2011/03/30 Mugs, drinking glasses, all related to an ongoing television series		

U.S. Registration No.	4358306	Application Date	02/09/2010
Registration Date	06/25/2013	Foreign Priority Date	NONE
Word Mark	GAME OF THRONES		
Design Mark	<h1>GAME OF THRONES</h1>		
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 2013/03/11 First Use In Commerce: 2013/03/11 alcoholic beverages, namely, beer, ale, relating to an ongoing television series		

U.S. Registration No.	4376748	Application Date	01/13/2010
Registration Date	07/30/2013	Foreign Priority Date	NONE
Word Mark	GAME OF THRONES		
Design Mark	<h1>GAME OF THRONES</h1>		

Description of Mark	NONE
Goods/Services	Class 020. First use: First Use: 2012/10/31 First Use In Commerce: 2012/10/31 resin figurines; featuring content from related to a television series

U.S. Registration No.	4168270	Application Date	06/11/2009
Registration Date	07/03/2012	Foreign Priority Date	NONE

Word Mark	GAME OF THRONES
Design Mark	<h1>GAME OF THRONES</h1>

Description of Mark	NONE
Goods/Services	Class 016. First use: First Use: 2011/04/17 First Use In Commerce: 2011/04/17 Paper goods and printed matter, namely, calendars, posters, all the aforementioned goods relating to an ongoing television series featuring drama, action and adventure

U.S. Registration No.	4187110	Application Date	06/10/2009
Registration Date	08/07/2012	Foreign Priority Date	NONE

Word Mark	GAME OF THRONES
Design Mark	<h1>GAME OF THRONES</h1>

Description of Mark	NONE
Goods/Services	Class 018. First use: First Use: 2011/10/20 First Use In Commerce: 2011/10/20 All-purpose carrying bags; knapsacks; backpacks; rucksacks; shoulder bags; all the aforementioned goods relating to an ongoing television series

U.S. Registration No.	4074517	Application Date	06/10/2009
Registration Date	12/20/2011	Foreign Priority	NONE

		Date	
Word Mark	GAME OF THRONES		
Design Mark	<p style="text-align: center;">GAME OF THRONES</p>		
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2011/04/17 First Use In Commerce: 2011/04/17 Clothing, namely, shirts; t-shirts; headgear, namely, caps; all the aforementioned goods relating to an ongoing television series		

U.S. Registration No.	4388348	Application Date	06/10/2009
Registration Date	08/20/2013	Foreign Priority Date	NONE
Word Mark	GAME OF THRONES		
Design Mark	<p style="text-align: center;">GAME OF THRONES</p>		
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2012/03/06 First Use In Commerce: 2012/03/06 Pre-recorded DVD's featuring a television series featuring drama, action and adventure; downloadable screensaver software for use on personal computers; digital materials, namely, downloadable graphic files for use in handheld wireless devices and all featuring content from or relating to a television series; headphones, earphones and ear buds; mousepads		

U.S. Application No.	86500697	Application Date	01/12/2015
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	GAME OF THRONES		

Design Mark	<h1>GAME OF THRONES</h1>
Description of Mark	NONE
Goods/Services	Class 028. First use: First Use: 2012/03/24 First Use In Commerce: 2012/03/24 Action figures; card games; collectiblecard games; puzzle games; playing cards; costume masks; decorations for Christmas trees; toy model and replica arms andarmor; toy model and replica swords; toy model and replica knives

Attachments	77756222#TMSN.png(bytes) 85299977#TMSN.png(bytes) 85623470#TMSN.png(bytes) 85623430#TMSN.png(bytes) 86178627#TMSN.png(bytes) 85240594#TMSN.png(bytes) 85433058#TMSN.png(bytes) 85298788#TMSN.png(bytes) 85199350#TMSN.png(bytes) 77982152#TMSN.png(bytes) 77931572#TMSN.png(bytes) 77911031#TMSN.png(bytes) 77756999#TMSN.png(bytes) 77756480#TMSN.png(bytes) 77756225#TMSN.png(bytes) 77756220#TMSN.png(bytes) 86500697#TMSN.png(bytes) FINAL - Not of Opposition GAMES OF DRONES.pdf(59166 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	/Tamara F. Carmichael/
Name	Tamara F. Carmichael
Date	06/01/2015

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

In the Matter of Application Serial No. 86/268,627: GAME OF DRONES
Published in the *Official Gazette* on December 2, 2014

HOME BOX OFFICE, INC.,)	
)	
Opposer,)	
)	Opposition No. _____
v.)	
)	
BALLISTIC UAV, INC.,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Home Box Office, Inc. (“Opposer”), a Delaware corporation, located and doing business at 1100 Avenue of the Americas, New York, New York 10036, believes it will be damaged by the registration of the trademark GAME OF DRONES in International Classes 12, 28 and 41 in Application Serial No. 86/268,627 (the “Application”), filed by Ballistic UAV, Inc. (“Applicant”), and hereby opposes the same.

As grounds for this opposition, Opposer alleges:

1. Opposer operates well-known and widely distributed premium television channels and is the producer of the renowned, critically acclaimed and award-winning television series “Game of Thrones.”

2. Since long prior to the filing of Applicant’s Application, Opposer has produced and distributed the GAME OF THRONES® television series, as well as related goods and services, under the trademark and service mark GAME OF THRONES, with its attendant trade dress, logos, and designs (the “GAME OF THRONES Marks”).

3. Opposer owns registrations and applications for its GAME OF THRONES Marks with the United States Patent and Trademark Office (“PTO”), including, but not limited to:

Mark	Reg. No. or Ser. No.	Goods/Services
GAME OF THRONES	3,986,288	Class 41 - Entertainment services in the nature of an ongoing television series featuring drama, action and adventure; interactive online entertainment in the nature of a website containing photographic, video and prose presentations, related film clips and other multimedia materials featuring an ongoing television series drama, action and adventure
	4,049,330	Class 41 - Entertainment services in the nature of an ongoing television series featuring drama, action and adventure; providing online non-downloadable video clips and other multimedia materials featuring content from or related to a dramatic, action and adventure television series
GAME OF THRONES ASCENT	4,485,803	Class 41 - Providing online computer, video and interactive electronic games via computer networks and global communications networks; providing on-line, non-downloadable virtual goods, namely, food and beverage products, clothing, land, real estate, weapons, armor, protective clothing, shields, armies, soldiers, animals, supernatural creatures, vehicles, beverage containers, storage barrels, coins, bags and pouches, magical charms, trinkets, potions, jewelry and crowns for use in virtual environments on social networking sites; all the aforementioned services relating to an ongoing television series.
	4,485,802	Class 41 - Providing online computer, video and interactive electronic games via computer networks and global communications networks; providing on-line, non-downloadable virtual goods, namely, food and beverage products, clothing, land, real estate, weapons, armor, protective clothing, shields, armies, soldiers, animals, supernatural creatures, vehicles, beverage containers, storage barrels, coins, bags and pouches, magical charms, trinkets, potions, jewelry and crowns for use in virtual environments on social networking sites; all the aforementioned services relating to an ongoing television series
GAME OF THRONES	4,724,981	Class 14 - jewelry; watches; key rings and collectible coins
GAME OF THRONES	4,632,648	Class 24 - pillowcases, bed blankets
GAME OF THRONES	4,448,239	Class 30 - cookies
	4,045,540	Class 25 - Clothing, namely, shirts, t-shirts
GAME OF THRONES	4,396,574	Class 8 - Swords, daggers
GAME OF THRONES	4,010,151	Class 21 - Mugs, drinking glasses, all related to an ongoing television series
GAME OF THRONES	4,358,306	Class 32 - alcoholic beverages, namely, beer, ale, relating to an

Mark	Reg. No. or Ser. No.	Goods/Services
		ongoing television series
GAME OF THRONES	4,376,748	Class 20 - resin figurines; featuring content from or related to a television series
GAME OF THRONES	4,168,270	Class 16 - Paper goods and printed matter, namely, calendars, posters, all the aforementioned goods relating to an ongoing television series featuring drama, action and adventure
GAME OF THRONES	4,187,110	Class 18 - All-purpose carrying bags; knapsacks; backpacks; rucksacks; shoulder bags; all the aforementioned goods relating to an ongoing television series
GAME OF THRONES	4,074,517	Class 25 - Clothing, namely, shirts; t-shirts; headgear, namely, caps; all the aforementioned goods relating to an ongoing television series
GAME OF THRONES	4,388,348	Class 9 - Pre-recorded DVD's featuring a television series featuring drama, action and adventure; downloadable screensaver software for use on personal computers; digital materials, namely, downloadable graphic files for use in handheld wireless devices and all featuring content from or relating to a television series; headphones, earphones and ear buds; mousepads
GAME OF THRONES	86/500,697	Class 28 - Action figures; card games; collectible card games; puzzle games; playing cards; costume masks; decorations for Christmas trees; toy model and replica arms and armor; toy model and replica swords; toy model and replica knives

The foregoing registrations and applications are valid, subsisting, and owned by Opposer.

4. By virtue of the popularity of Opposer's goods and services offered or sold in connection with the GAME OF THRONES Marks, Opposer has built up and now owns an extremely valuable goodwill which is symbolized by its GAME OF THRONES Marks.

5. Applicant applied to register GAME OF DRONES (the "GAME OF DRONES Mark") for "Unmanned aerial vehicles (UAVs)" in International Class 12; "Remote control and computer controlled flying toys, namely, aircraft, vehicles, and flying objects" in International Class 28; and "Education services, namely, providing on-line training and courses, consisting of video and web content, in-person training classes in the field of unmanned aerial vehicle use and distribution of course materials in connection therewith; Entertainment services in the nature of

live events for promotion of unmanned aerial vehicle products; Entertainment services in the nature of development, creation, production and post-production services of multimedia entertainment content” in International Class 41 (“Applicant’s Goods and Services”). Applicant submitted the following specimen in connection with its intended and/or actual use of the GAME OF DRONES Mark:



6. Applicant’s Application and/or use of the GAME OF DRONES Mark is without Opposer’s consent or permission. Applicant’s specimen and/or on-going use of the GAME OF DRONES Mark is evidence of Applicant’s bad faith intent to trade upon Opposer’s GAME OF THRONES Marks.

COUNT I – LIKELIHOOD OF CONFUSION

7. Opposer realleges the allegations in Paragraphs 1 through 6.

8. Applicant’s use of the GAME OF DRONES Mark in connection with Applicant’s Goods and Services is likely to cause confusion, mistake, or deception in that consumers are likely to believe that Applicant’s Goods and Services are Opposer’s goods or services, or the

goods or services of a person or company that is sponsored, authorized or licensed by, or in some other way legitimately connected with, Opposer.

COUNT II – DILUTION

9. Opposer realleges the allegations of Paragraphs 1 through 8.

10. Prior to Applicant's filing date, Opposer's GAME OF THRONES Marks became distinctive and famous in accordance with 15 U.S.C. § 1125(c).

11. Applicant's use of GAME OF DRONES in connection with Applicant's Goods and Services is likely to cause dilution of Opposer's famous GAME OF THRONES Marks.

COUNT III – FALSE ASSOCIATION

12. Opposer realleges the allegations of Paragraphs 1 through 11.

13. Applicant's use of GAME OF DRONES in connection with Applicant's Goods and Services falsely suggests a connection and unfairly competes with Opposer and Opposer's GAME OF THRONES Marks and related goods and services in violation of Section 2(a) of the Trademark Act.

COUNT IV – FRAUD

14. Opposer realleges the allegations of Paragraphs 1 through 13.

15. Applicant has used the ® symbol in commerce in connection with the GAME OF DRONES Mark despite the fact that the mark is not registered.

16. Applicant knew when it used the ® symbol in commerce in connection with the GAME OF DRONES Mark that Applicant was not permitted to use the ® symbol prior to registration of a mark and that the GAME OF DRONES Mark in the Application had not matured to registration.

17. Applicant knowingly and willfully used the ® symbol in connection with the GAME OF DRONES Mark in an attempt to deceive or mislead consumers or others in the trade into believing that the mark was registered in violation of 15 U.S.C. § 1111.

WHEREFORE, Opposer respectfully requests that this opposition be sustained and that Application Serial No. 86/268,627 be denied registration.

Please debit our Deposit Account No. 502547 for the filing fee and for any additional necessary fees.

Please address all correspondence to Tamara F. Carmichael, Esq., Loeb & Loeb LLP, 345 Park Avenue, New York, New York, 10154.

Date: June 1, 2015

LOEB & LOEB LLP

By: /s/ Tamara F. Carmichael
Tamara F. Carmichael
Sara J. Crisafulli
345 Park Avenue
New York, New York 10154
Telephone: (212) 407-4000
Facsimile: (212) 407-4990

*Attorneys for Opposer
Home Box Office, Inc.*

CERTIFICATE OF SERVICE

I, Angela Provencio, hereby certify that a copy of this **NOTICE OF OPPOSITION** has been served upon counsel for Applicant:

Harold Milstein
Sheppard Mullin Richter & Hampton LLP
379 Lytton Avenue
Palo Alto, CA 94301

via first class mail, postage prepaid, and electronic mail on this 1st day of June, 2015.

/s/ Angela Provencio

NY1347168.1