

ESTTA Tracking number: **ESTTA754636**

Filing date: **06/27/2016**

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 parties oppose registration of the indicated application.

Opposers Information

Name	Franck SAUER
Granted to Date of previous extension	06/26/2016
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Name	PALM BEACH STUDIOS
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Name	Yann ROBERT
Granted to Date of previous extension	06/26/2016
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Attorney information	William C. Wright Epstein Drangel LLP 60 East 42nd Street, Suite 2520 New York, NY 10165 UNITED STATES mail@ipcounselors.com
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Applicant Information

Application No	86419794	Publication date	12/29/2015
Opposition Filing Date	06/27/2016	Opposition Period Ends	06/26/2016
Applicant	Fox International Channels (US), Inc. 10201 West Pico Boulevard Los Angeles, CA 90035 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Pre-recorded DVDs featuring drama; pre-recorded CDs featuring drama; downloadable video recordings featuring drama; downloadable television shows and video recordings featuring drama; downloadable ring tones, graphics, computer desktop wallpaper, games via a global computer network and wireless devices; computer screen saver software; computer game and video game software; mousepads; decorative magnets; eye glasses; downloadable mobile software applications for mobile communication devices for use in distribution of digital video, video files, video games, and multimedia content; all of the foregoing relating to a television series featuring a paranormal drama

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	OUTCAST		
Goods/Services	video games and the like		

Attachments	DOC062716outcast.pdf(120001 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	/William C. Wright/
Name	William C. Wright
Date	06/27/2016

PRIORITY & LIKELIHOOD OF CONFUSION

1. Opposers, by and through their predecessor in interest, have been using in commerce OUTCAST as a trademark for video games and the like since at least as early as 1999. (hereinafter referred to as the “OUTCAST Mark”).

2. Opposers own the OUTCAST Mark.

3. Opposers have spent extensive time and money developing and promoting its business and brands, including but not limited to, the OUTCAST Mark.

4. Upon information and belief, on October 9, 2014 Fox International Channels (US), Inc., a State of Delaware corporation, located and doing business at 10201 West Pico Boulevard, Los Angeles, California 90035 (“Fox”) filed with the United States Patent and Trademark Office an Intent to Use application to register the mark OUTCAST, Ser. No. 86419794, in respect of “Pre-recorded DVDs featuring drama; pre-recorded CDs featuring drama; downloadable video recordings featuring drama; downloadable television shows and video recordings featuring drama; downloadable ring tones, graphics, computer desktop wallpaper, games via a global computer network and wireless devices; computer screen saver software; computer game and video game software; mousepads; decorative magnets; eye glasses; downloadable mobile software applications for mobile communication devices for use in distribution of digital video, video files, video games, and multimedia content; all of the foregoing relating to a television series featuring a paranormal drama” (hereinafter referred to as the “Fox Mark”).

5. Fox is not connected to Opposers in any way, and has not been authorized by Opposers to use or register the Fox Mark as reflected in its U.S. application to register same, Ser. No. 86419794.

6. Opposers have acquired rights in and to the OUTCAST Mark prior to any date on which Fox can rely in connection with the alleged Fox Mark.

7. The OUTCAST Mark and the Fox Mark are confusingly similar in appearance, sound, connotation and commercial impression.

8. The products covered by the OUTCAST Mark and the Fox Mark are the same, similar, closely related and/or complementary.

9. The products covered by the OUTCAST Mark and the Fox Mark are likely to travel through the same channels of trade for sale to or use by the same general class of purchasers, and are likely to be sold and/or distributed by the same types of personnel.

10. The Fox Mark is calculated and/or likely to cause pre-purchase and/or post-purchase confusion, mistake or deception of purchasers or members of the public as to the respective marks of the Opposers and Fox, and also as to the source of origin or sponsorship of the goods for which such marks are used or are intended to be used.

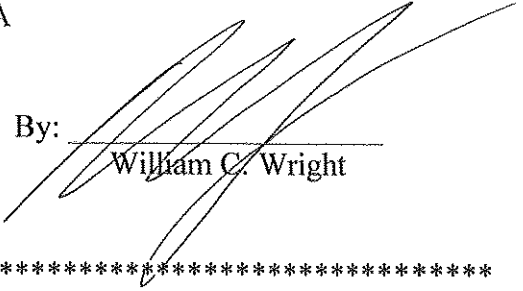
11. The OUTCAST Mark and the Fox Mark are likely to cause confusion or mistake or to deceive and mislead the trade and purchasing public into believing that Fox's goods are the goods of Opposers', or that Fox or its goods are authorized, licensed or controlled by Opposers, or that Fox is affiliated with or in some way related to Opposers. Accordingly, any such use or registration of the Fox Mark violates Section 2(d) of the Lanham Act, 15 U.S.C. 1052(d).

12. By reason of the foregoing, Opposers will be damaged by the registration of the Fox Mark.

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Notice of Opposition was served by First Class Mail, with sufficient postage prepaid on this 27th day of June, 2016, upon Applicant's counsel:

Tina M. Pompey
Fox Group Legal
P.O. Box 900
Beverly Hills, CALIFORNIA

By: 
William C. Wright

WHEREFORE, it is respectfully requested that this opposition be sustained, and that the Board deny registration of the alleged Fox Mark.

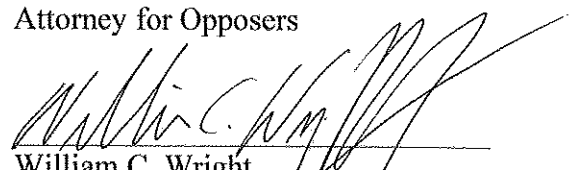
Respectfully submitted,

EPSTEIN DRANGEL LLP

Attorney for Opposers

Dated: June 27, 2016

BY:



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