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

Proceeding	92056436
Party	Plaintiff NSM Resources Corporation
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Submission	Opposition/Response to Motion
Filer's Name	Zane Murdock
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Date	12/27/2012
Attachments	Destineer response.pdf ( 6 pages )(164901 bytes )

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

In the matter of Trademark Registration  
Serial Number: 3664725 for STOKED

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NSM Resources Corporation	)	
	)	
Petitioner	)	
	)	Proceeding No. 92056436
v.	)	
	)	
Destineer Publishing Corp.	)	
	)	
Registrant	)	

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**PETITIONER OPPOSES REGISTRANT’S MOTION TO DISMISS**

Petitioner NSM Resources Corporation (“NSM Resources”) hereby opposes Registrant Destineer Publishing Corp.’s (“Destineer”) motion to dismiss Proceeding No. 92056436 (“the proceeding”).

**INTRODUCTION**

Beginning in 2000, NSM Resources capitalized HUCK for consumer products. Currently, NSM Resources owns nine US Trademark Registrations for HUCK, HUCK DOLL, HUCK FILES, and HUCK NEWS, and five other Applications for HUCK and HUCK DOLL.

Beginning in 2008, Destineer applied to use STOKED (“the Registration”), a now Federally Registered Trademark # 3664725 namely for *computer game software for use with personal computers and video game consoles; downloadable computer game software for use with cable and satellite accessible video controllers and portable video displays.*

On or about November 9th, 2012, NSM Resources petitioned the Trademark Trial and Appeal Board of the United States Patent and Trademark Office to cancel Destineer's STOKED Registration under grounds of fraud.

### **BASIS FOR FRAUD CLAIM**

NSM Resources challenges fraud. Deceit here includes at least the following: (1) authorizing use of a Trademark Registration despite never owning it; (2) declaring use of a Trademark Registration despite never using it; and, (3) using a Trademark Registration symbol ® without owning it. The proceeding encompasses primarily (3) above.

The publication attached as EXHIBIT B exposes NSM Resources fraud claim versus Destineer. Destineer has never owned the right to use the Registration symbol ® next to STOKED on any type of publication. In EXHIBIT B, Destineer uses the Registration symbol ® on a publication after its STOKED mark. That gives NSM Resources the basis for the proceeding.

### **BASIS FOR STANDING**

As a long standing business entity, NSM Resources has the right to petition the United States Government. NSM Resources has invested interest to petition about acts that negatively impact its business. NSM Resources believes distribution of the video game entitled STOKED significantly damages its business. Hence, NSM Resources has standing to prosecute the proceeding.

### **CONCLUSION**

Lost in Registrant's Motion to Dismiss an honest depiction of events: a small business exposing a massive scheme designed to confuse the consuming public as to the origin of a

product or service. The people of the United States of America deserve true representation. As a result of Destineer's fraudulent use of its STOKED Trademark Registration, NSM Resources hereby prays this Honorable Board cancel the Registration.

Sincerely Yours,

/zanemurdock/

Zane Murdock

President

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**CERTIFICATE OF SERVICE BY FIRST CLASS MAIL**

On December 27th, 2012, I deposited in the United States Mail a properly addressed, postage prepaid envelope containing a true copy of this document served on the following:

Z. Peter Sawicki  
900 Second Avenue South  
Suite 1400  
Minneapolis, Minnesota 55402-3319

I declare under the penalty of perjury of the State of New York the foregoing is true and correct.

Dated: December 27, 2012

/zanemurdock/  
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# EXHIBIT B

