



W211

OFFICE FOR HARMONIZATION IN THE INTERNAL MARKET
(TRADE MARKS AND DESIGNS)

Trade Marks Department

Alicante, 15/10/2009

Notification of provisional refusal of protection based on an opposition pursuant to Article 5 of the Madrid Protocol and Rule 17 (1), (2) of the Common Regulations under the Madrid Agreement and Protocol and to Rule 115*

International Registration No:	0984297
Date of notification to OHIM:	11-12-2008
Trade mark:	VULKAN
Applicant/Holder:	Ritzio Entertainment Group Limited Diagorou 4, Kermia Building, Office 601 CY-1097 Nicosia
<i>Opposition number:</i>	B 1551814

Protection of the above-mentioned mark is provisionally refused for the European Community.

The provisional refusal is based on the fact that an opposition has been filed against the international registration.

I. The grounds for the opposition are as follows:

Conflict with an earlier mark and likelihood of confusion (Article 8(1) and (2) CTMR**).

II. Name and address of the opposing party:

Vulcan Productions, Inc.
505 Union Station
505 Fifth Avenue South, Suite 900
Seattle, WA 98104
ESTADOS UNIDOS

III. The opposition is based on a mark which was the subject of an application or registration.

- type of mark : **Community Trade Mark registration.**
- filing date, registration date and, if applicable, priority date:
24/01/2003; 08/12/2004
- filing number and, if different, registration number: 003021938
- reproduction of the mark: (see annex)
- list of goods and services on which the opposition is based: (see

*Commission Regulation (EC) No 2868/95 of 13 December 1995 implementing Council Regulation (EC) No 207/2009 on the Community trade mark (codified version of Council Regulation (EC) No 40/94).

** Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark.

Regulations on the internet:

CTM (<http://oami.europa.eu/en/mark/aspects/reg.htm>)
(<http://oami.europa.eu/en/mark/madrid/default.htm>)

Madrid Protocol

annex)

IV. The provisional refusal relates to all the goods and services covered by the designation of the EC.

V. The OHIM will notify the opposition separately to the holder of the international registration, including all evidence on which it is based, pursuant to Rule 18(1)*. The OHIM will set time limits for the holder. The notification will open an (extendable) cooling-off period of two months and a further period of two months for the opponent to substantiate the opposition. The notification will set a time limit of, in principle, six months for the holder of the international registration to submit observations.

MARIA JOSE GIL
Examiner

Annex: Opposition notice of 4 pages.



NOTICE OF OPPOSITION

BASIS OF OPPOSITION: TRADE MARK REGISTRATION / APPLICATION

Identification of the earlier mark

☒ Trade mark registration

☐ Trade mark application

☒ Community trade mark

☐ National trade mark

☐ International registration with effect in one or more Member State(s)

Member State(s)

☒ FR ☐ BG ☐ DK ☐ CZ ☐ UK ☐ DE ☐ EE ☐ GR ☐ ES ☐ FR ☐ IE ☐ IT ☐ CY ☐ LV ☐ LT ☐ HU ☐ MT ☐ AL ☐ PL ☐ PT ☐ RO ☐ SI ☐ SK ☐ FI ☐ SE ☐ GR

Filing date (DD/MM/YYYY)

24 / 01 / 2003

Filing number

3021938

Registration date (DD/MM/YYYY)

08 / 12 / 2004

Registration number

3021938

Representation of the mark (in colour if applicable)

Type of mark

☒ Word mark

VULCAN PRODUCTIONS

☐ Figurative mark

☐ Other (specify)

Goods and services on which the opposition is based:

☒ all the goods and services covered by the registration / application

☐ part of the goods and services, namely:

☐ attached

☐ continuation sheet(s)

Entitlement of opponent

☒ Owner

☐ Authorised licensee

Copy of registration / application

☒ attached

☐ to follow

Translation

☐ attached

Grounds for opposition

☐ Article 8(1)(a) CTMR - the CTMA IR is identical to the earlier mark and covers identical goods and/or services

☒ Article 8(1)(b) CTMR - there exists a likelihood of confusion on the part of the public

☐ Article 8(5) CTMR - the use without due cause of the contested mark would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trade mark

Explanation of grounds and other remarks:

☐ continuation sheet(s)

Territory where the earlier mark has a reputation:

☐ FR ☐ BG ☐ DK ☐ CZ ☐ UK ☐ DE ☐ EE ☐ GR ☐ ES ☐ FR ☐ IE ☐ IT ☐ CY ☐ LV ☐ LT ☐ HU ☐ MT ☐ AL ☐ PL ☐ PT ☐ RO ☐ SI ☐ SK ☐ FI ☐ SE ☐ GR

Goods and services for which the trade mark has a reputation

☐ all the goods and services covered by the registration / application

☐ part of the goods and services covered by the registration/application, namely:

☐ continuation sheet(s)

Evidence of reputation

☐ attached

☐ to follow

Translation

☐ attached

page number

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Correspondence address: Vulcan Productions, Inc. 505 Union Station 505 Fifth Avenue South, Suite 500 Seattle, WA 98104 ES/ANOS UNIDOS (DE AMERICA)

Representative

Name: MARKS & CLERK LLP
ID No: 10378
Address: 90 Long Ave
Post code: WC2E 9RA
Town: London
Country: UNITED KINGDOM
Correspondence address: MARKS & CLERK LLP 90 Long Ave London WC2E 9RA
Telephone: RFING UNIDO
Fax: 00 44-207400000
E-mail: 00 11-2078363139
fr admin@marks-clerk.com

Seniority

No entry for application number: 003021938.

Exhibition priority

No entry for application number: 003021938

Priority

Country: UNITED STATES
Number of basic application: 78/153,461
Filing date of basic application: 12/08/2002
Trade mark status: Accepted
Country: UNITED STATES
Number of basic application: 78/153,478
Filing date of basic application: 12/08/2002
Trade mark status: Accepted
Country: UNITED STATES
Number of basic application: 78/153,476
Filing date of basic application: 12/08/2002
Trade mark status: Accepted
Country: UNITED STATES
Number of basic application: 78/148,037
Filing date of basic application: 26/07/2002
Trade mark status: Accepted

Publication

Bulletin no.: R1 2004/020
Date of publication: 17/05/2004
Part: A.1
Bulletin no.: R1 2005/005
Date of publication: 31/01/2005
Part: B.2

Opposition

No entry for application number: 003021938.

Cancellation

No entry for application number: 003021938

Appeals

No entry for application number: 003021938.

Recordals

Title: Representative
Sub-title: Replacement of representative
ID No: 002901919
Bulletin no.: R1 2007/067
Date of publication: 1/12/2007
Part: C.2.2
Title: Representative
Sub-title: Change of name and professional address
ID No: 003773556
Bulletin no.: R1 2009/012
Date of publication: 06/04/2009
Part: C.2.1