

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

<p><i>In re Matter of Application No. 78/223,428 for the mark: SOCK-UM</i></p> <p>Mattel, Inc.,</p> <p>Opposer,</p> <p>Vs.</p> <p>Patricia G. Briden,</p> <p>Applicant.</p>	<p>Opposition No. 91160087</p> <p>ANSWER</p>
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05-12-2004
U.S. Patent & TMO/TM Mail Rpt Dt. #22

TO: Commissioner for Trademarks
ATTN: Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3514

Applicant, Patricia G. Briden ("Briden"), having her residents at 418 22nd Street, Virginia Beach, VA 23451, by counsel files this answer on the following grounds:

1. Briden admits to the allegations contained in paragraph #1.
2. Briden admits to the allegations contained in paragraph #2.
3. Briden admits to the allegations contained in paragraph #3.
4. Briden is without knowledge or information sufficient to form a belief as to the truth or falsity of the information contained in paragraph #4; therefore denies the allegations contained in paragraph #4 and demands strict proof thereof.
5. Briden is without knowledge or information sufficient to form a belief as to the truth or falsity of the information contained in paragraph #5; therefore denies the allegations contained in paragraph #5 and demands strict proof thereof.

6. Briden is without knowledge or information sufficient to form a belief as to the truth or falsity of the information contained in paragraph #6; therefore denies the allegations contained in paragraph #6 and demands strict proof thereof. Mattel places significant emphasis on robots and associates their trademarks with robots. Briden's trademark SOCK-UM is a game played by children on a mat where a sock is volleyed back and forth and has no association with robots.

7. Briden is without knowledge or information sufficient to form a belief as to the truth or falsity of the information contained in paragraph #7; therefore denies the allegations contained in paragraph #7 and demands strict proof thereof.

8. Briden is without knowledge or information sufficient to form a belief as to the truth or falsity of the information contained in paragraph #8; therefore denies the allegations contained in paragraph #8 and demands strict proof thereof. The consuming public has not come to recognize goods bearing the ROCK'EM SOCK'EM Marks as products distributed only by Mattel. The Rock'em Sock'em Robots are advertised on the web and other media as "Rock'em Sock'em Robots by Marx"; which gives the consuming public the impression that the game is owned by Marx and not by Mattel. The Rock'em Sock'em Robots trademark filing with the USPTO references Tyco Industries, Inc. as the last listed owner; which gives the consuming public the impression that the trademark is owned by Tyco Industries, Inc. and not by Mattel. Also, many other products with similar names are in the market place and not owned by Mattel such as; ROCK'EM SOCK'EM SUPER-HEROES and DON CHERRY'S ROCK'EM SOCK'EM HOCKEY.

9. Briden is without knowledge or information sufficient to form a belief as to the truth or falsity of the information contained in paragraph #9; therefore denies the allegations contained in paragraph #9. Mattel has not controlled the consumer market with the ROCK'EM SOCK'EM mark nor does the consumer market believe that Mattel is the only company using this mark. Many very similar marks are being used in the market place or have been filed with the

USPTO such as; ROCK'EM SOCK'EM SUPER-HEROES, DON CHERRY'S ROCK'EM SOCK'EM HOCKEY, ROCK'EM SOCK'EM BOXING, ROCKEM SOCKEM, SOC 'EM, SOCK'EM, SOCKEM DOG, SOCK'EM BOPPERS and BLOCKEM-SOCKEM PADDLE BAT.

10. Briden is without knowledge or information sufficient to form a belief as to the truth or falsity of the information contained in paragraph #10; therefore denies the allegations contained in paragraph #10.

11. Briden is without knowledge or information sufficient to form a belief as to the truth or falsity of the information contained in paragraph #11; therefore denies the allegations contained in paragraph #11.

12. Briden is without knowledge or information sufficient to form a belief as to the truth or falsity of the information contained in paragraph #12; therefore denies the allegations contained in paragraph #12. Consumers do not associate ROCK'EM SOCK'EM Marks singularly with Mattel since there are so many other products in the market with ROCK'EM SOCK'EM in their name. Some of these products are listed in other paragraphs herein.

13. Briden denies the allegations contained in paragraph #13. ROCK'EM SOCK'EM Marks by Mattel are associated with robot games and are not similar or confusing with Briden's trademark SOCK-UM; which is a game played by children on a mat where a sock is volleyed back and forth.

14. Briden denies the allegations contained in paragraph #14. ROCK'EM SOCK'EM Marks by Mattel are associated with robot games and are not similar or confusing with Briden's trademark SOCK-UM; which is a game played by children on a mat where a sock is volleyed back and forth.

15. Briden denies the allegations contained in paragraph #15.

16. Briden denies the allegations contained in paragraph #16. The consuming public has not come to recognize goods bearing the ROCK'EM SOCK'EM Marks as products distributed by Mattel. The Rock'em Sock'em Robots are advertised on the web and other media as "Rock'em Sock'em Robots by Marx"; which gives the consuming public the impression that the game is owned by Marx and not by Mattel. The Rock'em Sock'em Robots trademark


filing with the USPTO references Tyco Industries, Inc. as the last listed owner; which gives the consuming public the impression that the trademark is owned by Tyco Industries, Inc and not by Mattel.

17. Briden is without knowledge or information sufficient to form a belief as to the truth or falsity of the information contained in paragraph #17; therefore denies the allegations contained in paragraph #17.

18. Briden pleads that her SOCK-UM mark is not similar in sound, appearance and meaning and is not confusingly similar to the ROCK'EM SOCK'EM mark and that she may discover other defenses to this Opposition during the discovery phase of this action.

WHEREFORE, Briden prays that this Opposition be dismissed, and that Briden's registration of the Application be granted.

Respectfully submitted,



William G. Sykes, Esquire
USPTO Registration No. 50704
3669 Seagull Bluff Drive
Virginia Beach, VA 23455-1721

Dated: May 10, 2004

Attorney for Patricia G. Briden

CERTIFICATE OF MAILING

I hereby certify that this Answer is being deposited with the United States Postal Service, postage prepaid, first class mail, in an envelope addressed to Commissioner for Trademarks, Attn: Trademark Trial and Appeal Board, Box 2900 Crystal Drive, Arlington, Virginia 22202-3513 and Jill M. Pietrini, Esquire at MANATT, PHELPS & PHILLIPS, LLP, 11355 W. Olympic Blvd., Los Angeles, California 90064 on this 10th day of May, 2004.



William G. Sykes, Esquire

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May 10, 2004

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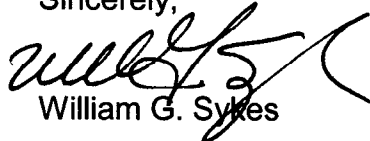
Re: MATTEL, INC. v. BRIDEN, PATRICIA G.
Opposition No. 91160087

Dear Clerk:

Enclosed is our Answer for the Opposition filed by Mattel, Inc. Please file the same with this case.

Please give me a call if you have any questions or if you need any additional information. Thank you!

Sincerely,


William G. Sykes

cc: Jill M. Pietrini, Esquire
Patricia G. Briden