

## Request for Reconsideration after Final Action

**The table below presents the data as entered.**

Input Field	Entered
<b>SERIAL NUMBER</b>	86457719
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 104
<b>MARK SECTION</b>	
<b>MARK FILE NAME</b>	<a href="http://tmng-al.uspto.gov/resting2/api/img/86457719/large">http://tmng-al.uspto.gov/resting2/api/img/86457719/large</a>
<b>LITERAL ELEMENT</b>	DOWNUNDER POKER
<b>STANDARD CHARACTERS</b>	NO
<b>USPTO-GENERATED IMAGE</b>	NO
<b>COLOR(S) CLAIMED (If applicable)</b>	The color(s) white, gold and green is/are claimed as a feature of the mark.
<b>DESCRIPTION OF THE MARK (and Color Location, if applicable)</b>	The mark consists of the word DOWNUNDER in which DOWN is in the color orange a the color white and they are stacked above the word POKER in the color white. To the le an orange and white spade which is stylized as a map of Australia. All elements of the m a green rectangle background.
<b>ARGUMENT(S)</b>	
<b>REMARKS</b>	
<p>By these Amendments, applicant has disclaimed exclusive right to use the term "DOWNUNDER" and "POKER" mark in its entirety, in accordance with the Examiner's request.</p> <p>In the Office Action, the Examiner indicated that she had considered Applicant's arguments as to unlikely confu marks of Registration Nos. 4290566, 4504128 and 4339069 and found them unpersuasive. Based on this findi register under Section 2(d) of the Trademark Act for the services in International Class 41 was continued and n reasons set forth more fully below, it is believed that the above-identified application satisfies the requirements registrability and, therefore, the refusal to register should be withdrawn.</p> <p>15 U.S.C. §1056 recognizes the right of the PTO to require disclaimer of unregistrable components of an other mark. A disclaimer is an acknowledgement that the applicant does not assert the exclusive right to use a specif mark in a trademark application. The purpose of a disclaimer is to facilitate registration of a mark that is deeme</p>	

whole but which contains matter that, standing alone, would otherwise create a false impression of the extent of right with respect to the elements of the mark in question. See, *Horlick's Malted Milk Co. v. Borden Co.*, 295 F. Cir. 1924). The disclaimer of a component of a composite mark is a statement that, in so far as that application rights are asserted in the disclaimed component standing alone, but rights are asserted in the composite mark in the disclaimed matter, and that the ensuing registration reflects only such rights as flow from the use of the composite mark. TMEP Section 1213.

The fact that the Examiner has requested, and Applicant has submitted, disclaimer of the term "DOWNUNDER" does not diminish the phrase's descriptive significance. As noted in the Office Action, "'DOWNUNDER' refers to Australia, a geographical place or location... The goods and services for which applicant seeks registration originate in this geographical location... because Australia is neither obscure nor remote and the geographic significance of the wording 'DOWNUNDER' is significant. [citing TMEP Section 1210 et seq.] See, *Office Action at 11-12.*

Indeed, the only element common to the cited registrations and the mark of the instant application is the inclusion of the expression "DOWNUNDER". Notwithstanding the geographically descriptive nature of this term (as evidenced by the definitions cited by the Examiner), and although the products offered under all three cited marks have themes related to the Australian nation (see, product specimens attached hereto, all of which feature koalas, kangaroos, flags, outlines and decalcomania unique to Australia), rights in the phrase have not been disclaimed in any of the three cited registrations and none of the cited registrations has claimed acquired distinctiveness of the term under the provisions of 2(f) of the Trademark Act. Registrations Nos. 4290566 and 4339069 have disclaimed other matter, however the exclusivity remains for the sole term shared by Applicant's mark and those of the cited prior registrations.

In determining registrability, the examining attorney is required to evaluate the entire mark, including any disclaimed matter. *In re RSI Sys., LLC*, 88 USPQ2d 1445, 1448 (TTAB 2008). By these Amendments, Applicant has disclaimed the use of all wording in the mark, leaving the design component as the most salient component and the sole element of the mark inherently distinctive. As acknowledged by the examining Trademark Attorney, the only term common to the registered and cited prior registrations is the term "DOWNUNDER", which is inherently weak and incapable of exclusive appropriation in the absence of evidence of acquired distinctiveness. The design element of Applicant's mark, by way of contrast, is comprised of a fanciful multi-colored spade design stylized to resemble the Australian continent which bears no resemblance to any of the cited registrations. Combined with Applicant's inclusion of the display of the term "DOWNUNDER" as a unitary word and the prefix "DOWN" displayed in different color, and the inclusion of the term "POKER" which both highlights and distinguishes the nature of its offerings from those of the cited prior registrations, Applicant's mark is readily distinguishable from the cited prior registrations and a claim of confusing similarity under the Trademark Act cannot be sustained.

The Examiner's citation of third party evidence which purports to show "that the same entity commonly provides interactive gaming machines as well as interactive gaming services including poker related services under the same mark". *Original Office Action at 5, subsequent Office Action at 8.* consists solely of advertising, not evidence of prior registrations from the USPTO. Even had the Examiner presented evidence that third parties were issued registrations covering both goods related to the Applicant and the goods of the cited registration, such evidence would be inapposite. In the recent case of *Tectonics, Inc.*, 98 U.S.P.Q. 2d 1509 (T.T.A.B. 2010)(precedential), which, as here, concerned the relatedness of the goods covered by the application and in the cited registration, the Board stated:

In sum, we find that the third-party registrations are not probative of whether personal headlamps are electric light related. While third-party registrations can play an important role in establishing that the types of goods at issue are related, examining attorneys must review the registrations carefully to ensure that each registration presented is probative of the types of goods at issue. A large number of registrations is sufficient, along with other types of evidence, to establish that the types of goods at issue are related.

*Id.*

The Examiner has failed to sustain this burden in the instant case, claiming only that such advertisements suggest a relationship between the respective goods and services covered by the cited registrations and the application at issue may emanate from a common source. All that can appropriately weigh in the determination of whether the Applicant's mark is likely to engender confusion is a comparison of the goods and services as identified in the cited certificates of registration with the goods in connection with which registration is sought by the Applicant.

Nor is the use of such term is not unique to the cited Registrants. Indeed, the fact that they are two unrelated entities that have been issued registrations incorporating the term for use in connection with discrete gambling applications attests to the term *per se* is neither exclusive nor distinctive. The records of the United States Patent and Trademark Office show at least two additional subsisting marks incorporating such expression used in connection with gaming application Registrations No. 3811799 for "BOXING DOWN UNDER" for use in connection with gaming equipment and App. No. 86/463565 for "DOWN UNDER GOLD" for on-line gaming, upon information and belief neither of which is affiliated with the cited registrants. Copies of each of these marks are submitted for the Examiner's reference.

Given such use, and the uncontroverted evidence put forward by the Examiner of the descriptive significance of the term "DOWN UNDER", the only term shared by the respective marks commands an extremely narrow scope of protection. The term can be distinguished in a subsequent mark by use for distinct category of goods or modifying the presentation of the mark such that a completely new commercial impression is created. Combined with the differences between the appearance of the marks and designs and among the goods and services in connection with which they are used, the evidence indicates that confusion is most unlikely to be engendered by simultaneous use of the Applicant's mark. Therefore, the application to register based on likely confusion should be withdrawn.

It is believed that, in view of the above, the application herein is now in condition for acceptance. Accordingly, Applicant respectfully requests that the application be approved for publication in due course. Applicant has simultaneously filed an Appeal to the Trademark Trial and Appeal Board relating to the services in International Class 41 to take effect on the date the Examiner is not persuaded by Applicant's arguments and rules unfavorably on the Request for Reconsideration.

Respectfully submitted,

## EVIDENCE SECTION

### EVIDENCE FILE NAME(S)

<b>ORIGINAL PDF FILE</b>	<a href="#">evi_6880618-20150915141345927894_.ER_DOLLARS_specimen_00015424xDA85A</a>
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	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\864\577\86457719\xml11\RFR0019.JPG</a>
<b>DESCRIPTION OF EVIDENCE FILE</b>	specimens illustrating use of the marks of the cited registrations by their respective registrants in the Certificate of Registration and application directed to third party marks incorporating UNDER"
<b>ADDITIONAL STATEMENTS SECTION</b>	
<b>DISCLAIMER</b>	No claim is made to the exclusive right to use DOWNUNDER and POKER apart from the
<b>SIGNATURE SECTION</b>	
<b>RESPONSE SIGNATURE</b>	/Maureen C. Kassner/
<b>SIGNATORY'S NAME</b>	Maureen C. Kassner
<b>SIGNATORY'S POSITION</b>	Attorney of record
<b>SIGNATORY'S PHONE NUMBER</b>	267/468-7959
<b>DATE SIGNED</b>	09/15/2015
<b>AUTHORIZED SIGNATORY</b>	YES
<b>CONCURRENT APPEAL NOTICE FILED</b>	YES
<b>FILING INFORMATION SECTION</b>	

<b>SUBMIT DATE</b>	Tue Sep 15 14:30:28 EDT 2015
<b>TEAS STAMP</b>	USPTO/RFR-68.80.6.18-2015 0915143028290822-86457719 -540c88ca4db687c9b23fb639 d1788da3696051522546e9589 95c859599b2ff26b-N/A-N/A- 20150915141345927894

PTO Form 1960 (Rev 9/2007)  
OMB No. 0651-0050 (Exp. 07/31/2017)

## **Request for Reconsideration after Final Action**

### **To the Commissioner for Trademarks:**

Application serial no. **86457719** DOWNUNDER POKER (Stylized and/or with Design, see <http://tmng-al.uspto.gov/resting2/api/img/86457719/large>) has been amended as follows:

#### **ARGUMENT(S)**

**In response to the substantive refusal(s), please note the following:**

#### REMARKS

By these Amendments, applicant has disclaimed exclusive right to use the term "DOWNUNDER" and "POKER" apart from the mark in its entirety, in accordance with the Examiner's request. In the Office Action, the Examiner indicated that she had considered Applicant's arguments as to unlikely confusion with the marks of Registration Nos. 4290566, 4504128 and 4339069 and found them unpersuasive. Based on this finding, the refusal to register under Section 2(d) of the Trademark Act for the services in International Class 41 was continued and made final. For the reasons set forth more fully below, it is believed that the above-identified application satisfies the requirements for trademark registrability and, therefore, the refusal to register should be withdrawn.

15 U.S.C. §1056 recognizes the right of the PTO to require disclaimer of unregistrable components of an otherwise registrable mark. A disclaimer is an acknowledgement that the applicant does not assert the exclusive right to use a specified element of its mark in a trademark application. The purpose of a disclaimer is to facilitate registration of a mark that is deemed registrable as a whole but which contains matter that, standing alone, would otherwise create a false impression of the extent of the registrant's right with respect to the elements of the mark in question. See, *Horlick's Malted Milk Co. v. Borden Co.*, 295 F. 232, 234 (D.C. Cir. 1924). The disclaimer of a component of a composite mark is a statement that, in so far as that application is concerned, no rights are asserted in the disclaimed component standing alone, but rights are asserted in the composite mark including the disclaimed matter, and that the ensuing registration reflects only such rights as flow from the use of the composite mark. See, *TMEP Section 1213*.

The fact that the Examiner has requested, and Applicant has submitted, disclaimer of the term "DOWNUNDER" is testament to the phrase's descriptive significance. As noted in the Office Action, "'DOWNUNDER" refers to Australia, a generally known geographic place or location...The goods and services for which applicant seeks registration originate in this geographic place or location... because

Australia is neither obscure nor remote and the geographic significance of the wording "DOWNUNDER" is its only significance. [citing TMEP Section 1210 et seq.] See, *Office Action at 11-12*.

Indeed, the only element common to the cited registrations and the mark of the instant application is the inclusion of variations of the expression "DOWNUNDER". Notwithstanding the geographically descriptive nature of this term (as evidenced by the definitions cited by the Examiner), and although the products offered under all three cited marks have themes which clearly relate to the Australian nation (see, product specimens attached hereto, all of which feature koalas, kangaroos, flags, continental outlines and decalomania unique to Australia), rights in the phrase have not been disclaimed in *any* of the three cited prior registrations and none of the cited registrations has claimed acquired distinctiveness of the term under the provisions of Section 2(f) of the Trademark Act. Registration Nos. 4290566 and 4339069 have disclaimed other matter, however the claim of exclusivity remains for the sole term shared by Applicant's mark and those of the cited prior registrations.

In determining registrability, the examining attorney is required to evaluate the entire mark, *including any disclaimed matter*. See *In re RSI Sys., LLC*, 88 USPQ2d 1445, 1448 (TTAB 2008). By these Amendments, Applicant has disclaimed exclusive right to use all wording in the mark, leaving the design component as the most salient component and the sole element which is deemed inherently distinctive. As acknowledged by the examining Trademark Attorney, the only term common to the respective marks is inherently weak and incapable of exclusive appropriation in the absence of evidence of acquired distinctiveness. The design element of Applicant's mark, by way of contrast, is comprised of a fanciful multi-colored spade design stylized as a map of the Australian continent which bears no resemblance to any of the cited registrations. Combined with Applicant's idiosyncratic display of the term "DOWNUNDER" as a unitary word and the prefix "DOWN" displayed in different color, and the incorporation of the term "POKER" which both highlights and distinguishes the nature of its offerings from those of the cited registrants, Applicant's mark is readily distinguishable from the cited prior registrations and a claim of confusing similarity under Section 2(d) of the Trademark Act cannot be sustained.

The Examiner's citation of third party evidence which purports to show "that the same entity commonly provides gaming machines as well as interactive gaming services including poker related services under the same mark". *Original Office Action at 5, subsequent Office Action at 8*. consists solely of advertising, not evidence of prior registrations from the USPTO database. Even had the Examiner presented evidence that third parties were issued registrations covering both goods "related" to those of the Applicant and the goods of the cited registration, such evidence would be inapposite. In the recent case of *In Re Princeton Tectonics, Inc.*, 98 U.S.P.Q. 2d 1509 (T.T.A.B. 2010)(precedential), which, as here, concerned the relatedness of the goods covered by the application and in the cited registration, the Board stated:

In sum, we find that the third-party registrations are not probative of whether personal headlamps are electric lighting fixtures are related. While third- party registrations can play an important role in establishing that the types of goods at issue are related, examining attorneys must review the registrations carefully to ensure that each registration presented is probative and that the number of registrations is sufficient, along with other types of evidence, to establish that the types of goods at issue are related.

*Id.*

The Examiner has failed to sustain this burden in the instant case, claiming only that such advertisements suggest that the respective goods and services covered by the cited registrations and the application at issue may emanate from the same source. All that can appropriately weigh in the determination of whether the Applicant's mark is likely to engender confusion is a comparison of the goods and services as identified in the cited certificates of registration with the goods in connection with which registration is sought by the Applicant.

Nor is the use of such term is not unique to the cited Registrants. Indeed, the fact that they are two unrelated entities which have been issued registrations incorporating the term for use in connection with discrete

gambling applications attests to the fact that the term *per se* is neither exclusive nor distinctive. The records of the United States Patent and Trademark Office disclose at least two additional subsisting marks incorporating such expression used in connection with gaming applications, specifically Registration No. 3811799 for "BOXING DOWN UNDER" for use in connection with gaming equipment and Application Serial No. 86/463565 for "DOWN UNDER GOLD" for on-line gaming, upon information and belief neither of which is affiliated with the cited registrants. Copies of each of these marks are submitted for the Examiner's reference.

Given such use, and the uncontroverted evidence put forward by the Examiner of the descriptive significance of the phrase "DOWN UNDER", the only term shared by the respective marks commands an extremely narrow scope of protection. As such, the term can be distinguished in a subsequent mark by use for distinct category of goods or modifying the presentation of the mark such that a completely new commercial impression is created. Combined with the differences between the visual appearance of the marks and designs and among the goods and services in connection with which they are used, all factors indicate that confusion is most unlikely to be engendered by simultaneous use of the Applicant's mark. Therefore, the refusal to register based on likely confusion should be withdrawn.

It is believed that, in view of the above, the application herein is now in condition for acceptance. Accordingly, Applicant respectfully requests that the application be approved for publication in due course. Applicant has simultaneously filed a Notice of Appeal to the Trademark Trial and Appeal Board relating to the services in International Class 41 to take effect in the event that the Examiner is not persuaded by Applicant's arguments and rules unfavorably on the Request for Reconsideration.

Respectfully submitted,

## **EVIDENCE**

Evidence in the nature of specimens illustrating use of the marks of the cited registrations by their respective registrants; a copy of the Certificate of Registration and application directed to third party marks incorporating "DOWN UNDER" has been attached.

### **Original PDF file:**

[evi\\_6880618-20150915141345927894 . ER\\_DOLLARS\\_specimen\\_00015424xDA85A .pdf](#)

**Converted PDF file(s)** ( 2 pages)

[Evidence-1](#)

[Evidence-2](#)

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**Converted PDF file(s)** ( 2 pages)

[Evidence-1](#)

[Evidence-2](#)

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**Converted PDF file(s)** ( 5 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

[Evidence-5](#)

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**Converted PDF file(s)** ( 1 page)

[Evidence-1](#)

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**Converted PDF file(s)** ( 8 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

[Evidence-5](#)

[Evidence-6](#)

[Evidence-7](#)

[Evidence-8](#)

## **ADDITIONAL STATEMENTS**

### **Disclaimer**

No claim is made to the exclusive right to use DOWNUNDER and POKER apart from the mark as shown.

## **SIGNATURE(S)**

### **Request for Reconsideration Signature**

Signature: /Maureen C. Kassner/ Date: 09/15/2015

Signatory's Name: Maureen C. Kassner

Signatory's Position: Attorney of record

Signatory's Phone Number: 267/468-7959

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the owner's/holder's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the owner/holder in this matter: (1) the owner/holder has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the owner/holder has filed a power of attorney appointing him/her in this matter; or (4) the owner's/holder's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 86457719

Internet Transmission Date: Tue Sep 15 14:30:28 EDT 2015

TEAS Stamp: USPTO/RFR-68.80.6.18-2015091514302829082

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TOCCATA GC1 - 4.02 - 1015822326

HELP

CREDIT  
43565  
\$435.65

TICKET

Down Under Dollars  
MINI JACKPOT  
\$10.00



CREDIT 0 BET 100 WIN 0 Down Under Dollars 4.02 - 1015822326

MINI JACKPOT \$10.00

Down Under Dollars

19					4
22					32
23					33
24					34
25					35
26					36
27					37
28					38
29					39
30					40
31					41

3 Credits Bet Per Line Last Bet = \$2.00 (1 Credit x 10 Lines) 20 Lines Selected

1 LINE 3 LINES 5 LINES 10 LINES 15 LINES 20 LINES



← SCROLL GAMES

TOUCH GAME TO PLAY

SCROLL GAMES →

Down Under Dollars - 4.02 - 1015522326

<b>CREDIT</b> 0 \$0.00	<b>BET</b> 20 \$0.20	<b>WIN</b> 0 \$0.00	<b>MINOR JACKPOT</b> \$50.00	<b>PAYTABLE</b> <b>HELP</b>	<b>COLLECT</b>
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**Down Under Dollars**

19						4
2						12
10						14
16						17
1						7
6						8
9						20
18						15
3						13
11						5

1 Credit Bet Per Line      Last Bet = \$0.01 (1 Credit x 1 Line)      20 Lines Selected

BET 1 1 LINE	BET 2 3 LINES	BET 3 5 LINES	BET 5 10 LINES	BET 10 15 LINES	BET 20 20 LINES	<b>DOUBLE</b> <b>START</b>
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Game Buy Coins Earn Coins Free Gifts Invite Friends Mobile Rewards English

398,420.10 150 138,021 / 139,520,000

### Ruby Room

**SALOON RUSH** **DOWN UNDER** **GO BINGO** **HALLOWEEN THRILLS**

**XTRAVAGANZA** **GARNIVAL FRENZY** **SANTA MANIA** **FORTUNE FILES**

**GET FRIENDS** The first social video slot game. Play slots with your own friends' faces!

Send Gifts Collect Gifts 0

**Special Bonus** Collect Now!

**Mega Bonus** Last Day

Elmer 398,420 Lucy 50,500 Daniel LEADER BOARD



Game Buy Coins Earn Coins Free Gifts Invite Friends Mobile Rewards English

406,420.10 150 138,021 / 139,520,000 ? < Back to Lobby

Buy Coins

# DOWN UNDER

4						14
28						26
2						18
24						12
20						9
16						22
10						6
1						30
11						7
17						23
13						8
21						19
3						25
29						27
5						15

406,420.10 BALANCE

PAY TABLE

30 LINES

10 BET

300 TOTAL BET

0.00 WIN

Max Lines Spin!

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Fan Page | Affiliates | Terms of Service | Privacy Policy | Rewards Terms



# DOWN UNDER DOLLARS™



- Easy to use navigation menus
- Touch Screen machines
- Industry's top interactive games (many with multiple games on single board)
- User friendly operators menu
- 25 Line Penny Machines
- Sweepstakes compatible
- Proven #1 by players
- Custom Software Applications
- New games & updates
- Stand up, sit down, & countertop cabinets available

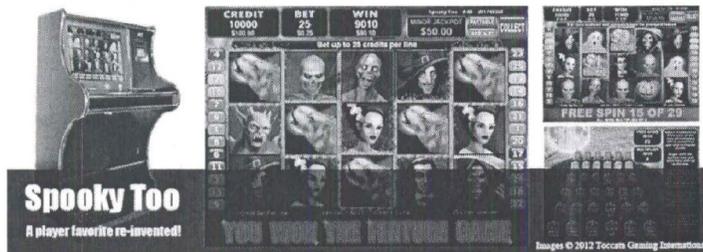
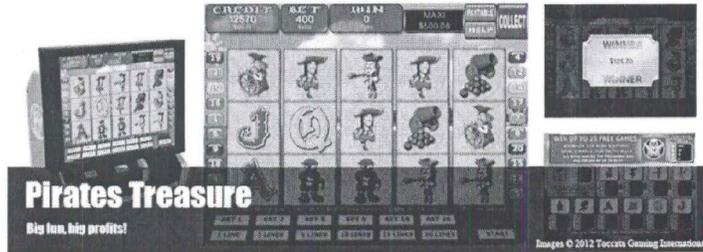
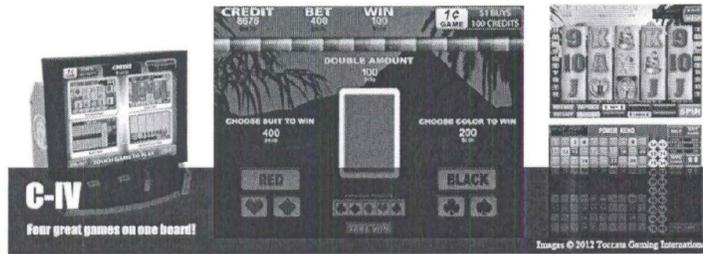
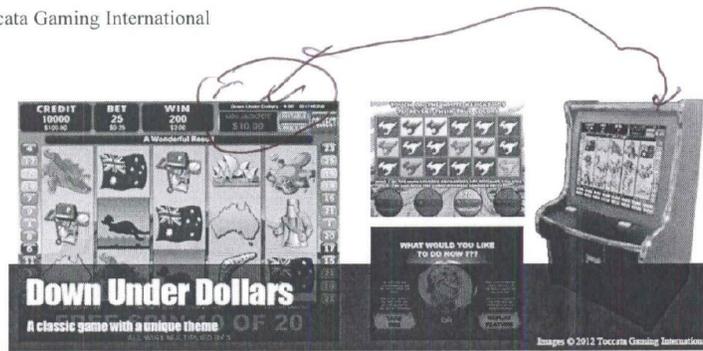
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[info@toccatagaming.com](mailto:info@toccatagaming.com)

Please check the gaming laws within your state for legality of operations.  
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Toccata Gaming International and the Mr. Toccata logo are registered trademarks.



*Class 2E*

**Trademark Statement Of Use (15 U.S.C. Section 1051(c))**

**To the Commissioner for Trademarks:**

**MARK: DOWN UNDER DOLLARS**

**SERIAL NUMBER: 85/003,132**

The applicant, TOCCATA GAMING INTERNATIONAL, LLC, having an address of  
2414 Industrial Drive #D  
Neenah, Wisconsin 54956  
United States

is submitting the following further allegation of use information:

For International Class 009:

Current identification: electronic amusement game programs;

With respect to these International Class 9 goods, the mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest on or in connection with such goods at least as early as 02/01/2013, and was first used in commerce by the applicant, or the applicant's related company, licensee, or predecessor in interest on or in connection with such goods at least as early as 02/01/2013, and is now in use in such commerce on or in connection with such goods by the applicant, or the applicant's related company, licensee, or predecessor in interest. The applicant is submitting one specimen for International Class 9 showing the mark as used in commerce by the applicant, or the applicant's related company, licensee, or predecessor in interest on or in connection with an item in the class, consisting of a photograph of a screen display showing use of the mark on a screen generated by an electronic amusement game program, the mark appearing on the upper right portion of the screen display.

For International Class 28:

Current identification: arcade-type electronic video games;

With respect to these International Class 28 goods, the mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest on or in connection with such goods at least as early as 02/01/2013, and was first used in commerce by the applicant, or the applicant's related company, licensee, or predecessor in interest on or in connection with such goods at least as early as 02/01/2013, and is now in use in such commerce on or in connection with such goods by the applicant, or the applicant's related company, licensee, or predecessor in interest. The applicant is submitting two specimens for International Class 28 showing the mark as used in commerce by the applicant, or the applicant's related company, licensee, or predecessor in interest on or in connection with an item in the class, consisting of a photograph showing the mark on an arcade-type console for an arcade-type electronic video game, and photographs showing screen displays on such a console, with the mark depicted on the screen display.

The applicant is not filing a Request to Divide with this Further Allegation of Use form. A fee payment in the amount of \$200 will be submitted with the form, representing payment for the allegation of use for 2 classes.

**Declaration**

Applicant requests registration of the above-identified trademark in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq., as amended). Applicant is the owner of the mark sought to be registered, and is using the mark in commerce on or in connection with the goods identified above, as evidenced by the attached specimens showing the mark as used in commerce.

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements may jeopardize the validity of the form or any resulting registration, declares that he/she is properly authorized to execute this form on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature Section:

Signature: 

Signatory's Name: Todd Sumac

Signatory's Position: Managing Member

Date Signed: 3-7, 2013

MKE\19495465

# United States of America

United States Patent and Trademark Office

## Boxing Down Under

**Reg. No. 3,811,799**

**Registered June 29, 2010**

**Int. Cl.: 9**

**TRADEMARK**

**PRINCIPAL REGISTER**

GLOBAL GAMING GROUP (NEVADA CORPORATION)  
3035 E PATRICK #14  
LAS VEGAS, NV 89120

FOR: GAMING EQUIPMENT, NAMELY, SLOT MACHINE WITH OR WITHOUT VIDEO OUTPUT, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 1-10-2008; IN COMMERCE 1-10-2008.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 77-690,437, FILED 3-13-2009.

ERIN FALK, EXAMINING ATTORNEY



*David J. Kappas*

Director of the United States Patent and Trademark Office

## Trademark/Service Mark Application, Principal Register

Serial Number: 86463565

Filing Date: 11/24/2014

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86463565
<b>MARK INFORMATION</b>	
*MARK	<a href="#">DOWN UNDER GOLD</a>
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	DOWN UNDER GOLD
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
<b>APPLICANT INFORMATION</b>	
*OWNER OF MARK	Pacific Interactive UK Limited
INTERNAL ADDRESS	UHY Hacker Young LLP, Quadrant House
*STREET	4 Thomas More Square
*CITY	London
*COUNTRY	United Kingdom
*ZIP/POSTAL CODE (Required for U.S. applicants only)	E1W1YW
PHONE	901-590-0493
FAX	901-590-2202
EMAIL ADDRESS	trademark@caesars.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
<b>LEGAL ENTITY INFORMATION</b>	
TYPE	limited company (ltd.)

STATE/COUNTRY WHERE LEGALLY ORGANIZED	United Kingdom
<b>GOODS AND/OR SERVICES AND BASIS INFORMATION</b>	
INTERNATIONAL CLASS	041
*IDENTIFICATION	Entertainment services, namely, providing on-line computer games and game applications, enhancements within online computer games, and game applications within online computer games; providing online reviews of computer games, and providing of information relating to computer games; providing an internet website portal in the field of computer games and gaming; entertainment services, namely, providing virtual environments in which users can interact through social games for recreational, leisure or entertainment purposes
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 04/01/2014
FIRST USE IN COMMERCE DATE	At least as early as 04/01/2014
SPECIMEN FILE NAME(S)	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\864\635\86463565\xml1\ APP0003.JPG</a>
	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\864\635\86463565\xml1\ APP0004.JPG</a>
SPECIMEN DESCRIPTION	screen shots of applicant's computer game showing the mark
<b>CORRESPONDENCE INFORMATION</b>	
NAME	Jane Tyler
FIRM NAME	Caesars Entertainment
STREET	5885 Ridgeway Center Parkway Ste. 233
CITY	Memphis
STATE	Tennessee
COUNTRY	United States
ZIP/POSTAL CODE	38119
PHONE	901-590-0493
FAX	901-590-2202
EMAIL ADDRESS	trademark@caesars.com;ajackson2@caesars.com
AUTHORIZED TO COMMUNICATE VIA	

EMAIL	Yes
<b>FEE INFORMATION</b>	
NUMBER OF CLASSES	1
FEE PER CLASS	325
*TOTAL FEE DUE	325
*TOTAL FEE PAID	325
<b>SIGNATURE INFORMATION</b>	
SIGNATURE	/jane e. tyler/
SIGNATORY'S NAME	Jane Tyler
SIGNATORY'S POSITION	Director, Trademark Administration
DATE SIGNED	11/24/2014

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## Trademark/Service Mark Application, Principal Register

**Serial Number: 86463565**

**Filing Date: 11/24/2014**

### To the Commissioner for Trademarks:

**MARK:** DOWN UNDER GOLD (Standard Characters, see [mark](#))

The literal element of the mark consists of DOWN UNDER GOLD.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Pacific Interactive UK Limited, a limited company (Ltd.) legally organized under the laws of United Kingdom, having an address of

UHY Hacker Young LLP, Quadrant House,  
4 Thomas More Square  
London E1W1YW  
United Kingdom

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 041: Entertainment services, namely, providing on-line computer games and game applications, enhancements within online computer games, and game applications within online computer games; providing online reviews of computer games, and providing of information relating to computer games; providing an internet website portal in the field of computer games and gaming; entertainment services, namely, providing virtual environments in which users can interact through social games for recreational, leisure or entertainment purposes

In International Class 041, the mark was first used by the applicant or the applicant's related company or licensee or predecessor in interest at least as early as 04/01/2014, and first used in commerce at least as early as 04/01/2014, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) screen shots of applicant's computer game showing the mark.

[Specimen File1](#)

[Specimen File2](#)

The applicant's current Correspondence Information:

Jane Tyler  
Caesars Entertainment  
5885 Ridgeway Center Parkway Ste. 233  
Memphis, Tennessee 38119

901-590-0493(phone)

901-590-2202(fax)

trademark@caesars.com;ajackson2@caesars.com (authorized)

A fee payment in the amount of \$325 has been submitted with the application, representing payment for 1 class(es).

### **Declaration**

The signatory believes that: if the applicant is filing the application under 15 U.S.C. Section 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant or the applicant's related company or licensee is using the mark in commerce on or in connection with the goods/services in the application, and such use by the applicant's related company or licensee inures to the benefit of the applicant; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. Section 1051(b), Section 1126(d), and/or Section 1126(e), the applicant is entitled to use the mark in commerce; the applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other person has the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

### **Declaration Signature**

Signature: /jane e. tyler/ Date: 11/24/2014

Signatory's Name: Jane Tyler

Signatory's Position: Director, Trademark Administration

RAM Sale Number: 86463565

RAM Accounting Date: 11/25/2014

Serial Number: 86463565

Internet Transmission Date: Mon Nov 24 18:20:09 EST 2014

TEAS Stamp: USPTO/BAS-64.141.193.30-2014112418200990

5676-86463565-5009413f49661cfc22755c839e

45fdd7b59cdb3b4a444f7a10f7e4f5b0d59d-DA-

8518-20141119131412182122

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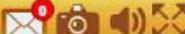
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LOBBY



## DOWN UNDER GOLD



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Click spin to start

SPIN

INFO

TOTAL BET

\$8,000

BALANCE

\$935.50



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AUTOSPIN

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