

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

\_\_\_\_\_) )  
 UGO NETWORKS, INC., ) )  
 ) )  
 Opposer, ) )  
 ) )  
 v. ) )  
 ) )  
 KONAMI CORPORATION, ) )  
 ) )  
 Applicant. ) )  
 \_\_\_\_\_)

Opposition No.: 91/153,578  
Appln. Serial No.: 76/074,595

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TRADEMARK TRIAL AND  
APPEAL BOARD

**APPLICANT'S ANSWER AND  
AFFIRMATIVE DEFENSES TO NOTICE OF OPPOSITION**

Applicant, Konami Corporation ("Konami") hereby submits this Answer and Affirmative Defenses to the Notice of Opposition in this proceeding, and as grounds therefore states as follows:

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TRADEMARK TRIAL AND  
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1. Konami lacks knowledge or information sufficient to form a belief as to the truth of the allegations stated in paragraph 1 of the Notice of Opposition and on that basis denies those allegations.

2. Konami lacks knowledge or information sufficient to form a belief as to the truth of the allegations stated in paragraph 2 of the Notice of Opposition and on that basis denies those allegations.

3. Konami lacks knowledge or information sufficient to form a belief as to the truth of the allegations stated in paragraph 3 of the Notice of Opposition and on that basis denies those allegations.

4. Konami lacks knowledge or information sufficient to form a belief as to the truth of the allegations stated in paragraph 4 of the Notice of Opposition and on that basis denies those

allegations.

5. Konami lacks knowledge or information sufficient to form a belief as to the truth of the allegations stated in paragraph 5 of the Notice of Opposition and on that basis denies those allegations.

6. Konami lacks knowledge or information sufficient to form a belief as to the truth of the allegations stated in paragraph 6 of the Notice of Opposition and on that basis denies those allegations.

7. Konami lacks knowledge or information sufficient to form a belief as to the truth of the allegations stated in paragraph 7 of the Notice of Opposition and on that basis denies those allegations.

8. Konami admits that it is a Japanese corporation with principal offices at 2-4-1, Marunouchi, Chiyoda-ku, Tokyo, 100-6330 JAPAN, and otherwise denies the allegations stated in paragraph 8 of the Notice of Opposition.

9. Konami admits that it has filed Application Serial No. 76/074,595 to register the mark YU-GI-OH in stylized Kanji characters for “computer products, namely, computer games programs; video game cartridges; video game CD-ROMS; video output game units; computer game CD-ROMS; video game programs; video game programs for use with television sets; video game machines for use with television sets; game-playing equipment, namely, joysticks and game controllers” in Class 9.

10. Konami denies the allegations contained in paragraph 10 of the Notice of Opposition.

11. Konami denies the allegations contained in paragraph 11 of the Notice of Opposition.

12. Konami denies the allegations contained in paragraph 12 of the Notice of Opposition.

13. Konami denies the allegations contained in paragraph 13 of the Notice of Opposition.

### AFFIRMATIVE DEFENSES

1. The Notice of Opposition fails to state a claim upon which relief can be granted.

2. The claims asserted in the Notice of Opposition are barred by the doctrines of estoppel and laches.

3. The claims asserted in the Notice of Opposition are barred by the doctrines of acquiescence and waiver.

4. There is no likelihood of confusion between any of Opposer's marks and Konami's Mark shown in Application Serial No. 76/074,595.

5. Opposer's marks are different from Konami's mark shown in Application Serial No. 76/074,595 in terms of sight, sound, meaning and overall commercial impression.

6. Opposer's Marks are weak as they are comprised of a generic and/or descriptive initialism or abbreviation in that UGO stands for Underground Online and the marks are not, have not and cannot become distinctive of Opposer's goods or services in commerce.

7. Opposer's Marks are weak due to the presence of third party marks that cover related goods and services and thus Opposer's marks are entitled only to a very narrow scope of protection, if any.

8. Applicant will assert any and all additional affirmative defenses that will be developed throughout the discovery and testimony periods in this opposition proceeding.

WHEREFORE, Applicant, Konami Corporation, prays that:

1. Application Serial No. 76/074,595 be sustained.
2. Judgment in the opposition be entered in favor of Applicant, Konami Corporation.
3. The opposition proceeding be dismissed with prejudice.

Respectfully submitted,

KONAMI CORPORATION

Dated: December 27, 2003

By: Jeffrey H. Kaufman / By BBD

Jeffrey H. Kaufman  
Brian B. Darville  
OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.  
1755 Jefferson Davis Highway  
Fourth Floor  
Arlington, Virginia 22202  
(703) 413-3000  
fax (703) 413-2220

Counsel for Applicant  
Konami Corporation

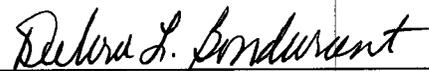
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy of the foregoing **APPLICANT'S ANSWER AND AFFIRMATIVE DEFENSES TO THE NOTICE OF OPPOSITION** was served on counsel for Opposer, this 27<sup>th</sup> day of December, 2003, by sending same via First Class Mail, postage prepaid to:

William M. Ried, Esquire  
WILLKIE FARR & GALLAGHER  
787 Seventh Avenue  
New York, NY 10019

  
Debra L. Bohdurant