

TTAB

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

Vivendi Universal Games, Inc.,)
)
Opposer,)
)
v.)
)
Sony Computer Entertainment America, Inc.,)
)
Applicant.)

Opposition No. _____

U.S. Patent and Trademark Office
Box TTAB FEE
2900 Crystal Drive
Arlington, Virginia 22202



02-02-2004
U.S. Patent & TMO/TM Mail Rcpt Dt. #22

02/11/2004 SERIALS01 00000056 76499795

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NOTICE OF OPPOSITION

In the matter of the application of Sony Computer Entertainment America, Inc. ("Sony"), for registration of the trademark LORDS OF EVERQUEST, application Serial No. 76/499,795 published in the Official Gazette in Vol. 1274, No. 5, page TM 151 on September 30, 2003, Vivendi Universal Games, Inc. ("Vivendi"), a corporation organized and existing under the law of Delaware, believes that it will be damaged by registration of the mark shown in Serial No. 76/499,795 and hereby opposes registration.

On October 22, 2003, during the initial period of opposition, Opposer Vivendi filed a sixty-day request for extension of time to file a Notice of Opposition extending to December 29, 2003. On December 29, 2003, Opposer filed a thirty-day request for extension of time to file a Notice of Opposition, up to and including January 28, 2004. This Notice of Opposition is timely filed during the thirty-day request.

The grounds for opposition are as follows:

1. Opposer Vivendi is a Delaware corporation with a place of business at 6080 Center Drive, 10th Floor, Los Angeles, California 90045.

2. Opposer, through its predecessors, business units and itself, has been engaged in the business of offering computer and video game software throughout the United States and internationally under the mark LORDS OF THE REALM. Opposer has used in interstate commerce the mark LORDS OF THE REALM on the above goods since at least as early as September 13, 1994.

3. Opposer, through its business unit Sierra Entertainment, Inc. ("Sierra"), a Delaware corporation with a place of business at 3060 139th Avenue S.E., Bellevue, Washington 98005, owns Reg. No. 2,216,228 registered on the Principal Register in the United States Patent and Trademark Office on January 5, 1999 for LORDS OF THE REALM for computer game programs and instruction manuals sold as a unit. Reg. No. 2,216,228 is valid and subsisting and a copy of the registration is attached hereto as Exhibit 1, along with an example showing Opposer's use of the mark.

4. Opposer, through its predecessors, business units and itself, has been engaged in the business of offering computer and video game software throughout the United States and internationally under the mark LORDS OF MAGIC. Opposer has used in interstate commerce the mark LORDS OF MAGIC on the above goods since at least as early as December 3, 1997.

5. Opposer, through its business unit Sierra, owns Reg. No. 2,337,435 registered on the Principal Register in the United States Patent and Trademark Office on April 4, 2000 for LORDS OF MAGIC for computer game software and instruction manuals sold therewith. Reg. No. 2,337,435 is valid and subsisting and a copy of the registration is attached hereto as Exhibit 2, along with an example showing Opposer's use of the mark.

6. Opposer, through its predecessors, business units and itself, has been engaged in the business of offering pre-recorded media and computer and video game software throughout the United States and internationally under the mark LORD OF DESTRUCTION. Opposer has used in interstate commerce the mark LORD OF DESTRUCTION on the above goods since at least as early as January 18, 2001.

7. Opposer, through its business unit Davidson & Associates, Inc., a California Corporation with a place of business at 19840 Pioneer Avenue, Torrance, California 90503, owns Reg. No. 2,640,728 registered on the Principal Register in the United States Patent and Trademark Office on October 22, 2002 for LORD OF DESTRUCTION for pre-recorded video tapes featuring action motion pictures and television programs; pre-recorded audio cassette tapes, DVDs and CD ROMs featuring musical scores and dialog; and computer game software. Reg. No. 2,640,728 is valid and subsisting and a copy of the registration is attached hereto as Exhibit 3.

8. The use of Opposer's marks have been valid and continuous since the dates of first use, and have not been abandoned. Opposer's marks are symbolic of extensive

good will and consumer recognition built up by Opposer through substantial amounts of time and effort in advertising and promotion.

9. Notwithstanding Opposer's rights in and to its LORDS OF THE REALM, LORDS OF MAGIC and LORD OF DESTRUCTION marks, Applicant, on March 24, 2003 filed an application for registration of the mark LORDS OF EVERQUEST for the following goods/services: computer game software and video game software in International Class 9; and operating a real time game for others over global and local area computer networks in International Class 41. That application was given Serial No. 76/499,795 and published for opposition in the Official Gazette of September 30, 2003, Vol. 1274, No. 5, page TM 151. On information and belief, Applicant is using the mark LORDS OF EVERQUEST in connection with computer game software. An example showing Applicant's use of the mark is attached hereto as Exhibit 4.

10. Applicant's mark LORDS OF EVERQUEST, when used in connection with the goods/services set forth in its application, and when used as depicted in Exhibit 4, is confusingly similar to Opposer's use of its above-identified marks, and registration of Applicant's mark and continued use by it with its goods/services is likely to cause confusion, mistake and deception. Applicant's goods/services are related to the goods set forth in Opposer's above registrations. Applicant's use of its mark interferes with Opposer's use of its marks, and continued use or registration of Applicant's mark will seriously damage Opposer.

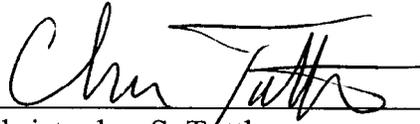
WHEREFORE, Opposer believes that it will be damaged by registration of Applicant's mark, and prays that registration be denied.

This Notice of Opposition and Exhibits 1-4 are being submitted in triplicate. Also enclosed is our check in the amount of \$600.00 to cover the filing fee in two classes for the Notice of Opposition. Please charge our Deposit Account No. 11-1540 for any additional fees which may be required.

Dated this 28th day of January, 2004.

Respectfully submitted,

KOLISCH HARTWELL, P.C.



Christopher S. Tuttle
Registration No. 41,357
PTO Customer No. 23581
Of Attorneys for Opposer
520 S.W. Yamhill Street, Suite 200
Portland, Oregon 97204
Telephone: (503) 224-6655
Facsimile: (503) 295-6679

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: U.S. Patent and Trademark Office, Box TTAB FEE, 2900 Crystal Drive, Arlington, Virginia 22202 on January 28, 2004.



Renee Knight

MARK: LORDS OF THE REALM (WORDS ONLY)

FILED: October 23, 1997

S/N: 75-378149

STATUS: REGISTERED As of January 05, 1999

G/S: COMPUTER GAME PROGRAMS AND INSTRUCTION MANUALS SOLD AS A UNIT (INTERNATIONAL CLASS: 9; US CLASS: 21, 23, 26, 36, 38) **International Class:** 9 (ELECTRICAL AND SCIENTIFIC APPARATUS) - PRIMARY CLASS U.S. **Class:** 21 (ELECTRICAL APPARATUS, MACHINES, AND SUPPLIES) - SECONDARY CLASS 23 (CUTLERY, MACHINERY, HAND TOOLS, AND PARTS THEREOF) 26 (MEASURING AND SCIENTIFIC APPLIANCES) 36 (MUSICAL INSTRUMENTS AND SUPPLIES) 38 (PRINTS AND PUBLICATIONS)

REG. NO: 2216228 **Registration Date:** January 05, 1999

REGISTER: PRINCIPAL REGISTER

STATUS: ACTIVE PTO **Internal Status:** (700) REGISTERED PTO As of January 05, 1999

USED: September 13, 1994 (INTERNATIONAL CLASS: 9; US CLASS: 21, 23, 26, 36, 38) ;
COMMERCE: September 13, 1994 (INTERNATIONAL CLASS: 9; US CLASS: 21, 23, 26, 36, 38)
Publication Date: October 13, 1998

AGENT: ROD A. RIGOLE VIVENDI UNIVERSAL GAMES, INC. 10TH FLOOR, 6080 CENTER DRIVE
LOS ANGELES CA 90085

OTHER: 4 *****

OWNER: SIERRA ON-LINE, INC. (DELAWARE CORPORATION) SUITE 300, 3380 146TH PLACE SE BELLEVUE, WA 98007 AS OF January 05, 1999 Owner at Publication: SIERRA ON-LINE, INC. (DELAWARE CORPORATION) SUITE 300, 3380 146TH PLACE SE BELLEVUE, WA 98007 AS OF October 13, 1998 Applicant: SIERRA ON-LINE, INC. (DELAWARE CORPORATION) SUITE 300, 3380 146TH PLACE SE BELLEVUE, WA 98007 AS OF October 23, 1997 **Registrant:** SIERRA ON-LINE, INC. (DELAWARE CORPORATION) SUITE 300, 3380 146TH PLACE SE BELLEVUE, WA 98007 AS OF January 05, 1999 **Applicant:** SIERRA ON-LINE, INC. (DELAWARE CORPORATION) SUITE 300, 3380 146TH PLACE SE BELLEVUE, WA 98007 AS OF October 23, 1997 * **ASSIGNMENT INFORMATION** Reel/Frame: 2660/0146 Date Recorded: May 30, 2003 Brief: CHANGE OF NAME Date Signed: November 07, 2001

LORDS OF THE REALM

OVERVIEW



The Lords Legacy

Lords of the Realm III features authentic medieval history, multi-layered strategy, and lifelike battle action rendered in stunning visual detail.

Launched in Fall 1994, the original Lords of the Realm from Impressions Games received high praise for its complete and authentic medieval setting, its modem-based multiplayer action, and its great balance of micro- and macro-management within a fun and challenging strategy game.

Two years later, Impressions released Lords of the Realm II, which combined turn-based strategy with compelling real-time battles and realistic castle sieges. Lords of Magic debuted in November 1997, uniting the best elements of the Lords series with magic and spell-casting.

Lords of the Realm III is the long-awaited, highly anticipated continuation of the award-winning Lords series. With its all-new 3D engine, easy-to-use interface, and real-time action, Lords III offers a carefully researched, richly detailed historical game of warfare and politics set in a beautifully rendered medieval world.



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MARK: LORDS OF MAGIC (WORDS ONLY)

FILED: July 01, 1998

S/N: 75-511512

STATUS: REGISTERED As of April 04, 2000

G/S: COMPUTER GAME SOFTWARE AND INSTRUCTION MANUALS SOLD THEREWITH (INTERNATIONAL CLASS: 9; US CLASS: 21, 23, 26, 36, 38) **International Class: 9** (ELECTRICAL AND SCIENTIFIC APPARATUS) - PRIMARY CLASS **U.S. Class: 21** (ELECTRICAL APPARATUS, MACHINES, AND SUPPLIES) - SECONDARY CLASS 23 (CUTLERY, MACHINERY, HAND TOOLS, AND PARTS THEREOF) 26 (MEASURING AND SCIENTIFIC APPLIANCES) 36 (MUSICAL INSTRUMENTS AND SUPPLIES) 38 (PRINTS AND PUBLICATIONS)

REG. NO: 2337435 **Registration Date:** April 04, 2000

REGISTER: PRINCIPAL REGISTER

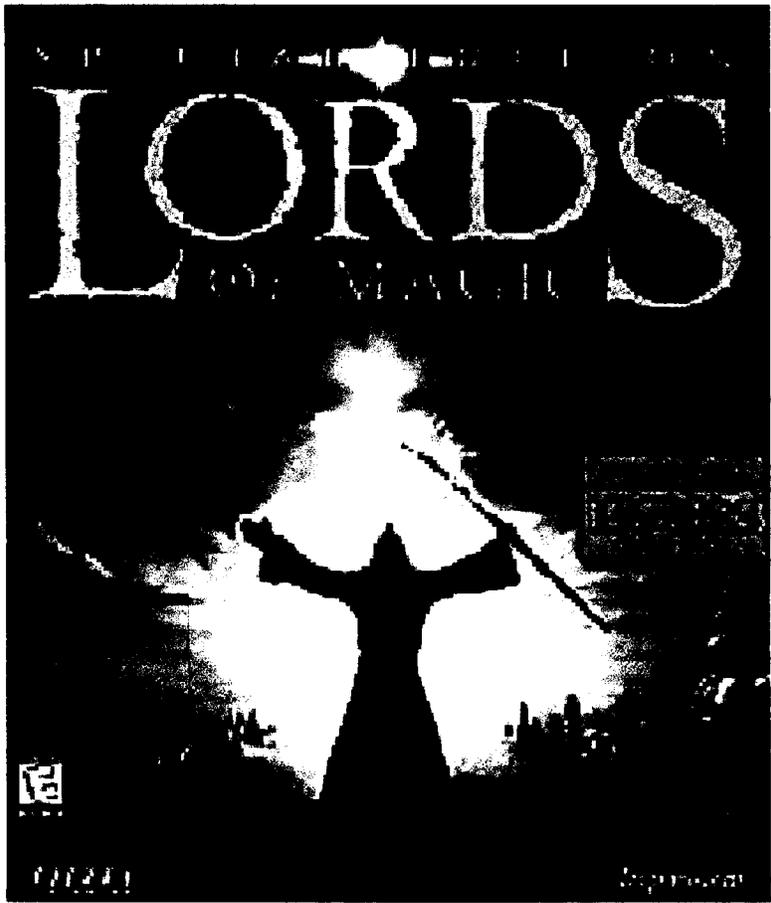
STATUS: ACTIVE PTO **Internal Status:** (700) REGISTERED PTO As of April 04, 2000

USED: December 03, 1997 (INTERNATIONAL CLASS: 9; US CLASS: 21, 23, 26, 36, 38) ; **COMMERCE:** December 03, 1997 (INTERNATIONAL CLASS: 9; US CLASS: 21, 23, 26, 36, 38) **Publication Date:** January 11, 2000

AGENT: ROD A. RIGOLE VIVENDI UNIVERSAL GAMES, INC. 10TH FLOOR, 6080 CENTER DRIVE LOS ANGELES CA 90045

OTHER: 3 *****

OWNER: SIERRA ON-LINE, INC. (DELAWARE CORPORATION) 3380 - 146TH PLACE S.E., SUITE 300 BELLEVUE, WA 98007 AS OF April 04, 2000 Owner at Publication: SIERRA ON-LINE, INC. (DELAWARE CORPORATION) 3380 - 146TH PLACE S.E., SUITE 300 BELLEVUE, WA 98007 AS OF January 11, 2000 Applicant: SIERRA ON-LINE, INC. (DELAWARE CORPORATION) 3380 - 146TH PLACE S.E., SUITE 300 BELLEVUE, WA 98007 AS OF July 01, 1998 **Registrant:** SIERRA ON-LINE, INC. (DELAWARE CORPORATION) 3380 - 146TH PLACE S.E., SUITE 300 BELLEVUE, WA 98007 AS OF April 04, 2000 **Applicant:** SIERRA ON-LINE, INC. (DELAWARE CORPORATION) 3380 - 146TH PLACE S.E., SUITE 300 BELLEVUE, WA 98007 AS OF July 01, 1998 * **ASSIGNMENT INFORMATION** Reel/Frame: 2660/0146 Date Recorded: May 30, 2003 Brief: CHANGE OF NAME Date Signed: November 07, 2001



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MARK: LORD OF DESTRUCTION (WORDS ONLY)

FILED: February 12, 2001

S/N: 76-209162

STATUS: REGISTERED As of October 22, 2002

G/S: PRE-RECORDED VIDEO TAPES FEATURING ACTION MOTION PICTURES AND TELEVISION PROGRAMS; PRE-RECORDED AUDIO CASSETTE TAPES, DVDS AND CD ROMS FEATURING MUSICAL SCORES AND DIALOG; COMPUTER GAME SOFTWARE (INTERNATIONAL CLASS: 9; US CLASS: 21, 23, 26, 36, 38) **International Class: 9** (ELECTRICAL AND SCIENTIFIC APPARATUS) - PRIMARY CLASS **U.S. Class: 21** (ELECTRICAL APPARATUS, MACHINES, AND SUPPLIES) - SECONDARY CLASS 23 (CUTLERY, MACHINERY, HAND TOOLS, AND PARTS THEREOF) 26 (MEASURING AND SCIENTIFIC APPLIANCES) 36 (MUSICAL INSTRUMENTS AND SUPPLIES) 38 (PRINTS AND PUBLICATIONS)

REG. NO: 2640728 **Registration Date:** October 22, 2002

REGISTER: PRINCIPAL REGISTER

STATUS: ACTIVE **PTO Internal Status:** NOT AVAILABLE **PTO As of** August 13, 2002

USED: January 18, 2001 (INTERNATIONAL CLASS: 9; US CLASS: 21, 23, 26, 36, 38) ; **COMMERCE:** January 18, 2001 (INTERNATIONAL CLASS: 9; US CLASS: 21, 23, 26, 36, 38) **Publication Date:** September 04, 2001

AGENT: ROD RIGOLE 19840 PIONEER AVE, TORRANCE CA 90503-1660 **Intent to Use:** FILED AS INTENT TO USE - ACTUAL USE ALLEGED

OTHER: 3 *****

OWNER: DAVIDSON & ASSOCIATES, INC. (CALIFORNIA CORPORATION) 19840 PIONEER AVENUE TORRANCE, CA 90503 AS OF October 22, 2002 **Owner at Publication:** DAVIDSON & ASSOCIATES, INC. (CALIFORNIA CORPORATION) 19840 PIONEER AVENUE TORRANCE, CA 90503 AS OF September 04, 2001 **Applicant:** DAVIDSON & ASSOCIATES, INC. (CALIFORNIA CORPORATION) 19840 PIONEER AVENUE TORRANCE, CA 90503 AS OF February 12, 2001 **Registrant:** DAVIDSON & ASSOCIATES, INC. (CALIFORNIA CORPORATION) 19840 PIONEER AVENUE TORRANCE, CA 90503 AS OF October 22, 2002 **Applicant:** DAVIDSON & ASSOCIATES, INC. (CALIFORNIA CORPORATION) 19840 PIONEER AVENUE TORRANCE, CA 90503 AS OF February 12, 2001

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NOW YOU HAVE THE POWER TO CONTROL MIGHTY ARMIES AND FANTASTIC FORCES FROM THE WORLD OF EVERQUEST.

LORDS



Service Status:
Service is up

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- Dawn Brotherhood
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- Mobs
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STRATEGY GUIDE

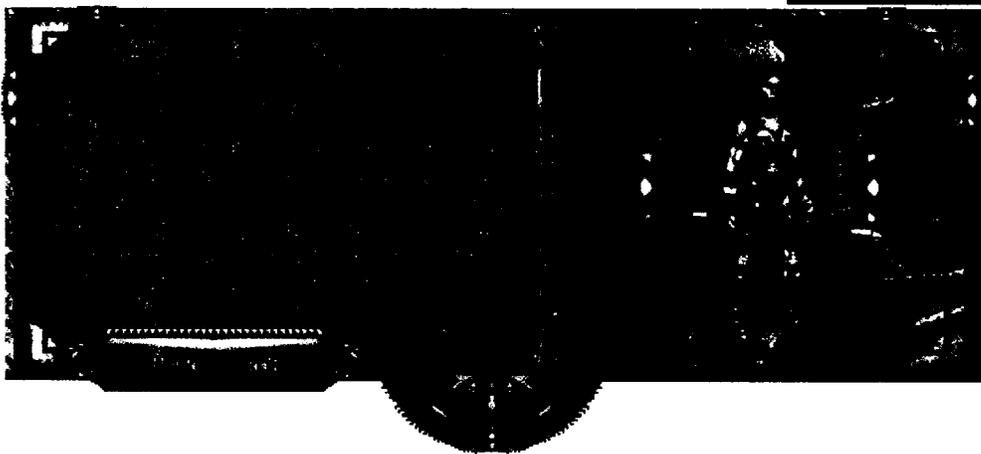
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The Lords of EverQuest Official Prima Strategy Guide offers a valuable walkthrough to get you through over 75 hours of gameplay. **Get your copy today!**

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NEWS

Tech Support Closed Monday, January 19, 2004

Technical Phone Support and Live chat will be closed Monday January 19, 2004. Normal hours for both Tech Support and Live Chat will resume on Tuesday January 20, 2004.

! Photosensitive Seizure Warning