

ESTTA Tracking number: **ESTTA242352**

Filing date: **10/14/2008**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Gameologist Group LLC		
Entity	Corporation	Citizenship	New Jersey
Address	3430 Atlantic Avenue Atlantic City, NJ 08401 UNITED STATES		

Attorney information	Craig Stuart Lanza Balestriere Lanza PLLC 225 Broadway Suite 2900 New York, NY 10007 UNITED STATES clanza@balestriere.net Phone:212-374-5404		
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Applicant Information

Application No	77472409	Publication date	10/14/2008
Opposition Filing Date	10/14/2008	Opposition Period Ends	11/13/2008
Applicant	Michelle Cassarino 73 Astor Drive Rhinebeck, NY 12572 UNITED STATES		

Goods/Services Affected by Opposition

Class 028. All goods and services in the class are opposed, namely: Scratch cards for playing lottery games
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Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	78311849	Application Date	10/09/2003
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BLING BLING 2002		
Design Mark			

Description of Mark	NONE
Goods/Services	<p>Class 009. First use: Gaming equipment, namely, slot machines with or without video output; video game interactive hand held remote controls for playing electronic games; computerized video games for gaming purposes</p> <p>Class 028. First use: Casino games and equipment therefor, namely, dice, board games, card games, lottery cards, coin-operated video games, hand-held unit for playing electronic games, stand alone video game machines, stand alone video output game machines, and game tables</p>

Attachments	Gameologist Group Opposition to Bada Bling.pdf (5 pages)(58752 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	s/ Craig Stuart Lanza/
Name	Craig Stuart Lanza
Date	10/14/2008

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

In the matter of Trademark Application Serial No. 77472409
Mark: BADA BLING
Filed: May 12, 2008
Published in the Official Gazette on October 14, 2008
International Class: 028

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The Gameologist Group, LLC :
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 Opposer, :
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 : Opposition No.: _____
-against- :
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 Michelle Cassarino :
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 Applicant :
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BOX TTAB FEE
Assistant Commissioner for Trademarks
P.O. Box 1451
Alexandra, VA 22313-1451

NOTICE OF OPPOSITION

Dear Sir:

In the matter of an application for registration upon the Principal Register of trademark for BADA BLING for use in connection with scratch cards for playing lottery games, in International Class 028, Serial No. 77472408, filed May 12, 2008, by Michelle Cassarino, an individual residing at 73 Astor Drive Rhinebeck, New York 12572 (hereinafter referred to as "Applicant").

The Gameologist Group, LLC, a New Jersey limited liability company having an address of 3430 Atlantic Avenue, Atlantic City, New Jersey 08401 (hereinafter referred to as "Opposer"), believes that it will be damaged by said application and hereby opposes the same.

The grounds for opposition are as follows:

1. Since long before 2004, Opposer and/or its predecessors-in-interest has been, and is and/or is now using the marks BLING BLING and/or BLING BLING 2002 (hereinafter the "Family of Bling Marks") in connection with the promotion, marketing and/or sale of gaming machines and equipment, casino games, lottery cards and game tables and related goods and/or services and the like. Said promotion, marketing and/or use has been valid and continuous since then and has not been abandoned. Said "Family of Bling Marks" is symbolic of extensive good will and consumer recognition built up by Opposer through substantial amounts of time and effort in promoting said "Family of Bling Marks."
2. Opposer is the owner of the Registered Trademark federal applications: (a) U.S. serial no. 78/200,947 filed January 7, 2003 for the mark BLING BLING 2002 as applied to entertainment in the nature of online three dice casino games, in International Class 41; and (b) U.S. application serial no. 78/311,849 filed October 9, 2003 for the mark BLING BLING 2002 as applied to gaming equipment, namely, slot

machines with or without video output, video game interactive hand held remote controls for playing electronic games, computerized video games for gaming purposes, in International Class 9 and casino games and equipment therefore, namely, dice, board games, card games, lottery cards, coin-operated video games, hand-held unit for playing electronic games, stand alone video game machines, stand alone video output game machines, and game tables, in International Class 028.

3. Upon information and belief, Applicant filed an intent-to-use (ITU) application, serial no. 77472409 on May 12, 2008 to register BADA BLING for scratch cards for playing lottery games.
4. Upon information and belief, Applicant has not begun use of the "Applicant's Bling Marks" in commerce for the goods referred to in paragraph 3 of this Notice of Opposition.
5. Upon information or belief, Applicant knew of or had reason to know of Opposer's prior use and/or the applications for Opposer's "Family of Bling marks" when Applicant filed its applications for "Applicant's Bling Marks" and Applicant adopted said marks in bad faith.
6. Opposer's "Family of Bling Marks" and Applicant's BADA BLING Mark are substantially similar.
7. The dominant element of Opposer's "Family of Bling Marks," Applicant's aforesaid mark BADA BLING and Applicant's Bling

Marks, and the element which purchasers would refer to in recalling both Opposer's and Applicant's goods, is BLING.

8. The goods described in Applicant's application serial no. 77472409 for Applicant's BADA BLING mark are the same or closely related to the goods and/or services provided by the Opposer and are likely to be offered through the same or overlapping channels of trade to the same or overlapping classes of purchasers and users.
9. Applicant's mark BADA BLING so resembles Opposer's "Family of Bling marks" due to the similarities between Opposer's and Applicant's marks, as to likely cause confusion to cause mistake and/or to deceive within the meaning of § 2(d) of the Trademark Act of 1946, whereby the purchasing public will believe that Applicant's goods emanate from, or in some way are associated or connected with, or sponsored, authorized or warranted by Opposer, all to the detriment of Opposer, and Opposer will be damaged if a registration is granted to Applicant.
10. Likelihood of confusion is enhanced by the fact that the goods and services at issue are identical, and/or substantially similar and the prospective purchasers and/or purchasers of Applicant's and Opposer's goods and services are the same.
11. Applicant's mark so closely resembles Opposer's "Family of Bling Marks" that it is likely to cause deception in violation of Section 2(a) of

the Trademark Act, in that Applicant's mark misdescribes the nature or origin of the goods/services, and purchasers are likely to believe that the misdescription actually describes the nature or origin of the services, and this is likely to materially alter purchasers' decisions to acquire Applicant's services.

12. Applicant's mark so closely resembles Opposer's "Family of Bling Marks" that it falsely suggests a connection with Opposer in violation of section 2(a) of the Trademark Act, because Applicant's mark points uniquely to Opposer, and purchasers will assume that goods/services offered under Applicant's mark are connected with Opposer.

13. Applicant's mark is deceptive in that it falsely suggests a connection with or approval by the Opposer.

WHEREFORE, Opposer requests that this Opposition be sustained and that the requested registration of Applicant's mark be denied.

Respectfully Submitted,

The Gameologist Group, LLC

Date: October 14, 2008

s/Craig Stuart Lanza
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