

ESTTA Tracking number: **ESTTA265030**

Filing date: **02/06/2009**

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	Lightstream Partners LLC
Granted to Date of previous extension	02/11/2009
Address	1825 Ponce De Leon Blvd#414 Coral Gables, FL 33134 UNITED STATES

Correspondence information	Lightstream Partners LLC 1825 Ponce De Leon Blvd#414 Coral Gables, FL 33134 UNITED STATES jbmiami@gmail.com Phone:305-220-4444
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Applicant Information

Application No	77394160	Publication date	10/14/2008
Opposition Filing Date	02/06/2009	Opposition Period Ends	02/11/2009
Applicant	RingDivas INC. 14105 Kendrick Cross Rd. Charlotte, NC 28273 UNITED STATES		

Goods/Services Affected by Opposition

<p>Class 009. First Use: 2006/02/25 First Use In Commerce: 2006/02/25 All goods and services in the class are opposed, namely: Pre-recorded dvds featuring women's wrestling, women's boxing and women's mixed martial arts; pre-recorded video tapes featuring women's wrestling, women's boxing and women's mixed martial arts; pre-recorded compact discs featuring women's wrestling, women's boxing and women's mixed martial arts; digital videos featuring women's wrestling, women's boxing and women's mixed martial arts; Computer software for organizing and viewing digital images and photographs featuring women's wrestling, women's boxing and women's mixed martial arts; computer games in the form of cartridges, tapes, software, game discs featuring women's wrestling, women's boxing and women's mixed martial arts; video games in the form of cartridges, tapes, software, game discs featuring women's wrestling, women's boxing and women's mixed martial arts</p>

Grounds for Opposition

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)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)

Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	77515443	Application Date	07/07/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BATTLE ANGEL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1999/06/10 First Use In Commerce: 1999/06/10 Computer game cartridges; Computer game cartridges and discs; Computer game discs; Computer programs for pre-recorded games		

Attachments	77515443#TMSN.jpeg (1 page)(bytes) Opposing_Letter_BA.pdf (5 pages)(14642 bytes) ringdivasemail[1].pdf (1 page)(10348 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	/Jose Barreto/
Name	Lightstream Partners LLC
Date	02/06/2009

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

LIGHTSTREAM PARTNERS LLC.,

Opposition No.:

Opposer

Mark: BATTLE ANGELS

Serial No.: 77394160

Filed: February 4, 2009

v.

RING DIVAS,

Applicant.

NOTICE OF OPPOSITION

Opposer, Lightstream Partners LLC, ("Opposer") a DBA of the State of Florida, with address at 1825 Ponce De Leon Blvd., #414, Coral Gables, FL 33134, believes that it is being damaged, and will be damaged, by the registration of the mark BATTLE ANGELS shown in Application Serial No. 77394160, and hereby opposes the same. As grounds for its opposition, Opposer alleges that, upon actual knowledge with respect to Opposer's own acts, and upon information and believe as to other matters:

Opposer and its BATTLE ANGELS Mark

1. Opposer, Lightstream Partners LLC, is a DBA of the State of Florida, having Principal place of business at 1000 Ponce De Leon Blvd., Suite 126, Coral Gables FL 33134.
2. Opposer, through its related companies has sold video games with the mark BATTLE ANGEL.
3. Since at least as early as 1999, Opposer, through its related companies and licenses, has sold the BATTLE ANGEL mark in commerce in connection with video games.
4. As a result of Opposer's promotional efforts and sales of video games, Opposer's BATTLE ANGEL mark has achieved in interstate commerce.

Applicant and its BATTLE ANGELS Mark

5. Applicant Ring Divas is a corporation with corporate offices at 14105 Kendrick Cross Rd., Charlotte, NC 28273.
6. Applicant is the current owner of the application Serial No. 77394160 filed February 11, 2008, for the mark BATTLE ANGELS for the following: pre-recorded DVD's featuring women's wrestling, women's boxing and women's mixed martial arts; prerecorded video tapes featuring women's wrestling, women's boxing and women's mixed martial arts; pre-recorded compact discs featuring women's

wrestling, women's boxing and women's mixed martial arts; digital videos featuring women's wrestling, women's boxing and women's mixed martial arts computer software for organizing and viewing digital images and photographs featuring women's wrestling, women's boxing and women's mixed martial arts; computer games in the form of cartridges, tapes, software, and game discs featuring women's wrestling, women's boxing and women's mixed martial arts; video games in the form of cartridges, tapes, software, and game discs featuring women's wrestling, women's boxing and women's mixed martial arts.

COUNT I: LIKELIHOOD OF CONFUSION

7. Opposer repeats and realleges each and every allegation set forth in Paragraphs 1 through 6.

8. Opposer has continuously used the mark BATTLE ANGEL in commerce prior to the filing date of the opposed application and prior to any date of first use that may be alleged by Applicant. Further, Opposer has acquired rights in the mark BATTLE ANGEL through use analogous to trademark use prior to the filing date of the Opposed Application, and prior to any date of first use that may be alleged by Applicant.

9. Applicant's mark BATTLE ANGELS is virtually identical in sound and appearance, and identical in connotation and overall commercial impression, to Opposer's mark BATTLE ANGEL. In addition, Applicant's goods are related to the

goods and services offered by Opposer in connection with the BATTLE ANGEL mark.

10. Applicant's mark BATTLE ANGELS so resembles Opposer's previously used mark BATTLE ANGEL as to be likely, when applied to the identified goods, to cause confusion, or to cause mistake, or to deceived all in violation of Section 2 (d) of the Lanham Act, 15 U.S.C. 1052 (d).

COUNT II: DILUTION

11. Opposer repeats and realleges each and every allegation set forth in Paragraphs 1-10.

12. In view of the similarities of the marks Opposer's mark BATTLE ANGEL, Applicant's BATTLE ANGELS mark so closely resembles Opposer's mark BATTLE ANGEL that that it is likely to dilute and will dilute the distinctive quality of said mark In violation of Section 43 (c) of the Lanham Act, 15 U.S.C. 1125 (c) (as amended October 6, 2006).

COUNT III: FRAUD

13. Applicant listed these goods: computer games in the form of cartridges, tapes, software, and game discs featuring women's wrestling, women's boxing, women's mixed martial arts, video games in the form of cartridges, tapes, software, game discs featuring women's wrestling, women's boxing and women's mixed martial arts when it filed its application.

15. Applicant as of September 15, 2008 did not in fact sell video games as it declared in its application and email. See Exhibit A.

WHEREFORE, Opposer believes that it is being and will be damages by the registration of the mark shown in Application Serial No. 77394160, and respectfully requests that registration be refused, and that this Opposition be sustained in favor of the Opposer.

Respectfully submitted,

LIGHTSTREAM PARTNERS LLC

Dated: February 4, 2009

By /Jose Barreto/

Jose Barreto
Lightstream Partners LLC
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#414
Coral Gables, FL 33134
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Facsimile: (305) 513.5710

ringdivas email
Re: Enquiry from RingDivas Shop Inbox
 Reply
 Reply to all
 Forward
 Print
 Add RingDivas.com to Contacts list
 Delete this message
 Report phishing
 Show original
 Message text garbled?
 "RingDivas.com" <webmistress@ringdivashop.com> to me
 show details 9/15/08

Jose,

Thank you for your inquiry. We do not currently sell a game but we would love to release one someday. If we get any opportunities to release a game we will definitely be sure to post info on our website.

Thanks again, Dezco
www.Ringdivas.com

On Sep 15, 2008, at 11:06 AM, "Jose" <joselightstream@gmail.com> wrote: