

ESTTA Tracking number: **ESTTA323689**

Filing date: **12/22/2009**

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	Piggyback Interactive Limited
Granted to Date of previous extension	12/27/2009
Address	5 Westmont Court, Monmouth Road London, W2 4UU UNITED KINGDOM
Attorney information	Mark H. Tidman Baker & Hostetler LLP 1050 Connecticut Avenue, N.W. Washington Square, Suite 1100 Washington, DC 20036 UNITED STATES trademarks@bakerlaw.com Phone:2028611500

Applicant Information

Application No	77525392	Publication date	06/30/2009
Opposition Filing Date	12/22/2009	Opposition Period Ends	12/27/2009
Applicants	Revell, Graeme C. 2877 Paradise Road, #105 Las Vegas, NV 89109 UNITED STATES Revell, Ashley M. 2877 Paradise Road, #105 Las Vegas, NV 89109 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. All goods and services in the class are opposed, namely: Computer e-commerce software to allow users to perform electronic business transactions in a globally integrated television, cable, film, videogame, internet, mobile phone, PDA and remote control environment

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3264264	Application Date	06/01/2004
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Registration Date	07/17/2007	Foreign Priority Date	04/29/2004
Word Mark	PIGGYBACK		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: Computer games, namely, computer game software, computer game programs; electronic game programs; games adapted for use with television receivers and computers, namely, computer game software for use with computers and video games for use with televisions; [apparatus for games adapted for use with television, namely, computer game joysticks and handheld joystick units for playing video game machines for use with television; game machines, namely, video game machines for use with televisions;] video games in the form of CD-ROMS, video games, namely, video game cartridges, [video game discs, apparatus for playing hand held video games, namely, video game joysticks for playing hand held games]; computer software for use in connection with games; and downloadable electronic publications, namely, books, magazines and manuals in the fields of computer games, computers, software, video games and entertainment</p> <p>Class 016. First use: Printed matter, namely, printed guides, [newspapers, periodical publications, magazines,] books; and instructional and teaching materials, all the aforesaid relating to computer games; [photographs, pictures, prints; posters; greeting cards; postcards; note pads; address books; scrapbooks; folders; catalogues in the field of computer games; printed tickets;] calendars; [photographs albums; diaries;] booklets in the field of computers; [sleeves for holding and protecting postage stamps; stamp albums;] stickers; car stickers; [decalcomania; blank cards and business cards; cardboard articles, namely, cardboard, cardboard packaging, cardboard boxes; stationery, pens, pencils, erasers, pencil sharpeners, pencil cases, rulers, namely, drafting rulers and drawing rulers; boxes for pens,] bookmarks; [drawing materials for blackboards, artist's materials, namely, artists' pens, artists' brushes, artists' pastels, artists' pencils; printed gift bags; carrier bags, namely, cardboard carrier bags, paper carrier bags; envelopes; blackboards; printed height charts; coasters made of papers and tablemats made of paper]</p> <p>Class 041. First use: Entertainment services;, namely, providing on-line computer games and on-line non-downloadable interactive games; providing on-line interactive computer games that may be accessed from databases or websites on the Internet; publication of books and other publications, namely, journals, brochures, [newspapers and periodicals] relating to computer games, computer game software, computer game software in the nature of video games, and interactive multimedia computer game programs</p>		

Attachments	78427793#TMSN.jpeg (1 page)(bytes) PIGGEEBACK Notice of Opposition.pdf (4 pages)(116625 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	/Mark Tidman/
Name	Mark H. Tidman
Date	12/22/2009

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

In re Application Ser. No. 77/525,392 for the mark PIGGEEBACK, Class 9, filed on July 17, 2008

Piggyback Interactive Limited)	
)	
Opposer,)	Opposition No.:
)	
v.)	
)	
Graeme C. Revell and Ashley M. Revell)	
)	
Applicants.)	
)	

NOTICE OF OPPOSITION

Piggyback Interactive Limited believes that it will be damaged by the registration of the above-identified mark and hereby opposes the same under the provisions of Section 13 of the Trademark Act of 1946, 15 U.S.C. §1063.

As grounds for the opposition, it is alleged that:

1. Opposer is the owner of all rights, title and interest in and to the mark PIGGYBACK for, *inter alia*, a wide variety of computer games, computer game software, video games, publications, guides, and entertainment services, including on-line computer games and electronic publications relating to computer and video games.
2. Opposer has obtained Registration Nos. 3,264,264 from the U.S. Patent and Trademark Office.

3. Opposer's registration is valid and subsisting, and thereby provides *prima facie* evidence of Opposer's ownership and the validity of the PIGGYBACK mark and of its exclusive right to use the mark in commerce.

4. Since long prior to the filing date of Application Serial No. 77/525,392, Opposer has made extensive use of the PIGGYBACK mark in United States commerce. As a result, the mark has become well-known as a distinctive indicator of the origin of Opposer's goods and services, and it symbolizes Opposer's valuable goodwill.

5. Upon information and belief, Applicants knew or had reason to know of Opposer's PIGGYBACK mark when Applicants filed Application serial No. 77/525,392.

6. Opposer has used its PIGGYBACK mark continuously on or in connection with its goods and services in interstate commerce since prior to the filing date Application Serial No. 77/525,392.

7. Applicants' mark is phonetically identical and spelled virtually identically to Opposer's mark, and so resembles Opposer's mark that the use and registration thereof is likely to cause confusion, mistake and/or deception as to the source or origin of Applicants' goods in violation of Section 2(d) of the Trademark Act, and will injure and damage Opposer and the goodwill and reputation symbolized by Opposer's PIGGYBACK mark.

8. The goods of Applicants are so closely related to the goods and services of Opposer that the public is likely to be confused, to be deceived and to assume erroneously that Applicants' goods are those of Opposer, or that Applicants are in some way connected with, sponsored by, or affiliated with Opposer, all to Opposer's irreparable damage.

9. Applicants are not affiliated or connected with, or endorsed or sponsored by, Opposer, nor has Opposer approved any of the goods offered by Applicants under the alleged mark.

10. Applicants' mark so closely resembles Opposer's mark that Applicants' mark is likely to cause deception in violation of Section 2(a) of the Trademark Act and to materially alter purchasers' decisions to acquire Applicants' goods.

11. Applicants' mark so closely resembles Opposer's mark that it falsely suggests a connection with Opposer in violation of Section 2(a) of the Trademark Act, since Applicants' alleged mark points uniquely to Opposer, and purchasers will assume that the goods offered under Applicants' alleged mark are connected with Opposer.

12. Use and registration of the mark PIGGEEBACK by Applicants will deprive Opposer of the ability to protect its reputation and goodwill.

13. By reason of the foregoing, Opposer will be damaged by the registration of Applicants' mark, and registration should be refused.

WHEREFORE, Opposer prays that this opposition be sustained and that registration be denied.

You are authorized to charge Deposit Account No. 502036 any additional fees which may be due.

Dated: December 22, 2009

PIGGYBACK INTERACTIVE LIMITED

By: 
Mark H. Tidman
Kellu L. Sullivan
Baker Hostetler LLP
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5304
(202) 861-1500 (Telephone)
(202) 861-1783 (Facsimile)
mtidman@bakerlaw.com
Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of December, 2009, a true copy of the Notice of Opposition was served on counsel for Applicant via U.S. first-class mail, postage prepaid to:

Graeme C. Revell and Ashley M. Revell
2877 Paradise Road, #105
Las Vegas, NV 89109



Mark H. Tidman