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Filing date: **04/07/2011**

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

Proceeding	91196629
Party	Plaintiff Gamelink, LLC
Correspondence Address	PHILIP GREEN LAW OFFICES OF GREEN & GREEN 1000 4TH STREET , SUITE 595 SAN RAFAEL, CA 94901 UNITED STATES phil@iplegal.com
Submission	Opposition/Response to Motion
Filer's Name	Philip Green
Filer's e-mail	phil@greenandgreen.com
Signature	/PG/PhilipGreen/
Date	04/07/2011
Attachments	DECLARATION OF PHIL GREENEXHv.pdf (12 pages)(700799 bytes)

1 PHILIP GREEN (State Bar No. 92389)
2 BEVERLY R. GREEN (State Bar No. 92388)
3 LAW OFFICES OF GREEN & GREEN
4 1000 4th Street, Suite 595
5 San Rafael, California 94901
6 Telephone: 415.457.8300
7 Facsimile: 415.457.8757
8 Email: phil@greenandgreen.com

9 Attorneys for: GAME LINK, LLC
10 Opposer

11 **IN THE**
12 **TRADEMARK TRIAL AND APPEALS BOARD**

13 GameLink, L.L.C. a Private Media Company

14 Plaintiff/Opposer

15 vs.

16 Timothy Dunning,

17 Defendant/Respondent

18 IN RE: GAMELINK

19 Opp. No. 91196629

20 Ser. No. 77770614

21 **DECLARATION OF PHILIP GREEN IN**
22 **OPPOSITION TO RESPONDENT'S SECOND**
23 **MOTION TO DISMISS**

24 I, Philip Green, Attorney and partner of Green and Green and represent Gamelink,
25 LLC the Opposer herein. I hereby testify as follows. I make this declaration based
26 upon my own personal knowledge and if called to testify could and would
27 competently testify as to the matters stated herein.

28 1. On or about March 1, 2009 I received an alert that an application had been made
to the PTO for the mark GameLink, my client's registered trademark.

Opp. No. 91196629 Ser. No.77770614

Declaration of Green IN OPPOSITION TO RESPONDENT'S SECOND MOTION TO DISMISS

- 1 2. On June 23, 2009 I Green and Green sent via email and Federal Express a cease
2 and desist letter to Mr. Timothy P. Dunning doing business as GameLink, LLC at
3 8136 Highlands Drive, Midland, Georgia 31820. The letter is attached hereto as
4 Exhibit 1.
- 5
6 3. In researching the matter on July 21, 2009 I discovered that Mr. Dunning had
7 posted a “Twitter®” page that advertised his services as, “Get Linked
8 Now...Game Link™...” See Exhibit 2 attached hereto and made a part hereof is
9 a true copy of the Twitter advertising by Respondent.
- 10
11 4. I received no response to my first Cease & Desist Letter and mailed another
12 warning on letter on July 21, 2009, and again I heard nothing. This second letter is
13 attached hereto as Exhibit 3.
- 14
15 5. On September 27, 2010 the current Opposition was filed.
- 16
17 6. Later, on March 21, 2011 I again visited the Respondent’s Twitter page and
18 discovered that Respondent had changed their advertising on Twitter to display as
19 “Game Link®” and that Respondent was now making use of the *registered*
20 symbol following the mark GameLink. See Exhibit 4, attached hereto and made a
21 part hereof is a true copy of the new Twitter advertising by Respondent.
- 22
23 7. Therefore it appears that Respondent willfully, and after two Cease & Desist
24 letters and the filing of an Opposition thereafter adopted the ® on their infringing
25 and unregistered mark.
- 26
27
28

Opp. No. 91196629 Ser. No.77770614

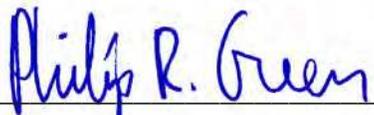
Declaration of Green IN OPPOSITION TO RESPONDENT’S SECOND MOTION TO DISMISS

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8. I believe this is indicative of fraud and the illegal and frivolous attitude the Respondent has to my client's allegations of infringement.

9. I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct except for those matters stated in on information and belief, and as to those matters, I believe them to be true.

Executed this 7th day of April in Marin County, CA


Philip Green, Attorney,
at Law Offices of Green and Green

1 CERTIFICATE OF SERVICE

2 I hereby certify that a true and complete copy of the foregoing

3 DECLARATION OF GREEN + EXHIBITS 1-4 IN OPPOSITION TO SECOND MOTION TO
4 DISMISS

5 has been served by sending said copy on April 7, 2011 via First-Class Mail, postage
6 pre-paid, to:

7 Morris E. Turek, Esq.

8 YourTrademarkAttorney.com

9 167 Lamp & Lantern Village, #220

10 Chesterfield, MO 63017-8208

11 ___/Philip Green/___

12 Philip Green, Attorney for Opposer
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Opp. No. 91196629 Ser. No.77770614

Declaration of Green IN OPPOSITION TO RESPONDENT'S SECOND MOTION TO DISMISS

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One Embarcadero Center
Suite 500
San Francisco, CA 94111

Please Reply to San Rafael

June 23, 2009

Via Email and Fedex: timdunnigan@mac.com

Mr. Timothy P. DUNNIGAN
8136 Highlands Drive
Midland, Georgia 31820

Re: Your attempt to register Game Link trademark – CEASE AND DESIST

Dear Mr. Dunnigan:

We represent Game Link, Inc. owner of the trademark GameLink® Registration Number: 3023336 and *incontestable* trademark, Game Link® Registration Number: 2206576, and other international registrations. It has come to our attention that your company is presently applying for the same trademark with the P.T.O. under Serial Number: 77690611. This is to notify you that your use of the mark is an infringement on our client's mark and it must stop. We plan to oppose your registration at its publication stage. Thus we can either resolve this now with your complete cessation of use of the mark or through the P.T.O. later.

Your use and attempt to register the trademark Game Link constitutes unfair competition and infringement among other probable counts. Your continued use of this name after this letter could be considered willful under the Lanham Act and may give rise to an award of your profits and for attorney fees under Lanham Act §35. My clients use of its GameLink marks are within all the areas of your mark including, but not limited to, television, broadcast, display of videos within the TCP/IP protocols, in International class 09 and in International Class 041, entertainment services, namely, providing on-line computer games; rental of television devices to decode video signals, and is planning on expanding its marketing in these areas.

Your company is willfully diluting our client's mark under 15 U.S.C.A. 1125(c)(1) by blurring its distinctiveness and is falsely trading on the goodwill of Game Link, Inc. under Cal. Bus. & Prof. Code Sec. 14330 and 17500 et seq., and California and U.S. common law that prohibit unfair competition and "passing off" by creating a false or misleading impression that our clients are affiliated, connected or associated and causing confusion as to the source of web site business.

We demand an accounting of all income your company has received via use of the name “Gamelink,” that you cease use of the name and the word “GAMELINK” on any web site and in any other method, format or medium throughout the world. We demand that your company immediately surrender and assign all rights and interest in this name and its application for registration to our client. Please provide us with your written assurances as soon as possible, but by no means later than ten (10) days from the date of this request that your company will comply.

This letter is without prejudice to all further rights of Game Link, Inc. including but not limited to file actions with WIPO, P.T.O. and other agencies, and the courts, to oppose the registration or to place it on “hold” and/or seek injunctive relief, damages, profits, royalties and attorneys' fees. Time is of the essence of the deadlines mentioned herein.

Sincerely yours,
Law Offices of
GREEN & GREEN

Philip R. Green

PRG;hal
cc: Game Link, LLC



Login Join Twitter!



Hey there! **getlinkednow** is using Twitter.

Twitter is a free service that lets you keep in touch with people through the exchange of quick, frequent answers to one simple question: What's happening? **Join today** to start receiving **getlinkednow's** tweets.

Join today!

Already using Twitter from your phone? [Click here.](#)



getlinkednow

GameLink™ is open, & offering 30% discounts to new players!

5:10 PM Jul 21st, 2009 from web

Name GameLink™
Location Columbus, GA
Web <http://www.getlin...>

3 following **5** followers **0** listed

Tweets 1

[Favorites](#)

[Following](#)



[RSS feed of getlinkednow's tweets](#)

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www.greenandgreen.com

San Francisco Office:

One Embarcadero Center
Suite 500
San Francisco, CA 94111

Please Reply to San Rafael

July 21, 2009

Via Email and Fedex: timdunnigan@mac.com

Mr. Timothy P. Dunnigan
DBA GAME LINK, LLC
8136 Highlands Drive
Midland, Georgia 31820

Re: Your attempt to register Game Link trademark – SECOND NOTICE TO CEASE AND DESIST

Dear Mr. Dunnigan:

I last wrote to you on June 23, 2009 a month ago. This is your second warning. As I told you in my first letter, we represent Game Link, Inc. owner of the trademark GameLink® Registration Number: 3023336 and *incontestable* trademark, Game Link® Registration Number: 2206576, and other international registrations. It has come to our attention that your company is presently applying for the same trademark with the P.T.O. under Serial Number: 77690611. This is to notify you that your use of the mark is an infringement on our client's mark and it must stop. We plan to oppose your registration at its publication stage. Thus we can either resolve this now with your complete cessation of use of the mark or through the P.T.O. later. Tobe clear my client wants you to stop attempting to register the mark GameLink and cease using it.

Your company is willfully diluting our client's mark under 15 U.S.C.A. 1125(c)(1) by blurring its distinctiveness and is falsely trading on the goodwill of Game Link, Inc. under Cal. Bus. & Prof. Code Sec. 14330 and 17500 et seq., and California and U.S. common law that prohibit unfair competition and "passing off" by creating a false or misleading impression that our clients are affiliated, connected or associated and causing confusion as to the source of web site business.

We demand an accounting of all income your company has received via use of the name "Game Link," that you cease use of the name and the word mark "GAME LINK" on any web site and in any other method, format or medium throughout the world. We demand that your company immediately surrender and assign all rights and interest in this name and its application for registration to our client. Please provide us with your written assurances as soon as possible,

Business - Intellectual Property - Entertainment - Real Estate - Estates & Trusts
Litigation - Dispute Resolution

EXHIBIT 3 DECLARATION OF GREEN

but by no means later than seven (7) days from the date of this request that your company will comply.

This *second letter* is without prejudice to all further rights of Game Link, Inc. including but not limited to file actions with WIPO, P.T.O. and other agencies, and the courts, to oppose the registration or to place it on “hold” and/or seek injunctive relief, damages, profits, royalties and attorneys' fees. Time is of the essence of the deadlines mentioned herein.

Sincerely yours,
Law Offices of
GREEN & GREEN

A handwritten signature in blue ink that reads "Philip R. Green". The signature is written in a cursive style and is centered on the page.

Philip R. Green

PRG;hal
cc: Game Link, LLC



Have an account? [Sign in](#)

Get short, timely messages from Game Link ®.



Twitter is a rich source of instantly updated information. It's easy to stay updated on an incredibly wide variety of topics. [Join today](#) and [follow @getlinkednow](#).

[Sign Up](#)

Get updates via SMS by texting [follow getlinkednow](#) to **40404** in the United States
[Codes for other countries](#)



getlinkednow

Name Game Link ®
Location Columbus, GA
Web <http://www.getlin...>

11 **59** **0**
following followers listed

Tweets 24

[Favorites](#)

[Following](#)



[RSS feed of getlinkednow's tweets](#)

Check out our FaceBook page for awesome pictures of fans with the Incredible Hulk! <http://t.co/UDIW8Z4>

about 3 hours ago via Twitter for Mac

[@johndhelms!](#) You just won a free xbox game! We'll send you details shortly. The rest of you, keep following, we've got more contests soon!

about 19 hours ago via Twitter for iPhone

Here it is! The moment of truth! One lucky follower will win an Xbox 360 game! And the winner is...

about 19 hours ago via Twitter for iPhone

We're out at the air show! Come out and relax and play some games! Prize drawing soon!

7:56 AM Mar 20th via Twitter for iPhone

One more day of Thunder in the Valley! Come out early to get your picture taken with the Incredible Hulk!

6:07 AM Mar 20th via Twitter for iPhone

Alright guys! We've extended the drawing for the free game to one more day. Be sure to check us out at the air show tomorrow!

6:03 PM Mar 19th via Twitter for iPhone

We're out at the Thunder in the Valley air show! Come out and have your picture taken with the Hulk!

10:42 AM Mar 19th via Twitter for iPhone

Tomorrow! Thunder in the Valley air show. Prizes, swag, and

games. Be there!

11:09 AM Mar 18th via Twitter for Mac

We'll be at the Thunder in the Valley Air Show Saturday from 12-5. Come out and win some prizes while playing some games.

11:09 AM Mar 17th via Twitter for Mac

Halfway there! 100 followers by tomorrow and we'll give out free games! Please retweet to your friends!

7:05 AM Mar 17th via Twitter for Mac

2 more days to hit 100 followers! If we do we'll start randomly giving followers FREE GAMES. Bulletstorm? Homefront? Barbie Horse Adventure?

9:00 AM Mar 16th via Twitter for Mac

Two more days to hit 100 followers! If we do we'll start randomly giving followers FREE GAMES. Who wants Bulletstorm? MvC3? Homefront?

7:06 AM Mar 16th via Twitter for Mac

If we hit 100 followers by 3/18, we'll randomly pick a few to receive a brand new XBox 360 game. Please retweet!

7:55 AM Mar 15th via Twitter for Mac

100 followers by 3/18. Tell your friends to follow us! If they don't want to win the free 360 game, they can just give it to you!

10:57 AM Mar 14th via Twitter for Mac

If we hit 100 followers by 3/18, we'll randomly pick a few to receive a brand new XBox 360 game. So tell your friends!

6:56 AM Mar 14th via Twitter for Mac

If we reach 100 followers by next Friday, March 18, we'll start giving away prizes that weekend at the air show! So tell your friends!

7:56 AM Mar 11th via Twitter for Mac

Next weekend, we'll be out at the Thunder in the Valley Air Show. With prizes! Think you can win one?

1:22 PM Mar 10th via web

GameLink - 360 view: <http://occip.it/py0yea50j>
<http://yfrog.com/0yea50j>

1:18 PM Dec 4th, 2010 via Occipital

Panorama - 360 view: <http://occip.it/pynesmz0j>
<http://yfrog.com/nesmz0j>

10:36 AM Dec 3rd, 2010 via Occipital

Charity MW2 tournament on April 10 @ 11am-\$25 entry fee-huge prizes including a 42" HDTV! Call us @ 706-568-1743 for details. Sign-up today!

9:29 AM Apr 8th, 2010 via web

[more](#)

