ESTTA Tracking number: **ESTTA385181**
Filing date: **12/22/2010**

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

Proceeding	91197005
Party	Defendant Pan Am World Airways, Inc.
Correspondence Address	ROBERT B CULLIFORD PAN AM RAILWAYS 400 AMHERST STREET, SUITE 405 NASHUA, NH 03063-4225 UNITED STATES dgarrelick@panamrailways.com, rculliford@flypanam.com
Submission	Other Motions/Papers
Filer's Name	Daniel Garrelick
Filer's e-mail	dgarrelick@panamrailways.com, rculliford@flypanam.com
Signature	/Daniel Garrelick/
Date	12/22/2010
Attachments	Motion to Stay Pending Motion to Amend Application.PDF (35 pages)(751532 bytes)

LEGAL DEPARTMENT
(978) 663-1029

December 22, 2010

United States Trademark Trial and Appeal Board

Re: Gold Rush Brands, LLC –Opposer/Plaintiff v. Pan Am World Airways, Inc.-Defendant/Applicant; Opposition No.91997005; Application No. 77931658

Dear Sir/Madam:

Enclosed for filing please find Applicant/Defendant's Motion to Stay Proceedings Pending Motion to Amend Application in connection with the above-referenced matter. Thank you for your time.

Sincerely,

Daniel Garrelick
Staff Attorney
Pan American World Airways, Inc.
1700 Iron Horse Park
Billerica, MA 01862
(978) 663-1029

cc: Edmund J. Ferdinand III, Esq.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE

TRADEMARK TRIAL AND APPEAL BOARD

Serial No. 77931658

For the Mark PAN AM & Design

Gold Rush Brands, LLC, Plaintiff, v. Pan Am World Airways, Inc., Defendant,	)	Opposition No.:91197005

DEFENDANT'S MOTION TO STAY PROCEEDINGS PENDING MOTION TO AMEND APPLICATION

Pan American World Airways, Inc. ("Defendant") hereby brings forth this Motion to Stay Proceedings Pending a ruling on Defendant's Motion to Amend Application (Exhibit A) which was submitted on November 24, 2010. The grounds for Defendant's Motion to Stay are as follows:

1. Pan American World Airways, Inc. is a Delaware corporation with a principal place of business at 400 Amherst Street, Suite 405, Nashua, NH 03063. Defendant acquired the

rights to the trademarks owned by the original Pan American World Airways, Inc. ("Original Pan Am") which are currently used all over the world. The Original Pan Am was an air travel pioneer associated with the golden age of air transportation with domestic and international flights.

2. Gold Rush Brands, LLC ("Plaintiff") upon information and belief, is a New York corporation having an address at P.O. Box 146H, Scarsdale, New York 10583.

STATEMENT OF FACTS

3. Defendant filed an application on February 9, 2010 for International Class 39 in connection with the "Air transportation of passengers and freight". As an inadvertent error, Defendant filed for the application in the "Applicant/Owner's Name" section under the name "Pan Am World Airways, Inc." by mistake instead of its proper name of "Pan American World Airways, Inc.". Defendant simply put "Am" instead of the proper "American" by mistake.

4. Plaintiff filed an application for the mark PAN AM & design for use in connection with "transportation of goods, passengers and travelers by air" in International Class 39 on February 19, 2010, ten days later than Defendant's application for Class 39. A letter of protest submitted by Defendant was granted against Plaintiff's application by virtue of Defendant's application in Class 39 with the PAN AM word and Pan Am Globe logo.

5. Plaintiff filed a Notice of Opposition on the basis that it has not been able to confirm "Pan Am World Airways, Inc." as a legal entity.

6. Defendant via telephone requested the consent of Plaintiff through counsel to consent to this Motion to Stay but Plaintiff does not give such consent despite Defendant informing Plaintiff that the name given in the application was due to an inadvertent error.

ARGUMENT

Defendant contends that the Motion to Amend Application is appropriate based on the sufficient evidence provided in its Motion which show that the incorrect "Applicant/Owner's Name" submitted in Application 77931658 was not "fraud" but merely an inadvertent error. Further, examining attorneys at the United States Patent and Trademark Office allowed Defendant to successfully amend its two other trademark applications where Defendant made the same mistake by filling out the incorrect "Applicant/Owner's Name" in Applications 85088283 and 85143290. Applications are allowed to be corrected on the basis of inadvertent error. *See also U.S. Pioneer Corp. v. Evans Marketing, Inc.*, 183 USPQ 613 (Comm'r Pats. 1974) (applicant's name may be corrected where the application was mistakenly filed in the name of a fictitious and non-existent party). In the interests of efficiency and based on the already submitted facts and evidence, a Stay of Proceedings pending the Motion to Amend its Application is appropriate.

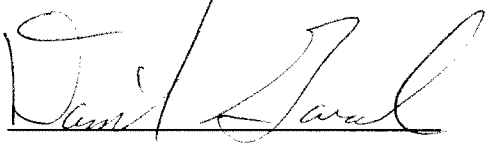
CONCLUSION

Based on the above stated facts and arguments, Defendant respectfully requests that the Board grant Defendant's Motion to Stay Proceedings based on its Motion to Amend Application no. 77931658.

Dated: December 22, 2010

Submitted By.

Pan American World Airways, Inc.
By its attorneys,



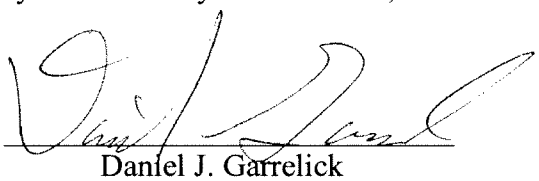
Daniel Garrelick, Esq.
Staff Attorney (authorized representative of Pan American World Airways, Inc.)
Springfield Terminal Railway Co.
1700 Iron Horse Park
Billerica, MA 01862
(978) 663-1029

CERTIFICATE OF SERVICE

I, Daniel J. Garrelick hereby certify that a true and accurate copy of the Defendant's Motion to Stay Proceedings Pending Motion to Amend Application, was served via first-class mail, December 22nd, 2010 on:

Edmund J. Ferdinand III
Counsel for Gold Rush Brands, LLC
Grimes & Battersby, LLP
488 Main Avenue
Norwalk, CT 06851

Signed under the pains and penalties of perjury this 22nd day of December, 2010.



Daniel J. Garrelick

EXHIBIT A

LEGAL DEPARTMENT
(978) 663-1029

November 24, 2010

United States Trademark Trial and Appeal Board

Re: Gold Rush Brands, LLC –Opposer/Plaintiff v. Pan Am World Airways, Inc.-Defendant/Applicant; Opposition No.91997005; Application No. 77931658

Dear Sir/Madam:

Enclosed for filing please find Applicant/Defendant's Motion to Amend Application & Supporting Memorandum in connection with the above-referenced matter. Thank you for your time.

Sincerely,

Daniel Garrelick
Staff Attorney
Pan American World Airways, Inc.
1700 Iron Horse Park
Billerica, MA 01862
(978) 663-1029

cc: Edmund J. Ferdinand III, Esq.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE

TRADEMARK TRIAL AND APPEAL BOARD

Serial No. 77931658

For the Mark PAN AM & Design

Gold Rush Brands, LLC, Opposer, v. Pan Am World Airways, Inc., Applicant	)	Opposition No.:91197005

APPLICANT'S MOTION TO AMEND APPLICATION & SUPPORTING MEMORANDUM

Pan American World Airways, Inc. ("Applicant") hereby brings forth this Motion to Amend its trademark application no. 77931658 pursuant to *37 CFR 2.71(d)* and *37 CFR 2.133(a)* and Section 512.04 of the Trademark Trial and Appeal Board Manual of Procedure ("TBMP") for the mark 'PAN AM' Word and Pan Am Globe Design in International Class 39 in connection with the 'Air transportation of passengers and freight". Applicant respectfully requests that the Trademark Trial and Appeal Board (the "Board") grant Applicant's Amendment to change the

Applicant/Owner's name in application no. 77931658 from "Pan Am World Airways, Inc." to "Pan American World Airways, Inc." The grounds for Applicant's Motion to Amend Application are as follows:

1. Pan American World Airways, Inc. is a Delaware corporation with a principal place of business at 400 Amherst Street, Suite 405, Nashua, NH 03063. Applicant acquired the rights to the trademarks owned by the original Pan American World Airways, Inc. ("Original Pan Am") which are currently used all over the world. The Original Pan Am was an air travel pioneer associated with the golden age of air transportation with domestic and international flights. (See Exhibits A & B).

2. Gold Rush Brands, LLC ("Opposer") upon information and belief, is a New York corporation having an address at P.O. Box 146H, Scarsdale, New York 10583.

STATEMENT OF FACTS

3. Applicant acquired the Original Pan Am's trademarks in the Original Pan Am's bankruptcy proceedings on December 29, 1993. After acquiring the trademarks used by the Original Pan Am, Applicant undertook preparations to offer flight services. In September of 1996, Applicant commenced flight operations between New York's Kennedy International Airport, Miami and Los Angeles; in addition to flights between San Juan Puerto Rico, Chicago and Miami. (See Exhibit B).

4. Pan American World Airways, Inc. filed for bankruptcy in 1998 and became a wholly owned subsidiary of Pan Am Systems, Inc. Pan American World Airways,

Inc. then provided airline services between several cities in the Northeast and Southern destinations using the PAN AM mark, Pan Am Globe logo and light blue and white color combination in connection with its air service until 2007. (See Exhibit B).

5. Applicant and its related entities continue to preserve the reputation of the PAN AM word mark and Pan Am globe logo as a leader and trend-setter in the world of commercial aviation by currently using the PAN AM name and logo through several registered and pending applications for trademarks in merchandise ranging from apparel, to toys and merchandise. (See Exhibit C).

6. Applicant licenses others to use the PAN AM word mark and Pan Am Globe logo on merchandise, including model airplanes and trains and travel-related products such as flight bags. (See Exhibit B).

7. Applicant filed an application on February 9, 2010 for International Class 39 in connection with the "Air transportation of passengers and freight". As an inadvertent error, Applicant filed for the application in the "Applicant/Owner's Name" section under the name "Pan Am World Airways, Inc." by mistake instead of its proper name of "Pan American World Airways, Inc.". Applicant simply put "Am" instead of the proper "American" by mistake. (See Exhibits B and D)

8. Opposer filed an application for the mark PAN AM & design for use in connection with "transportation of goods, passengers and travelers by air" in International Class 39 on February 19, 2010, ten days later than Applicant's application for Class 39. A letter of protest submitted by Applicant was granted against Opposer's application by virtue of

Applicant's application in Class 39 with the PAN AM word and Pan Am Globe logo. (See Exhibit E).

9. Opposer filed a Notice of Opposition on the basis that it has not been able to confirm "Pan Am World Airways, Inc." as a legal entity. (See Exhibit F).

10. Applicant via telephone requested the consent of Opposer through counsel to consent to this Amendment of Application but Opposer does not give such consent despite Applicant informing Opposer that the name given in the application was due to an inadvertent error.

STANDARD TO ALLOW AMENDMENT TO APPLICATION

37 CFR 2.71 (d) sets forth that an applicant "may amend the application to correct the name of the applicant, if there is a mistake in the manner in which name of the applicant is set out in the application." An application subject to an opposition may be amended upon motion granted by the Board. *37 CFR 2.133(a).* The TBMP explains that "when an application or registration is the subject of an inter partes proceeding before the Board, and it is shown to the satisfaction of the board that the applicant was misidentified in the application by mistake, the Board may allow amendment of the application or registration to correct the misidentification." TBMP 512.04.

Section 1201.02(c) of the Trademark Manual of Examination Procedures ("TMEP") states that "If the party applying to register the mark is, in fact, the owner of the mark, but there is a mistake in the manner in which the name of the applicant is set out in the application, the

mistake may be corrected by amendment." *See Accu Personnel Inc. v. Accustaff Inc.*, 38 USPQ 1443, 1445-46 (TTAB 1996) (applicant's misidentification of itself as a corporation was a harmless mistake). *See also U.S. Pioneer Corp. v. Evans Marketing, Inc.*, 183 USPQ 613 (Comm'r Pats. 1974) (applicant's name may be corrected where the application was mistakenly filed in the name of a fictitious and non-existent party).

AMENDMENT TO NAME

Without Opposer's consent, Applicant respectfully requests that the Board grant Applicant's amendment under the Applicant/Owner's name section in application no. 77931658 to be changed from "Pan Am World Airways, Inc." to "Pan American World Airways, Inc." on the basis that the original mislabeling of the owner's name was the result of an inadvertent error. The error is that Applicant's counsel mistakenly put "Am" instead of "American" under the "Applicant/Owner's Name" section when filling out the application for 77931658. Applicant argues that when it filled out application no.77931658 that it did so with new counsel who had not filled out a trademark application for applicant before. (See Exhibit D). Counsel made the same mistake on two other trademark applications on behalf of Applicant which it has since filed voluntary amendments to change the Owner's name to "Pan American Airways, Inc." *See Trademark Application No.'s 85088283 and 85143290.* The Examining Attorney on both of these applications granted Applicant's voluntary amendments to change the Applicant/Owner's name from "Pan Am World Airways, Inc." to "Pan American World Airways, Inc.".

Given the already established reputation of the Pan Am Trademark and Applicant's existing trademark registrations with the PAN AM word and Pan Am Globe logo, Applicant contends that the misidentification of the owner's name in the application was not done intentionally. Further, Applicant would not receive any benefit by filing under the mistaken name. Applicant has nothing to gain by applying for the mark under "Pan Am" in the Applicant/Owner's name section as opposed to "Pan American", it was simply an inadvertent error. In *Argo & Company, Inc. v. Springer et al,* 198 USPQ 626 (TTAB 1978) the Board allowed an application to be amended after it was found that the corporation which applied for the trademark was never legally incorporated but was filed by the enterprise's three individuals and thus not in existence as of the application's filing date. The Board did not find the application was *void ab initio* which would occur if it was filed by a non-existent entity and thus could not be amended; instead the Board found that the application had been filed by the proper person since it was filed by the enterprise's individuals, therefore the misidentification of themselves in the application as a corporation was a curable defect since the non-existent corporation and the individuals were found not to be different persons.

Similar to *Argo & Company, Inc.,* application no. 77931658 was filed by individuals from Pan American World Airways, Inc. and the application was intended to be filed on behalf of Pan American World Airways, Inc. not "Pan Am World, Airways, Inc." Thus, the non-existent entity of "Pan Am World Airways, Inc." which was only submitted because of inadvertent error, is essentially the same person as Pan American World Airways, Inc. Following the ruling of *Argo* such an inadvertent error should be curable by allowing Applicant to amend its application and insert the correct Applicant/Owner's name.

As stated in *ACCU Personnel, Inc. v. ACCU Staff Inc.*, "this is not a case where two separate commercial enterprises are in existence on the application filing date and the application is filed by the wrong one. Rather, there has been only one commercial enterprise in existence throughout the life of this application." Analogous to the Court's ruling in *AccuStaff*, "Pan Am Word Airways, Inc" is not a separate entity, instead the application was and is filed on behalf of the correct and sole entity, Pan American World Airways, Inc.

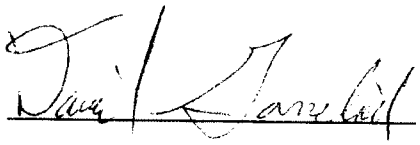
CONCLUSION

Based on the above stated facts and arguments, Applicant respectfully requests that the Board grant Applicant's Amendment to change the Applicant/Owner's name on application no. 77931658 to "Pan American World Airways, Inc."

Dated: November 24, 2010

Submitted By.

Pan American World Airways, Inc.
By its attorneys



Daniel Garrelick, Esq.
Staff Attorney (authorized representative of Pan American World Airways, Inc.)
Springfield Terminal Railway Co.
1700 Iron Horse Park

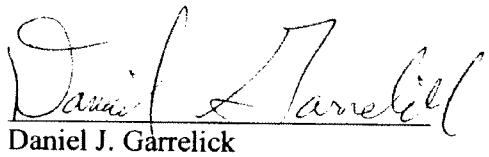
Billerica, MA 01862
(978) 663-1029

CERTIFICATE OF SERVICE

I, Daniel J. Garrelick hereby certify that a true and accurate copy of the Motion Amend Application and Supporting Memorandum, was served via first-class mail, November 24th, 2010 on:

Edmund J. Ferdinand III
Counsel for Gold Rush Brands, LLC
Grimes & Battersby, LLP
488 Main Avenue
Norwalk, CT 06851

Signed under the pains and penalties of perjury this 24th day of November, 2010.



Daniel J. Garrelick

Serial No. 77931658 For the Mark PAN AM & Design

Gold Rush Brands, LLC, Opposer, v. Pan Am World Airways, Inc., Applicant	)	Opposition No.:91197005

APPLICANT'S EXHIBIT A

JOHN DICKINSON PLANTATION | PHOTO BY JEFFREY DOHER

Department of State: Division of Corporations

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Entity Details

THIS IS NOT A STATEMENT OF GOOD STANDING

File Number:	**2365849**	Incorporation Date / Formation Date:	**12/29/1993** (mm/dd/yyyy)
Entity Name:	**PAN AMERICAN WORLD AIRWAYS, INC.**		
Entity Kind:	**CORPORATION**	Entity Type:	**GENERAL**
Residency:	**DOMESTIC**	State:	**DE**

REGISTERED AGENT INFORMATION

Name:	**THE CORPORATION TRUST COMPANY**		
Address:	**CORPORATION TRUST CENTER 1209 ORANGE STREET**		
City:	**WILMINGTON**	County:	**NEW CASTLE**
State:	**DE**	Postal Code:	**19801**
Phone:	**(302)658-7581**		

Additional Information is available for a fee. You can retrieve Status for a fee of $10.00 or more detailed information including current franchise tax assessment, current filing history and more for a fee of $20.00.

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To contact a Delaware Online Agent click here.

Delaware

The First State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "PAN AMERICAN WORLD AIRWAYS, INC." IS DULY INCORPORATED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL CORPORATE EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE TWENTY-SIXTH DAY OF JUNE, A.D. 2006.

Harriet Smith Windsor

Harriet Smith Windsor, Secretary of State

2365849 8300

060607780

AUTHENTICATION: 4854853

DATE: 06-26-06

Serial No. 77931658 For the Mark PAN AM & Design

Gold Rush Brands, LLC, Opposer, v. Pan Am World Airways, Inc., Applicant	)	Opposition No.:91197005

APPLICANT'S EXHIBIT B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE

TRADEMARK TRIAL AND APPEAL BOARD

Serial No. 77931658

For the Mark PAN AM & Design

Gold Rush Brands, LLC,	)	
Opposer,	)	
v.	)	Opposition No.:91197005
Pan Am World Airways, Inc.,	)	
Applicant	)	

Affidavit of Stacy Beck

I, Stacy Beck being duly sworn, do hereby depose and state under oath the following:

1. I am the Secretary and duly appointed officer of Pan American World Airways, Inc.
2. Pan American World Airways, Inc. is a Delaware corporation with a principal place of business at 400 Amherst Street, Suite 405, Nashua, NH 03063.
3. Pan American World Airways, Inc. acquired the rights to the trademarks owned by the original Pan American World Airways, Inc. ("Original Pan Am") which are currently used all over the world.

4. Pan American World Airways, Inc. acquired the trademarks from the Original Pan Am via bankruptcy proceedings on December 29, 1993.
5. After acquiring the trademarks used by the Original Pan Am, Pan American World Airways, Inc. offered flight services in 1996 with flight operations in New York's Kennedy International Airport, Miami, Los Angeles, San Juan Puerto Rico, and Chicago.
6. Pan American World Airways, Inc. filed for bankruptcy in 1998 and became a wholly owned subsidiary of Pan Am Systems, Inc. Pan American World Airways, Inc. then provided airline services between several cities in the Northeast and Southern destinations using the PAN AM mark, Pan Am Globe logo and light blue and white color combination in connection with its air service until 2007.
7. Pan American World Airways, Inc. licenses its trademarks to other entities for the use of various merchandise.
8. Pan American World Airways, Inc. is the entity that was originally intended to be listed as the Applicant/Owner of Record on trademark application no. 77931658 and is the entity that is intended to be the current Applicant/Owner of Record on trademark application no. 77931658.
9. Upon information and belief, Pan American World Airways, Inc. was not listed on the original application of no.77931658 as a result of inadvertent error by counsel. Pan American World Airways, Inc. should be listed as the Applicant/Owner of Record on the application.

Signed under the pains and penalties of perjury this 22nd day of November, 2010.

Stacy Beck
Secretary
Pan American World Airways, Inc.
44 Industrial Park Drive
Dover, NH 03820

The Commonwealth of Massachusetts

Middlesex County ss. November 22, 2010

Then personally appeared the above named Stacy Beck as aforesaid, being duly authorized, whose identity is personally known to me, and upon oath acknowledged the foregoing/attached instrument to be his free act and deed for its stated purpose, before me.

Notary Public:
My commission expires:

Serial No. 77931658 For the Mark PAN AM & Design

Gold Rush Brands, LLC, Opposer, v. Pan Am World Airways, Inc., Applicant	)	Opposition No.:91197005

APPLICANT'S EXHIBIT C

TRADEMARKS OF PAN AMERICAN WORLD AIRWAYS, INC.

Currently Registered Goods

1. International Class 018 (Registration No. 3288129)-Luggage, all-purpose carrying bags; carry-all bags; carry-on bags; travel bags.
2. International Class 025 (Registration No. 3166414)-Clothing, namely, Hats, Bandanas, Scarves, T Shirts, Long Sleeve Shirts, Short Sleeve Shirts, Jackets, Sweaters, Dresses, Short Pants, Long Pants, Swim Suits, Underwear, Pajamas, Socks, Shoes.
3. International Class 028 (Registration No. 3288129)-Toy model vehicles; toy model airplanes; toy model trains; toy model train cars; scale model vehicles, trains, train cars, airplanes.
4. International Class 039 (Registration No. 3171135)-Transportation by rail; freight transportation by rail; rental, leasing and chartering of vehicles; rental, leasing and chartering vehicles and apparatus for locomotion by rail.
5. International Class 039 (Registration No. 3171134)-Transportation by rail; freight transportation by rail; rental, leasing and chartering of vehicles; rental, leasing and chartering vehicles and apparatus for locomotion by rail.
6. International Class 016 (Serial No. 3804943)-Pens; pencils; writing utensils; calendars; posters; blank cards; greeting cards; note cards.
7. International Class 018 (Serial No. 3804943)-Luggage tags; purses.
8. International Class 021 (Serial No. 3804943)-Mugs; cups.
9. International Class 025 (Serial No. 3804943)-Shirts; jackets; sweat shirts.

Intent to Use Application Pending

1. International Class 039 (Serial No. 77931658)-Air transportation of passengers and freight.
2. International Class 09 (Serial No. 85088283)- International Class 009: electronic game programs and software; interactive game programs and software; apparatus for recording, transmission or reproduction of sound or images; pre-recorded CD-ROMS, video tapes and DVDs; cell phone accessories; telephones; cell phone games and downloads; CD-ROM trading cards; screensavers; computer calendars; mouse-pads; video game software; computer game software; cases for carrying video game consoles and controllers; and cases for carrying DVDs; interactive video game devices comprised of computer hardware and software and accessories, namely, game consoles, game controllers and software for operating game controllers; computer software for playing video games and computer games with others via a global computer or communication network and for accessing and browsing global computer and communication networks; computer programs, namely, game software for use on computers and video game players; Video game player machines for use with televisions and computers; sunglasses;

eye glasses; magnets; book and audio cassettes; batteries; pre-paid telephone calling cards, magnetically encoded; radios

3. International Class 11 (Serial No. 85088283)- Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes; lamps; lighters; nightlights; hot water bottles.
4. International Class 16 (Serial No. 85088283)- Precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes; jewelry, precious stones; horological and chronometric instruments; watches; clocks; cufflinks; key chains; busts of precious metals; lapel pins; figurines of precious metal.
5. International Class 18 (Serial No. 85088283)- Leather and imitations of leather, and goods made of these materials; bags; umbrellas, parasols and walking sticks; wallets.
6. International Class 25 (Serial No. 85088283)- Clothing, headgear and footwear for adults and children; belts, buckles; suspenders; ties; mittens; gloves.
7. International Class 28 (Serial No. 85088283)- Toys, games, playthings; gymnastic activities; sporting goods; Christmas ornaments; hand-held unit for playing video games.
8. International Class 41 (Serial No. 85088283)- Education; providing of training; entertainment; sporting and cultural activities; entertainment services in the nature of a television program; entertainment services in the nature of a motion picture; digital and electronic entertainment services; publication of books; provision of entertainment information via the internet; Entertainment services, namely, providing online electronic games.
9. International Class 41 (Serial No. 85143290) - Direction or presentation of plays; Entertainment in the nature of live stage performances in the nature of plays or lecture for hire in the field of plays by an individual; Entertainment, namely, production of plays; Planning arrangement of showing movies, shows, plays or musical performances

Serial No. 77931658 For the Mark PAN AM & Design

Gold Rush Brands, LLC, Opposer, v. Pan Am World Airways, Inc., Applicant	)	Opposition No.:91197005

APPLICANT'S EXHIBIT D

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE

TRADEMARK TRIAL AND APPEAL BOARD

Serial No. 77931658

For the Mark PAN AM & Design

Gold Rush Brands, LLC, Opposer, v. Pan Am World Airways, Inc., Applicant	)	Opposition No.:91197005

Affidavit of Daniel Garrelick

I, Daniel Garrelick being duly sworn, do hereby depose and state under oath the following:

1. I am a staff attorney that works with Pan American World Airways, Inc.
2. Pan American World Airways, Inc. is a Delaware corporation with a principal place of business at 400 Amherst Street, Suite 405, Nashua, NH 03063.
3. On February 9, 2010 I filled out trademark application no. 77931658 for the use of the PAN AM mark and Pan Am Globe logo in Class 39, the air transportation of passengers and freight on behalf of Pan American World Airways, Inc.
4. This was the first trademark application I had ever attempted.

5. Under the section for Applicant/Owner of Record, I inadvertently put "Pan Am World Airways, Inc." instead of the correct name which is "Pan American World Airways, Inc."
6. I did not enter the wrong name on purpose, instead it was solely a result of inadvertent error.
7. "Pan American World Airways, Inc." is the correct name that should be listed as the Applicant/Owner of Record.

Signed under the pains and penalties of perjury this 23rd day of November, 2010.

Daniel Garrelick
Staff Attorney
Springfield Terminal Railway Co.
1700 Iron Horse Park
Billerica, MA 01862

The Commonwealth of Massachusetts

Middlesex County ss. November 23, 2010

Then personally appeared the above named Daniel Garrelick as aforesaid, being duly authorized, whose identity is personally known to me, and upon oath acknowledged the foregoing/attached instrument to be his free act and deed for its stated purpose, before me.

Pamela J. Hitchcock
Notary Public
My commission expires:

PAMELA J. HITCHCOCK
MY COMMISSION EXPIRES
FEB 24 2017
COMMONWEALTH OF MASSACHUSETTS
NOTARY PUBLIC

Serial No. 77931658 For the Mark PAN AM & Design

Gold Rush Brands, LLC, Opposer, v. Pan Am World Airways, Inc., Applicant	)	Opposition No.:91197005

APPLICANT'S EXHIBIT E

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451
www.uspto.gov

LETTER OF PROTEST MEMORANDUM

DATE: May 14, 2010

TO: Jay Besch
Law Office 108

FROM: Montia Givens Pressey
Office of the Deputy Commissioner for
Trademark Examination Policy

SUBJECT: Letter of Protest concerning Application Serial No. 77940568

A Letter of Protest filed before publication has been granted. It has been determined that the evidence submitted by the protester is relevant and supports a reasonable ground for refusal appropriate in *ex parte* examination. Therefore, you must consider the following and make an independent determination whether to issue a requirement or refusal based on the objections raised in the Letter of Protest:

In addition to the registrations and prior pending application cited in your May 12, 2010 Office action, the protestor has alleged a likelihood of confusion under Section 2(d) of the Trademark Act with the following registrations and prior pending application:

Reg. No. 3288129 for the mark PAN AM and Design for goods in classes 18 and 28;

Reg. No. 3166414 for the mark PAN AM WORLD AIRWAYS for goods in class 25; and

Serial No. 78899615 for the mark PAN AM and Design for goods in classes 16, 18, 21, and 25.

Serial No. 77931658 For the Mark PAN AM & Design

Gold Rush Brands, LLC, Opposer, v. Pan Am World Airways, Inc., Applicant	)	Opposition No.:91197005

APPLICANT'S EXHIBIT F

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

In the Matter of Trademark Application Serial No. 77/931,658
For the Mark PAN AM & Design

Gold Rush Brands, LLC, Opposer, v. Pan Am World Airways, Inc., Applicant	Opposition No.:

NOTICE OF OPPOSITION

Gold Rush Brands, LLC ("Opposer") believes that it will be damaged by registration of the mark shown in application number 77/931,658 and hereby opposes the same. The grounds for opposition are as follows:

1. Opposer is a corporation organized and existing under the laws of the State of New York, having an address at box 146H, Scarsdale, New York 10583. Opposer owns broad rights to the PAN AM mark internationally.

2. Upon information and belief, Applicant, Pan Am World Airways, Inc. ("Applicant") filed Application Serial No. 77/931,658 for PAN AM & Design as a mark for use in connection with "air transportation of passengers and freight" in International Class 39 on February 12, 2010. The application was filed pursuant to Section 1(b) of the Trademark Act. Said application was published for opposition on June 22, 2010.

3. Opposer filed an application for the mark PAN AM & Design for use in connection with "transportation of goods, passengers and travelers by air" in International Class

39 on February 19, 2010. Opposer's application has been rejected pursuant to Section 2(d) of the Trademark Act by virtue of Applicant's application for PAN AM & Design.

4. Upon information, belief and due investigation, Opposer has not been able to confirm that Applicant exists as a legal entity. Applicant claims to be a Delaware corporation, but a search of the Division of Corporations of the State of Delaware does not reveal that Applicant exists as a legal corporation in that State. Moreover, Applicant has not been able to confirm the company's existence in New Hampshire either. Calls to a phone number purporting to belong to Applicant were answered by someone using a different company name. Opposer has not been able to find any evidence to suggest that Applicant exists as a company.

FRAUD ON THE PTO

5. Opposer re-alleges and incorporates by reference Paragraphs 1 through 4 of the Notice of Opposition as though fully stated herein.

6. Upon information, belief and due investigation, one or more statements made by Applicant in the original application were not true at the time when the original application was filed and are not true today.

7. In the original application, Applicant swore under penalty of perjury that the statements set forth in the application were true. Upon information, belief and due investigation, it does not appear that Applicant exists as a legal entity. Hence, the assertion of Applicant's address, status and state of incorporation are not true and were not true at the time of the filing of the original application.

8. Applicant's untrue statements and assertions worked a fraud on the PTO.

9. Allowance of the application to remain on the Principal Register would perpetuate a fraud on the PTO and is, therefore, contrary to law and equity.

WHEREFORE, Opposer respectfully requests that this Opposition be sustained and Applicant's application to register PAN AM & Design, Application Serial No. 77/931,658, be refused, and for such other and further relief as the Board deems just and proper.

Dated: October 20, 2010

Respectfully submitted,
Gold Rush Brands, LLC

By: _____

Edmund J. Ferdinand, III
Grimes & Battersby, LLP
488 Main Avenue
Norwalk, CT 06851-1008
(203) 849-8300
Attorneys for Opposer

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Notice of Opposition was served on the Applicant on this 20th day of October, 2010, by sending a copy of the document in an envelope via U.S. mail addressed to the Correspondent for Application Serial No. 77/931,658:

Robert B. Culliford
Pan Am Railways
400 Amherst Street, Suite 405
Nashua, NH 03063-4225

_____
Edmund J. Ferdinand, III