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

Proceeding	91197479
Party	Defendant Aristocrat Technologies Australia Pty Ltd
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Date	01/03/2011
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UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of:

Application Serial No.: 77/785,826

Mark: DEEP FREEZE

Published in the Official Gazette: July 27, 2010

FARONICS CORPORATION,

Opposer

v.

Opposition No. 91197479

ARISTOCRAT TECHNOLOGIES
AUSTRALIA PTY LTD,

Applicant

ANSWER

Applicant Aristocrat Technologies Australia, Pty Ltd, an Australia entity, (“Applicant”) in answering the Opposition, admits, denies and alleges as follows:

In answering the Notice of Opposition Preamble, Applicant alleges and pleads as follows:
Applicant is without sufficient knowledge and information to form a belief as to the truth of the allegations of this paragraph and on that basis denies the same. Applicant denies that Opposer would be damaged by registration of the Mark.

In answering each paragraph set forth as the grounds of Opposition, Applicant alleges and pleads as follows:

1. Answering paragraph 1 of the Notice of Opposition, Applicant is without sufficient knowledge and information to form a belief as to the truth of the allegations of this paragraph and on that basis denies the same.
2. Answering paragraph 2 of the Notice of Opposition, Applicant is without sufficient knowledge and information to form a belief as to the truth of the allegations of this paragraph and on that basis denies the same.
3. Answering paragraph 3 of the Notice of Opposition, Applicant is without sufficient knowledge and information to form a belief as to the truth of the allegations of this paragraph and on that basis denies the same.
4. Answering paragraph 4 of the Notice of Opposition, Applicant is without sufficient knowledge and information to form a belief as to the truth of the allegations of this paragraph and on that basis denies the same.
5. Answering paragraph 5 of the Notice of Opposition, Applicant admits the contents of this paragraph.
6. Answering paragraph 6 of the Notice of Opposition, Applicant denies each and every allegation of this paragraph.
7. Answering paragraph 7 of the Notice of Opposition, Applicant admits the allegation of the first sentence but denies the allegation of the second paragraph.

AFFIRMATIVE DEFENSES

8. Applicant further affirmatively alleges that the Notice of Opposition and each claim therein fail to assert facts sufficient to sustain an Opposition.

9. Applicant further affirmatively alleges on information and belief that there is no likelihood of confusion, mistake or deception between the mark, which Opposer alleges ownership of in the Notice of Opposition, and the Mark in Application Serial No. 77/785,826.
10. Applicant further affirmatively alleges that there is no likelihood of confusion, mistake or deception between the marks because the goods associated with the former mark, as described in its registration, are wholly different from the goods associated with Applicant's Mark.
11. Applicant further affirmatively alleges that there is no likelihood of confusion, mistake or deception between the marks because the goods associated with the former mark, as described in its registration, and the goods associated with Applicant's Mark are not sold in the same channels of trade.
12. Applicant further affirmatively alleges that there is no likelihood of confusion, mistake or deception between the marks because the goods associated with the former mark, as described in its registration, and the goods associated with Applicant's Mark shall not and cannot appear in the same marketplace because Applicant's goods are subject to stringent state, federal and tribal regulations and licensures, to which, upon information and belief, Opposer does not adhere.
13. Applicant further affirmatively alleges that there is no likelihood of confusion, mistake or deception between the marks because the use of the goods associated with the former mark, as described in its registration as "controlling, restricting access, and organizing other software applications," are wholly different than

Applicant's use of its goods as the title of a gaming machine, used for entertainment purposes.

14. Applicant further affirmatively alleges that there is no likelihood of confusion, mistake or deception between the marks because Opposer's alleged product expansion, as asserted in paragraph 4 of the Notice of Opposition, is highly unlikely to cause potential confusion because Opposer is unlikely to enter into the highly regulated and costly gaming industry. Upon information and belief, Opposer has not and will not be submitting to the above referenced state, federal and tribal regulations and licensures and thus could not appear in the same marketplace as Applicant's mark.

WHEREFORE, Applicant prays that this Opposition be dismissed with prejudice.

Please recognize as Attorney of Record for Applicant in this proceeding, Lauren Krupka (member of the State Bars of Nevada, Maryland and New Jersey).

Please address all communications to Lauren Krupka at the address listed below.

/Lauren Krupka/

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CERTIFICATE OF SERVICE

It is hereby certified that a true and complete copy of the foregoing ANSWER has been served by prepaid first class mail upon Attorneys for the Opposer:

James E. Shlesinger
Daniel T. Earle
Shlesinger, Arkwright & Garvey LLP
5845 Richmond Highway, Suite 415
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Said service taking place this 3rd day of January, 2011.

By: /Lauren Krupka/

Lauren Krupka