

ESTTA Tracking number: **ESTTA440919**

Filing date: **11/14/2011**

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

Proceeding	91200183
Party	Plaintiff The Worlds Pageants, LLC
Correspondence Address	THOMAS T AQUILLA AQUILLA PATENTS MARKS PLLC 221 COE HILL ROAD CENTER HARBOR, NH 03226 UNITED STATES info@aquillapatents.com
Submission	Motion to Strike
Filer's Name	Thomas T. Aquilla
Filer's e-mail	docket@aquillapatents.com
Signature	/Thomas T. Aquilla/
Date	11/14/2011
Attachments	TWP-701L_OPP_Mot-StrikeFINAL.pdf (16 pages)(204278 bytes) TWP_OPP-MotStrike2_EXHIBITS.pdf (28 pages)(1065350 bytes)

Assignments is nothing more than a further improper attack on the validity of Opposer's pleaded Registration. Moreover, Applicant's Motion to Strike Opposer's Assignments is unsupported by the facts, devoid of legal authority and inconsistent with the Federal Rules of Civil Procedure and the Trademark Trial and Appeal Board Manual of Procedure.

1. FACTS

In support of this Motion, Opposer, The Worlds Pageants, LLC shows as follows:

1. On June 6, 2011, Opposer The Worlds Pageants, LLC, represented by its attorney, Thomas T. Aquilla, initiated this opposition by filing a Notice of Opposition against Applicant Miss G-String International, LLC. (See Notice, attached as **Ex. A.**)
2. On July 19, 2011, Applicant Miss G-String International, LLC, represented by its attorney, Luke Lirot, responded in this opposition by filing an Answer to Opposer's Notice of Opposition. (See Answer, attached as **Ex. B.**)
3. In the Answer, Applicant pleaded Affirmative Defenses and Denials that collaterally attack Opposer's asserted Registration No. 2,037,202, which is registered on the Principal Register and incontestable. (See Answer, attached as **Ex. B** and Reg. No. 2,037,202, attached as **Ex. C.**)
4. Applicant did not file a timely Petition and Statutory Fee for Cancellation of Opposer's Reg. No. 2,037,202 and Applicant's Answer did not include a timely counterclaim and Fee for cancellation of Opposer's Reg. No. 2,037,202. (See Answer, attached as **Ex. B** and TWP's Dec. ¶ 4, attached as **Ex. D.**)

5. On September 23, 2011, Applicant further attacked Opposer's incontestable Registration, when William Eadie of Miss G-String International, LLC (*i.e.*, Applicant) filed an unconsented proposed Amendment (Section 7 Declaration) in Opposer's asserted Reg. No. 2,037,202 (Eadie Dec., attached as **Ex. E**). Mr. Eadie failed to file a copy of the proposed Amendment and any assignment transmitted therewith with the Board in this Opposition proceeding, and also failed to serve copies on Opposer. (See Eadie Dec., attached as **Ex. E**, and TWP's Dec. ¶ 5, attached as **Ex. D**.)
6. To the best of Opposer's knowledge, Applicant holds no legal title to Opposer's Reg. No. 2,037,202. (See TWP's Dec. ¶ 7, attached as **Ex. D**.)
7. Applicant filed the Section 7 Declaration in Opposer's Reg. No. 2,037,202 without Opposer's knowledge or authorization, with the intent to deceive the Office (See TWP's Dec. ¶ 6-8, attached as **Ex. D**.)

2. THE LAW

Motions to Strike

Motions to strike are authorized by Rule 12(f) of the Federal Rules of Civil Procedure and T.B.M.P. § 506. Rule 12(f) states:

"The court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter. The court may act: (1) on its own; or (2) on motion made by a party either before responding to the pleading or, if a response is not allowed, within 21 days after being served with the

pleading."

T.B.M.P. § 506.01 further states that "The Board also has the authority to strike an impermissible or insufficient claim or portion of a claim from a pleading."

However, motions to strike are not favored and matter will not be stricken, unless it clearly has no bearing on the issues involved in the case. *Ohio State University v. Ohio University*, 51 USPQ2d 1289, 1292 (TTAB 1999). Moreover, the Board will not strike exhibits submitted with pleadings, since they clearly are contemplated by 37 C.F.R. § 2.105(c), 37 C.F.R. § 2.113(c) and 37 C.F.R. § 2.122(c). T.B.M.P. § 506.03.

Compulsory Counterclaims

Counterclaims for cancellation of pleaded registrations in Board proceedings are governed by 37 C.F.R. § 2.106(b)(2)(i), which states:

"A defense attacking the validity of any one or more of the registrations pleaded in the opposition shall be a compulsory counterclaim ... [and] if grounds for a counterclaim are known to the applicant when the answer to the opposition is filed, the counterclaim shall be pleaded with or as part of the answer."

37 C.F.R. § 2.106(b)(2)(ii) further states:

"An attack on the validity of a registration pleaded by an opposer will not be heard unless a counterclaim or separate petition is filed to seek the cancellation of such registration."

Stated most plainly, the Board cannot entertain an applicant's attack upon the validity of a registration pleaded by an opposer, unless the applicant timely files a counterclaim or a separate petition to cancel the opposer's registration, together with payment of the required statutory fee. See T.B.M.P. § 313.04; 37 C.F.R. § 2.106(b)(2)(iii) and 37 C.F.R. § 2.114(b)(2)(iii); *Williamson-*

Dickie Manufacturing Co. v. Mann Overall Company, 359 F.2d 450, 149 USPQ 518, 520 (CCPA 1966) (payment of fee is necessary to give Board jurisdiction).

Moreover, an applicant that fails to timely plead a compulsory counterclaim in its answer cannot avoid the effect of its failure by thereafter asserting the counterclaim in a separate petition to cancel. In such a case, the separate petition will be dismissed, on motion, on the ground that the substance of the petition constitutes a compulsory counterclaim in another proceeding, and that it was not timely asserted. See T.B.M.P. § 313.04.

Amendments to Applications and Registrations

The amendment of any Application or Registration involved in an *inter partes* proceeding before the Board is governed by 37 C.F.R. §2.133(a), which states:

"An application involved in a proceeding may not be amended in substance nor may a registration be amended or disclaimed in part, except with the consent of the other party or parties and the approval of the Trademark Trial and Appeal Board, or except upon motion."

Therefore, any Application or Registration subject to an *inter partes* proceeding before the Board may not be amended in substance or disclaimed in part, without the consent of the other party and the approval of the Board, except upon motion. T.B.M.P. § 514.01. Any proposed Amendment also must comply with all other applicable rules and statutory provisions, including 37 C.F.R. § 2.71-2.75 (see 15 U.S.C. § 1057(e) and 37 C.F.R. § 2.173). A request to amend an Application or Registration that is the subject of *inter partes* Board proceedings should bear at its top both the number of the subject application or registration and the Board proceeding number and title, as well as proof of service thereon of every other party to the proceeding. See 37 C.F.R. § 2.119(a) and T.B.M.P. 113 (Service of Papers). Indeed, a request to amend a

Registration involved in a Board proceeding must be filed with the Board, not with the Post Registration Branch.

3. ARGUMENT

(3.1) Opposer's Assignments Were Properly Recorded and Are Not Subject to a Motion to Strike

Motions to strike are governed by Rule 12(f) of the Federal Rules of Civil Procedure and T.B.M.P. § 506. Rule 12(f) states:

*"The court may strike **from a pleading** an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter..."* (Emphasis added.)

T.B.M.P. § 506.01 further states that "The Board also has the authority to strike an impermissible or insufficient claim or portion of a claim **from a pleading**." (Emphasis added.)

However, motions to strike are not favored and matter will not be stricken, unless it clearly has no bearing on the issues involved in the case. *Ohio State University v. Ohio University*, 51 USPQ2d 1289, 1292 (TTAB 1999). Moreover, the Board **will not strike exhibits submitted with pleadings**, since they clearly are contemplated by 37 C.F.R. § 2.105(c), 37 C.F.R. § 2.113(c) and 37 C.F.R. § 2.122(c). T.B.M.P. § 506.03.

Applicant's Motion to Strike Opposer's Assignments should not be granted because it is improper in several respects. First, Opposer's Assignments do not constitute a pleading that can be the subject of a motion to strike under Rule 12(f) of the Federal Rules of Civil Procedure. Nor are Opposer's Assignments "an impermissible or insufficient claim or portion of a claim". Thus, Opposer's Assignments do not fall within the scope of F.R.C.P. 12(f) and the Board should not strike them. Rather, the Assignments constitute Opposer's evidence, submitted for the purpose of establishing its title in writing, and to the extent that the Assignments could be

construed as a portion of a pleading, the Assignments would undoubtedly constitute exhibits submitted with pleadings. Therefore, Opposer's recorded assignments clearly are contemplated by 37 C.F.R. § 2.105(c), 37 C.F.R. § 2.113(c) and 37 C.F.R. § 2.122(c) and the Board should not strike them. See T.B.M.P. § 506.03.

Applicant's assertion that Opposer was required to obtain a court order for permission to record its assignments in the USPTO is unsupported by any legal authority and wholly without merit. There is nothing improper about Opposer's *nunc pro tunc* assignments and indeed, the USPTO forms for recording assignments include a check box for *nunc pro tunc* assignments and require entry of the effective date thereof, specifically for the purpose of enabling owners of registered trademarks to record the documents necessary to reflect the complete chain of title. The Board, in *Hotel Corporation of America v. Inn America, Inc.*, 153 USPQ 574, 578 (TTAB 1967), has previously stated the following regarding *nunc pro tunc* assignments:

“Nunc pro tunc”, literally speaking, means now for then. A nunc pro tunc assignment in practice and as meant in law is an assignment made now of something which was previously done, to have effect as of the former date. The purpose of such an assignment is to make the record show something which actually occurred, but has been omitted from the record through inadvertence or mistake. See: 67 Corpus Juris Secundum, pages 1 and 2; and Black’s Law Dictionary, Third Edition (1933). . . While these assignments were executed only nine days before the taking of applicant’s testimony, this is not controlling if, in fact, they reflect what actually occurred or was intended to occur on those past dates.”

In this case, while assignee R&D Promotions, Inc. was organized as a corporation, the business was operated primarily by its principal, Gracinda Cardoso. When the corporation was dissolved, the business was continued in an otherwise unchanged manner by Ms. Cardoso. There is nothing in the record to contradict the reasonable conclusion that, upon dissolution of the corporation, the assets of this on-going business, including the trademarks, in fact, devolved to Ms. Cardoso, who then established The Worlds Pageants, LLC and assigned the marks to Opposer. Thus, in this case, the *nunc pro tunc* assignment documents merely reflect what actually occurred at the time. It is immaterial that, at the time the documents were executed, the original corporation no longer existed. *Id.*

There is no legal requirement that a formal assignment is necessary to pass a trademark or trade name from a predecessor to a successor and, when the business with which marks and a trade name were associated is transferred, the presumption is that rights to the marks and name were transferred with the business. *Stagecoach Properties, Inc. v. Wells Fargo & Company*, 199 USPQ 341, 347 (TTAB 1978), and cases cited therein. Certainly then, the execution of the *nunc pro tunc* assignments was necessary in this case to establish, in writing, a complete chain of title from R&D Promotions, Inc. to Opposer for recordation with the USPTO. Opposer therefore recorded the assignment documents in accordance with USPTO procedure and filed copies with the Board in this proceeding and the records of the USPTO show that the assignors owned the marks at the time of the assignments.

(3.2)
**The Board Does Not Have Jurisdiction
Over Opposer's Asserted Registration**

In opposition proceedings before the Board, any defense that attacks the validity of a registration pleaded in the opposition is waived by the Applicant and will not be heard by the

Board, if the compulsory counterclaim was not properly asserted at the time of filing the answer. 37 C.F.R. § 2.106(b)(2)(ii). Moreover, an Applicant that fails to timely pay the statutory fee and plead the compulsory counterclaim in its answer cannot thereafter assert the counterclaim in a separate petition to cancel. 37 C.F.R. § 2.106(b)(2)(iii) and 37 C.F.R. § 2.114(b)(2)(iii); T.B.M.P. § 313.04; *Williamson-Dickie Manufacturing Co. v. Mann Overall Company*, 359 F.2d 450, 149 USPQ 518, 520 (CCPA 1966) (payment of fee is necessary to give Board jurisdiction).

In its Answer to the Notice of Opposition, Applicant failed to plead a timely compulsory counterclaim for cancellation of Opposer's Registration and failed to pay the required statutory fee. See Answer and TWP Dec. ¶ 4. Applicant also failed to file a separate Petition for Cancellation of Opposer's Registration at the time of filing the Answer. TWP Dec. ¶ 4. By Applicant's failure to file the compulsory counterclaim with its Answer, Applicant thereby waived the counterclaim for cancellation of Opposer's Registration. 37 C.F.R. §§ 2.106(b)(2)(i) - 2.106(b)(2)(iii). Applicant also therefore forfeited any affirmative defenses and denials that collaterally attack the validity of Opposer's incontestable Registration. *Id.*

Because Applicant failed to timely assert the compulsory counterclaim for cancellation of Opposer's Registration and failed to pay the required statutory fee, the Board does not have jurisdiction over Opposer's asserted Registration. *Williamson-Dickie Manufacturing Co. v. Mann Overall Company*, 359 F.2d 450, 149 USPQ 518, 520 (CCPA 1966) (payment of fee is necessary to give Board jurisdiction). Since the Board does not have jurisdiction over Opposer's Registration in this case, it cannot properly strike Opposer's recorded assignment documents from the record in the registration. Thus, Applicant's Motion to Strike Opposer's Assignments should be denied.

(3.3)

**Applicant's Motion to Strike Opposer's Properly Recorded Assignments
Is a Continued Attack on the Validity of Opposer's Incontestable Registration**

Because Applicant failed to timely assert the compulsory counterclaim for cancellation of Opposer's Registration and failed to pay the required statutory fee, Applicant also forfeited any affirmative defenses and denials that collaterally attack the validity of Opposer's incontestable Registration. 37 C.F.R. §§ 2.106(b)(2)(i) - 2.106(b)(2)(iii).

Although it has forfeited the affirmative defenses, Applicant's Motion to Strike Opposer's Assignments is nothing more than a further improper attack on the validity of Opposer's pleaded Registration and should be denied on those grounds alone.

(3.4)

**The USPTO Records Show That
Applicant's Claim of Ownership is Fraudulent**

Not only is Applicant's Motion to Strike Opposer's Assignments contrary to 37 C.F.R. §§ 2.106(b)(2)(i) - 2.106(b)(2)(iii), Applicant's assertion that William Eadie is the lawful owner of Opposer's marks is fraudulent, because it includes misstatements of material fact made with the intent to deceive the USPTO and the TTAB.

While this Opposition was pending, on September 23, 2011, Applicant's principal, William Eadie, filed an unconsented proposed Amendment (Section 7 Declaration) in Opposer's asserted Reg. No. 2,037,202. See Eadie Dec., attached as **Ex. E**. However, Applicant did not have Opposer's consent or authorization to file the Amendment and furthermore failed to file a copy of the Section 7 Declaration and the assignment transmitted therewith (if any) with the Board in this Opposition, and also failed to serve copies on Opposer. (See Eadie Dec., attached as **Ex. E** and TWP Dec. ¶¶ 5-8, attached as **Ex. D**).

Under 37 C.F.R. § 2.133(a), any Application or Registration subject to an *inter partes*

proceeding before the Board may not be amended, without the consent of the other party and the approval of the Board, except upon motion. See T.B.M.P. § 514.01. Any proposed Amendment also must comply with all other applicable rules and statutory provisions, including 37 C.F.R. § 2.71-2.75 (see also 15 U.S.C. § 1057(e) and 37 C.F.R. § 2.173). Furthermore, a request to amend an Application or Registration that is the subject of *inter partes* Board proceedings should bear at its top both the number of the subject application or registration and the Board proceeding number and title, as well as proof of service thereon of every other party to the proceeding, and must be filed with the Board, not with the Post Registration Branch. See 37 C.F.R. § 2.119(a) and T.B.M.P. 113 (Service of Papers). Applicant's Section 7 Declaration plainly on its face does not comply with any of the foregoing applicable rules and regulations. See Eadie Dec., attached as **Ex. E**.

3.4.1 Eadie's Section 7 Declaration Falsely Asserts Ownership of Reg. No. 2,037,202

Applicant's filing of the unconsented Section 7 Declaration in Opposer's Registration demonstrates inequitable conduct, because the Declaration includes material misrepresentations made with the intent to deceive the Office. William Eadie did not have authorization to act on behalf of The Worlds Pageants, LLC and there is no legal relationship between the parties in agency or otherwise. (See TWP Dec. ¶ 6-8, attached as **Ex. D**). Rather, Applicant filed the proposed Amendment in Opposer's Reg. No. 2,037,202 without Opposer's knowledge or authorization and without giving notice to the Board, with the intent to deceive the Office for the purpose of obtaining an amended Certificate of Registration in his own name. (See TWP Dec. ¶ 6-8, attached as **Ex. D**). However, the USPTO records show that Eadie never held legal title to the trademark, therefore Eadie's assertion of ownership is clearly false.

3.4.2 Eadie Does Not Own and Never Owned Reg. No. 2,037,202

All of the registered trademarks assigned to The Worlds Pageants, LLC, including Reg. No. 2,037,202, are listed in the US Trademarks database. The assignments of these marks have been recorded in the USPTO and receipt of the assignments and recording thereof has been acknowledged and reflected in each case file. An examination of the USPTO Abstract of Title and the associated assignment documents recorded in the USPTO show a clear chain of title for each registration from the original applicant through each successor in interest to the final owner, The Worlds Pageants, LLC.

Nevertheless, Applicant's principal, William Eadie, continues to claim that he is the owner of Opposer's Reg. No. 2,037,202 by an alleged assignment from R&D Promotions, Inc. to William Eadie, recorded on Sept 22, 2011 (See Eadie Dec., attached as **Ex. E**). However, as the Section 7 Declaration and USPTO assignment records clearly show, Eadie is not now and never has been an assignee of any of Opposer's marks, including Opposer's Reg. No. 2,037,202.

Actually, Mr. Eadie's claim of ownership and his Section 7 Declaration (and Applicant's Motion to Strike Opposer's Assignments) are based entirely on his untenable assertion that he is the owner of a final judgment for a debt owed jointly by two of Opposer's predecessors-in-interest, and therefore he owns the mark on that basis. (See Eadie Dec., attached as **Ex. E**). Mr. Eadie's claim that he owns the mark is false because, even assuming that Mr. Eadie was the legal judgment creditor and further assuming that the judgment was valid and enforceable, a final judgment on a debt certainly does not constitute an assignment or conveyance of legal title in a trademark registration. Plainly stated, Mr. Eadie's alleged judgment for a debt is simply not an assignment of Opposer's trademark registrations. Indeed, the sole legal remedy for enforcement

of such a judgment is to seek a writ of execution pursuant to Federal Rule of Civil Procedure 69.¹ Mr. Eadie apparently has obtained no writ of execution, turn-over order or any other court order other than the final judgment, and no valid judgment lien was ever created prior to conveyance of the marks to Opposer. Regardless and more to the point, it is clear that the assignment of the final judgment is not an assignment of the subject trademark registration. Mr. Eadie, or at least his lawyers, should know this, yet they continue to assert that he is the owner of Opposer's asserted Registration, based on his fraudulent Section 7 Declaration and the documents generated automatically by the post-registration branch in reliance thereon.

3.4.3 Eadie's Declaration Was Filed With Intent To Deceive the USPTO

The only "assignment" recorded in the USPTO by Mr. Eadie was an agreement conveying a final judgment from a third party to him; assignee Bell had no other rights to convey. (See Eadie Dec., attached as **Ex. E**). Just as the final judgment is not an assignment, this document also is not an assignment of Opposer's trademark and its associated goodwill. Rather, the document that Eadie recorded, claiming it was an assignment of title to the mark, is merely an assignment of the final judgment for a debt owed by a non-party to this proceeding. *Id.* For Applicant to continue to assert that this is in fact an assignment of Opposer's trademark registration and goodwill to Eadie is preposterous. Applicant's claim of ownership clearly is false and unsupported by the evidence of record in the USPTO.

Mr. Eadie recorded a copy of the final judgment and the assignment of the judgment in

¹ Rule 69 Execution (a) In General. (1) Money Judgment; Applicable Procedure. A money judgment is enforced by a writ of execution, unless the court directs otherwise. The procedure on execution — and in proceedings supplementary to and in aid of judgment or execution — must accord with the procedure of the state where the court is located, but a federal statute governs to the extent it applies.

the USPTO with his Declaration, attesting under oath that it constituted an assignment of the registered trademark and its goodwill (when in fact it was not), thereby fraudulently obtaining a Notice of Recordation, which he then asserted as evidence of his ownership of Opposer's marks upon filing his fraudulent Section 7 Declaration, in order to deceive the USPTO to issue a new Certificate of Registration in his own name. (See Eadie Dec., attached as **Ex. E**). The post-registration branch thus issued a Notice of Recordation and Corrected Certificate of Registration to Mr. Eadie in reliance on his fraudulent Section 7 Declaration. However, within a few days the USPTO corrected its error and the ownership information in TARR, based on its review of the actual assignment documents. Nevertheless, Applicant continues to claim that the fraudulently obtained Notice of Recordation and Corrected Certificate of Registration constitute proof that Mr. Eadie is the owner of the mark. It is these fraudulent acts that constitute the entire basis of Mr. Eadie's claim of ownership of Opposer's Reg. No. 2,037,202.

Thus Applicant's entire argument in support of its Motion to Strike Opposer's Assignments is based on the false assertion that William Eadie is the owner of Opposer's asserted trademark registration. There is no evidence of record to support Eadie's claim of ownership. There is no assignment of any registered trademark and the goodwill represented thereby naming Eadie as the assignee recorded in the USPTO assignment branch or of record in this opposition. In fact, the complete chain of title from the original owner of the marks (R&D Promotions, Inc.) to Opposer is recorded in the USPTO assignment branch. All of the recorded assignments of Opposer's registrations have been reviewed by a legal instruments examiner in the Office and based on that review, the USPTO records show that Opposer is the legal owner of the marks, not Eadie. Applicant's argument is therefore plainly absurd on its face and exemplifies that there is no end to the lengths to which Applicant and Mr. Eadie will go to perpetuate fraud on the Office and delay this opposition proceeding.

4. CONCLUSION

Applicant's Motion to Strike Opposer's Assignments should not be granted because it is improper in several respects. Opposer's Assignments do not constitute a pleading, nor are the Assignments "an impermissible or insufficient claim or portion of a claim", but rather they constitute Opposer's evidence. Because Opposer's recorded assignments clearly are contemplated by 37 C.F.R. § 2.105(c), 37 C.F.R. § 2.113(c) and 37 C.F.R. § 2.122(c), the Board should not strike them. The execution of the *nunc pro tunc* assignments was necessary in this case to establish, in writing, a complete chain of title from R&D Promotions, Inc. to Opposer for recordation with the USPTO. Opposer recorded the assignment documents in accordance with USPTO and filed copies with the Board in this proceeding in accordance with proper procedures.

Furthermore, because Applicant failed to timely assert the compulsory counterclaim for cancellation of Opposer's Registration and failed to pay the required statutory fee, the Board does not have jurisdiction over Opposer's Registration in this case and cannot properly strike Opposer's recorded assignment documents. Applicant's Motion to Strike Opposer's Assignments is nothing more than a further improper attack on the validity of Opposer's pleaded Registration and should be denied on those grounds alone. Applicant's Motion to Strike Opposer's Assignments also is contrary to 37 C.F.R. §§ 2.106(b)(2)(i) - 2.106(b)(2)(iii).

Finally, particularly in view of Applicant's unclean hands with respect to the fraudulent Section 7 Declaration, Opposer maintains that the equities weigh heavily in its favor. Opposer therefore respectfully requests the Trademark Trial and Appeal Board to deny Applicant Miss G-String International, LLC's Motion to Strike Opposer's *Nunc Pro Tunc* Assignments.

Respectfully Submitted:

Thomas T. Aquilla

Dated: **November 14, 2011**

By: /Thomas T. Aquilla/
Registration No. 43,473
(603) 253-9474
Aquila Patents & Marks PLLC
221 Coe Hill Road
Center Harbor, NH 03226

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been mailed via the U.S. Postal Service via First Class Mail, in an envelope addressed to Counsel for Applicant, Luke Charles Lirot, 2240 Belleair Road, Suite 190 Clearwater FL 33764, on **November 14, 2011**.

Thomas T. Aquilla

Thomas T. Aquilla, Esq.

EXHIBIT A

Trademark Trial and Appeal Board Electronic Filing System. <http://estta.uspto.gov>

ESTTA Tracking number: **ESTTA412971**

Filing date: **06/06/2011**

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	The Worlds Pageants, LLC
Granted to Date of previous extension	06/05/2011
Address	1005 Mabbette Street Kissimmee, FL 34741 UNITED STATES

Attorney information	THOMAS T AQUILLA AQUILLA PATENTS & MARKS PLLC 221 COE HILL ROAD CENTER HARBOR, NH 03226 UNITED STATES info@aquillapatents.com Phone:6032539474
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Applicant Information

Application No	77753000	Publication date	12/07/2010
Opposition Filing Date	06/06/2011	Opposition Period Ends	06/05/2011
Applicant	Miss G-String International LLC 1420 Sunningdale Lane Ormond Beach, FL 32174 UNITED STATES		

Goods/Services Affected by Opposition

Class 041. First Use: 2009/04/29 First Use In Commerce: 2009/04/29
All goods and services in the class are opposed, namely: Entertainment services in the nature of conducting beauty pageants and talent contests

Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
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)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2037202	Application Date	03/27/1996
Registration Date	02/11/1997	Foreign Priority Date	NONE

Word Mark	MISS NUDE INTERNATIONAL
Design Mark	
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 1991/06/00 First Use In Commerce: 1991/06/00 entertainment services in the nature of promoting and conducting beauty pageants

Attachments	RDP-701_NotOpp.pdf (4 pages)(422836 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	/Thomas T. Aquilla/
Name	THOMAS T AQUILLA
Date	06/06/2011

TRADEMARK
Attorney Docket No.: RDP-701

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

In re Application of Miss G-String International LLC)
Serial No. 77/753,000) Published December 7, 2010
Filed: June 5, 2009) in Class 041
For: "MISS G-STRING INTERNATIONAL")

COMMISSIONER OF TRADEMARKS
UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

ATTN: BOX TTAB

NOTICE OF OPPOSITION

THE WORLDS PAGEANTS LLC., a Corporation organized under and according to the laws of the State of Florida, having its principal place of business at 1005 Mabbette Street, Kissimmee, FL 34741, by its attorney, THOMAS T. AQUILLA of Aquilla Patents & Marks PLLC, believes it will be damaged by the grant of a registration to MISS G-STRING INTERNATIONAL LLC, located at 1420 Sunningdale Lane, Ormond Beach, FL 32174 ("Applicant"), based on Application Serial No. 77/753,000 for the mark "MISS G-STRING INTERNATIONAL" filed June 5, 2009, and hereby gives notice of its intention to oppose the registration of the mark.

FACTS

1. Opposer has been in the business of providing entertainment services, including advertising, promoting and conducting beauty pageants, and has used the mark "MISS NUDE INTERNATIONAL" in interstate commerce well prior to Applicant's filing date.

2. Opposer is the assignee of U.S. Registration No. 2,037,202 issued February 11, 1997 for the mark "MISS NUDE INTERNATIONAL" for entertainment services in the nature of promoting and conducting beauty pageants in International Class 041. This registration is valid, incontestable and enforceable.

4. As a result of the use, promotion and advertising of Opposer's "MISS NUDE INTERNATIONAL" mark for the services identified above, Opposer's mark has acquired significant goodwill. Opposer's "MISS NUDE INTERNATIONAL" mark identifies and distinguishes its services from the services of others.

5. On June 5, 2009, Applicant filed an application for the mark "MISS G-STRING INTERNATIONAL" for services as follows: "Entertainment services in the nature of conducting beauty pageants and talent contests" in International Class 041.

6. The similarity of Applicant's "MISS G-STRING INTERNATIONAL" mark to Opposer's "MISS NUDE INTERNATIONAL" mark is evident from a simple comparison of the marks, and the services for which Applicant's mark is intended to be used are closely related to Opposer's services.

7. In view of the similarity of the respective marks and the related nature of the services of the respective parties, it is alleged that Applicant's mark so resembles Opposer's mark as to be likely to cause confusion or to cause mistake or to deceive.

8. The use of the mark sought to be registered by Applicant is likely to cause confusion or mistake in the minds of consumers and lead consumers and prospective purchasers to believe Applicant's services as designated are services of Opposer, or in some way backed by, sponsored by, franchised by, approved by, associated with, or otherwise connected with the good name and reputation of Opposer, to the damage and injury of the purchasing public, and to the damage and injury of Opposer and its goodwill in the "MISS NUDE INTERNATIONAL" mark.

9. Opposer will be injured and damaged by the granting to Applicant of the registration for the mark for which registration is sought because such mark, when applied to the services of Applicant:

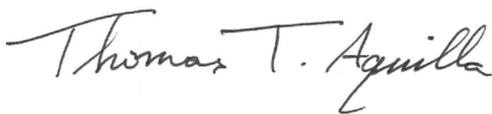
- a. is likely to cause confusion or to cause mistake or to deceive;
- b. falsely suggests a connection with Opposer, giving Applicant the unqualified right to pass off its services as those of Opposer;
- c. will damage Opposer's valuable goodwill in its "MISS NUDE INTERNATIONAL" mark; and
- d. threatens Opposer's right to expand the scope of use of its marks to related, analogous or equivalent items and results in injury to Opposer's established rights in and to its marks.

WHEREFORE, Opposer files this Notice of Opposition and prays that registration of Application Serial No. 77/753,000 for the mark "MISS G-STRING INTERNATIONAL" be denied and that this Opposition be sustained in favor of Opposer.

Payment in the amount of \$300 for the filing fee for the Notice of Opposition is included with this transmittal.

Favorable consideration of this Request is earnestly requested.

Respectfully Submitted:
THE WORLDS PAGEANTS LLC



June 6, 2011

By: _____ Dated: _____

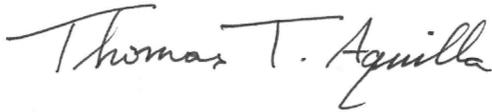
Thomas T. Aquilla, Reg. No. 43,473
Attorney for Petitioner
AQUILLA PATENTS & MARKS, PLLC
221 Coe Hill Road
Center Harbor, NH 03226
(603) 253-9474 • (888) 503-2508 (fax)

e-mail: info@aquillapatents.com

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing NOTICE OF OPPOSITION has been served on William Eadie of Miss G-String International LLC, by mailing said copy on June 6, 2011, via First Class Mail, postage prepaid to:

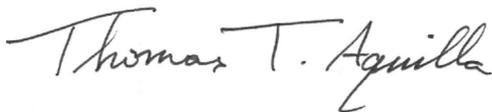
MISS G-STRING INTERNATIONAL LLC
1420 Sunningdale Lane
Ormond Beach, FL 32174



Attorney for Opposer
Signed 6/6/2011

Designation of Domestic Representative

Attorney Thomas T. Aquilla, whose postal address is 221 Coe Hill Road, Center Harbor, NH 03226, is hereby designated THE WORLDS PAGEANTS LLC's representative upon whom notice or process in this proceeding may be served.



Attorney for Opposer
Signed 6/6/2011

EXHIBIT B

Trademark Trial and Appeal Board Electronic Filing System. <http://esta.uspto.gov>

ESTTA Tracking number: **ESTTA420621**

Filing date: **07/19/2011**

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

Proceeding	91200183
Party	Defendant Miss G-String International LLC
Correspondence Address	MISS G-STRING INTERNATIONAL LLC 1420 SUNNINGDALE LANE ORMOND BEACH, FL 32174 UNITED STATES
Submission	Answer
Filer's Name	Luke Lirot
Filer's e-mail	luke2@lirotlaw.com
Signature	/Luke Lirot/
Date	07/19/2011
Attachments	Eadie - Applicant's Answer to Opposer's Notice of Opposition 7-19-11.pdf (34 pages)(1172563 bytes)

3. Opposer claims that, as a result of the use, promotion and advertising of Opposer's "MISS NUDE INTERNATIONAL" mark for the services identified above, Opposer's mark has acquired significant goodwill. Opposer claims that the "MISS NUDE INTERNATIONAL" mark identifies and distinguishes its services from the services of others. Applicant categorically denies these statements as a valid basis for opposition.

4. The Opposer is correct that, on June 5, 2009, Applicant filed an application for the mark "MISS G-STRING INTERNATIONAL" for services as follows: "Entertainment services in the nature of conducting beauty pageants and talent contests," in International Class 041. This is admitted.

5. Applicant denies that there is any similarity of Applicant's "MISS G-STRING INTERNATIONAL" mark to Opposer's "MISS NUDE INTERNATIONAL" mark. No such similarity is evident from a simple comparison of the marks, since there are scores of marks with similar language, and the services for which Applicant's mark is intended to be used are not closely related to Opposer's services.

6. Opposer states that, in view of the similarity of the respective marks and the related nature of the services of the respective parties, it is alleged that Applicant's mark so resembles Opposer's mark as to be likely to cause confusion or to cause mistake or to deceive. Applicant denies these statements.

7. Applicant denies that the use of the mark sought to be registered by Applicant is likely to cause confusion or mistake in the minds of consumers and lead consumers and prospective purchasers to believe Applicant's services as designated are services of Opposer, or in some way backed by, sponsored by, franchised by, approved by, associated with, or otherwise connected with the good name and reputation of Opposer, to the

damage and injury of the purchasing public, and to the damage and injury of Opposer and its goodwill in the "MISS NUDE INTERNATIONAL" mark. This is denied.

8. Applicant denies that Opposer will be injured and damaged by the granting to Applicant of the registration for the mark for which registration is sought because such mark, when applied to the services of Applicant:

a. Applicant denies that it, 'is likely to cause confusion or to cause mistake or to deceive;'

b. Applicant denies that it, "falsely suggests a connection with Opposer, giving Applicant the unqualified right to pass off its services as those of Opposer;"

c. Applicant denies that it, "will damage Opposer's valuable goodwill in its 'MISS NUDE INTERNATIONAL' mark;" and

d. Applicant denies that it, "threatens Opposer's right to expand the scope of use of its marks to related, analogous or equivalent items and results in injury to Opposer's established rights in and to its marks.

AFFIRMATIVE DEFENSES

In further answer to the Notice of Opposition, Applicant asserts the following Affirmative Defenses:

FIRST AFFIRMATIVE DEFENSE

Opposer's Notice of Opposition fails to state a claim upon which relief can be granted, and in particular, fails to state legally sufficient grounds for sustaining the opposition.

SECOND AFFIRMATIVE DEFENSE

The terms "MS. NUDE INTERNATIONAL" and "MS. G-STRING INTERNATIONAL," to the extent they use the terms "MISS" and "INTERNATIONAL," are highly diluted as a trademark formative, and hence weak, and Opposer's purported rights extend no further than to the specific marks which Opposer alleges as it owns, none of which are the same as or confusingly similar to Applicant's marks in terms of connotation, appearance and/or pronunciation.

Attached hereto as Exhibit "A." is a Trademark Electronic Search System (TESS) search for marks using "Miss" and "International," and there are 73 marks using those qualifying terms, over half of which are "live."

THIRD AFFIRMATIVE DEFENSE

Applicant's use of its mark will not mistakenly be thought by the public to derive from the same source as Opposer's goods, nor will such use be thought by the public to be used by Opposer or with the Opposer's authorization or approval. To be abundantly clear, the marks "MISS G-STRING INTERNATIONAL" and "MISS NUDE INTERNATIONAL" are not confusingly similar. Factoring the scores of marks beginning with "Miss" and ending in "International," the concepts of a "G-String" and being "Nude" are mutually exclusive and irreconcilable. A woman's "G-String" undergarment is clothed; "NUDE" connotes a complete lack of any clothing, totally.

FOURTH AFFIRMATIVE DEFENSE

Applicant's mark, in its entirety, is sufficiently and distinctively different from Opposer's mark to avoid confusion, deception or mistake as to the source or sponsorship or association of Applicant's goods. The description of the marks "MISS NUDE INTERNATIONAL," is described as: "typed drawing." The description of the mark for "MISS NUDE INTERNATIONAL" is described as "the color(s) white, yellow gold, pink and black is/are claimed as a feature of the mark. The mark consists of the stylized wording 'MISS G-STRING INTERNATIONAL' with the word 'G-STRING' in yellow gold. The word 'MISS' in white is above the word 'G-STRING' and the word 'INTERNATIONAL' in white is below the word 'G-STRING.' All of the wording is outlined in black. All of the words are superimposed upon a woman's pink undergarment."

FIFTH AFFIRMATIVE DEFENSE

Applicant's mark, when used on Applicant's goods, is not likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection or association of Applicant with Opposer, or as to the origin, sponsorship, or approval of Applicant's goods by Opposer. As set forth above, the concepts of a "G-String" and being "Nude" are mutually exclusive and irreconcilable. A woman's "G-String" undergarment is clothed; "NUDE" connotes a complete lack of any clothing, totally. Any claim that there is a likelihood of confusion between "NUDE" and "G-String" under Section 2(d) is without merit. In finding a likelihood of confusion between marks, the board considers the similarity of the marks, goods and services, and similarity of trade channels of the goods and services.¹ Even identical names could be validly registered

¹ *In re Opus One, Inc.*, 60 USPQ2d 1812 (TTAB 2001); *In re Azteca Rest. Enters., Inc.*, 50 USPQ2d 1209 (TTAB 1999).

as trademarks without any risk of confusion so long as they are for different goods and services, as identified in the Applicant's application and registrant's registration.² Indeed, there is no evidence of a plausibly conceivable relationship between "NUDE" and "G-String". Even applying the "something more" test found in *Opus One* and *Jacobs v. International Multifoods Corporation*, which requires a finding of an extremely arbitrary mark being used in relation to a similar or complementary good or service, the marks are unlikely to be confusingly similar.³ Additionally, there is no complementary relationship between the two marks. The dissimilarities between these marks and respective relationships with their relevant markets are substantial enough to ensure there will be no likelihood of confusion within the consuming public. Based on the evidence, there is no risk of confusion as to any aspect of "NUDE" and "G-String" comprising the same or similar goods, services or relevant markets under Section 2(d).

SIXTH AFFIRMATIVE DEFENSE

As an additional affirmative defense, the legal status of the holder of the mark, and the professional status of the mark holder's attorney, are deserving of scrutiny. To fully explain the facts supporting this affirmative defense, the following sequence of facts and exhibits are helpful:

1. Applicant is MISS G-STRING INTERNATIONAL LLC, (hereinafter "MGSI") a State of Florida Limited Liability Company formed on 04/23/09, having its principal place of business at 1420 Sunningdale Lane, Ormond Beach, FL 32174. (Exhibit B).

2. MGSI first used the mark "MISS G-STRING INTERNATIONAL" in commerce on 04/29/09 and filed an application to register the mark "MISS G-STRING INTERNATIONAL" with the USPTO on 06/05/09. (Exhibit C).

3. Opposer is THE WORLDS PAGEANTS, LLC, (hereafter TWP) a State of Florida Limited Liability Company formed on 05/05/09, having its principal place of business at 1005 Mabbette Street, Kissimmee, FL 34741. (Exhibit D).

4. A search of THE WORLDS PAGEANTS, LLC with the State of Florida Department of State, Division of Corporations, lists John Witges of 1005 Mabbette Street, Kissimmee, FL 34741 as the "Managing Member". (Exhibit D).

² *Opus One*, 60 USPQ2d at 1812 citing *Canadian Imperial Bank of Commerce v. Wells Fargo Bank, N.A.*, 811 F.2d 1490, 1 USPQ2d 1813 (Fed. Cir. 1987).

³ *Opus One*, 60 USPQ2d at 1812; *Jacobs v. Int'l Multifoods Corp.*, 688 F.2d 1234, 212 USPQ 642 (CCPA 1982).

5. The State of Florida Department of State, Division of Corporations lists TWP as "Inactive, Admin Dissolution for Annual Report," filed on 09/24/10. (Exhibit D).
6. TWP is not the registered owner of the mark "MISS NUDE INTERNATIONAL" but, in the Notice of Opposition, it attests that it is the assignee of the mark. (Exhibit E / Page 2, Paragraph 2).
7. R&D PROMOTIONS, INC. (hereinafter "RDP"), a Florida Corporation, is the registered owner of the mark "MISS NUDE INTERNATIONAL" with the U.S. Registration No. 2,037,202. (Exhibit F).
8. RDP was formed on 12/04/00 and lists Gracinda Cardoso of 1473 Heather Way, Kissimmee, FL 34744 as President. (Exhibit F).
9. Attorney Thomas T. Aquilla is the Attorney of Record for both RDP & TWP. (Exhibits E, G, H, I, and J).
10. The State of Florida Department of State, Division of Corporations lists RDP as "Inactive, Admin Dissolution for Annual Report," filed on 09/16/05. (Exhibit F). The State of Florida Department of State, Division of Corporations has provisions to reinstate an administratively dissolved entity; however, these provisions are no longer available and RDP cannot be reinstated.
11. RDP omitted to disclose to the USPTO that RDP was not a legal entity, and had not been a recognized legal entity since September 16, **2005**. (Exhibit F).
12. RDP omitted to disclose to the USPTO that RDP was not a legal entity and had not been a recognized legal entity since September 16, **2005**, at the time the USPTO renewed the mark "MISS NUDE INTERNATIONAL" on 04/16/07. (Exhibit G).
13. RDP filing for the first renewal of the mark "MISS NUDE INTERNATIONAL" with U.S. Registration Number 2037202 with the USPTO is asserted as being invalid, since the holder of the mark was a corporation not in lawful existence when renewal was effected. (Exhibit G).
14. It is respectfully asserted that RDP abandoned the mark "MISS NUDE INTERNATIONAL" on 09/16/05. (Exhibit F).
15. It is respectfully asserted that RDP cannot transfer or assign the mark "MISS NUDE INTERNATIONAL" to TWP after its date of dissolution by the State of Florida, Division of Corporations on 09/16/05. (Exhibit F).

16. It is respectfully asserted that the alleged assignee TWP does not have standing to oppose the mark "MISS G-STRING INTERNATIONAL" since TWP does not have a valid assignment of the mark "MISS NUDE INTERNATIONAL" as TWP was not formed until 05/05/09, (Exhibit D), long after the administrative dissolution of RDP on 09/16/05 (Exhibit F).
17. TWP cannot register a valid assignment of the mark "MISS NUDE INTERNATIONAL" with the USPTO, as RDP constructively abandoned the mark on 09/16/05. (Exhibit F).
18. TWP is not a legal entity now (Exhibit D), nor was it a legal entity at the time it filed the first (1/6/11) second (2/3/11) and third (4/4/11) extensions of time to oppose and its Notice of Opposition. (Exhibits H, I, and J).
19. TWP and its Attorney Thomas T. Aquilla filed their NOTICE OF OPPOSITION with malice of forethought by attesting to an invalid assignment of mark, U.S. Registration No. 2,03,202. (Exhibit G).
20. MGSI first used the mark "MISS G-STRING INTERNATIONAL" in commerce on 04/29/09. (Exhibit C).
21. TWP first used the mark "MISS NUDE INTERNATIONAL" in commerce not earlier than 05/05/09, the date that TWP registered with the State of Florida Department of State, Division of Corporations. (Exhibit D).
22. MGSI has Prior Use of the mark "MISS G-STRING INTERNATIONAL," occurring before any use asserted by TWP for the use of "MISS NUDE INTERNATIONAL." (See Exhibits C and D).
23. Attorney Thomas T. Aquilla is the Attorney of Record for TWP. (Exhibits E, G, H,I, and J).
24. Attorney Thomas T. Aquilla's address is 221 Coe Hill Road, Center Harbor, NH 03226. (Exhibits E, G, H,I, and J).
25. Attorney Thomas T. Aquilla was suspended from the practice of law in New Hampshire on 01/06/11 and reinstated April 26, 2011. (Exhibit K).
26. It is respectfully asserted that Thomas T. Aquilla was not lawfully authorized or licensed by the New Hampshire Bar Association to act as an attorney when he filed first (1/6/11), second (2/3/11), and third (4/4/11) extensions of time to oppose (Exhibits H, I, and J), having not been reinstated until 04/26/11. (Exhibit K).

27. Additionally, the TWP third request for extension of time to oppose MGSI Trademark Application required the approval of applicant, MGSI.

28. MGSI would have declined the third request for extension of time to oppose, filed by its suspended Attorney Thomas T. Aquilla on 04/04/11.

29. TWP did not make a request to obtain the approval of MGSI for the third request for extension of time to oppose MGSI Trademark Application.

30. TWP fraudulently claimed extraordinary circumstances by its suspended Attorney Thomas T. Aquilla claiming the TWP principal was out of the country attending to an ill family member, to circumvent MGSI approval rights.

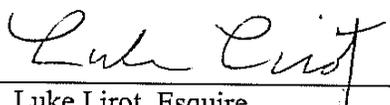
31. The TWP filings for extension of time to oppose MGSI trademark application must be filed by an Attorney legally permitted to practice law. Since Mr. Aquilla was suspended from the practice of law in New Hampshire, it would appear that the TWP filings for extensions of time to oppose to MGSI trademark application are invalid.

32. Based on the foregoing procedural defects, it is asserted as a full and complete affirmative defense that the corporate entity asserting opposition to the mark "MISS G-STRING INTERNATIONAL" is defective because of the timing of its creation and dissolution, thus casting doubt on Opposer's standing to oppose the acknowledgement of Applicant's mark, as well as having been represented by a suspended attorney.

RELIEF REQUESTED

WHEREFORE, Applicant respectfully requests that this Opposition be dismissed, with prejudice and that the registration sought by Application Serial No. 77/753000 for the mark "MISS G-STRING INTERNATIONAL" be allowed to proceed to registration.

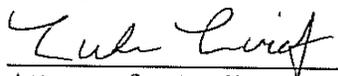
Respectfully Submitted:

By:  Dated: July 19, 2011
Luke Lirot, Esquire
Florida Bar Number 714836
LUKE CHARLES LIROT, P.A.
2240 Belleair Road, Suite 190
Clearwater, Florida 33764

Telephone: (727) 536-2100
Facsimile: (727) 536-2110
Attorneys for the Applicant

CERTIFICATION OF ELECTRONIC FILING

I hereby certify that the attached APPLICANT'S ANSWER TO OPPOSER'S NOTICE OF OPPOSITION was filed electronically with the Trademark Trial and Appeal Board on July 19, 2011.

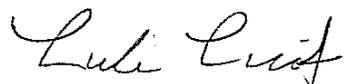


Attorney for Applicant
Signed July 19, 2011

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing APPLICANT'S ANSWER TO OPPOSER'S NOTICE OF OPPOSITION has been served on Thomas T. Aquilla, Esq., domestic representative of THE WORLDS PAGEANTS LLC as Registrant's Attorney of Record and Correspondence as listed in the TARR system as of this date by mailing said copy on July 19, 2011, via First Class Mail, postage prepaid to:

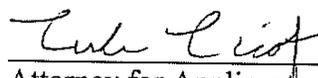
Thomas T. Aquilla, Esq.
221 Coe Hill Road
Center Harbor, New Hampshire, 03226



Attorney for Applicant
Signed July 19, 2011

Designation of Domestic Representative

Attorney Luke Lirot, Esq., whose postal address is 2240 Belleair Rd., Suite 190, Clearwater, FL 33764, is hereby, designated MISS G-STRING INTERNATIONAL, LLC's representative upon whom notice or process in this proceeding may be served.



Attorney for Applicant
Signed July 19, 2011

Exhibit C

Thank you for your request. Here are the latest results from the [TARR web server](#).

This page was generated by the TARR system on 2011-09-28 16:36:33 ET

Serial Number: [75079154](#) [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: [2037202](#)

Mark (words only): [MISS NUDE INTERNATIONAL](#)

Standard Character claim: [No](#)

Current Status: [The registration has been renewed.](#)

Date of Status: [2007-04-16](#)

Filing Date: [1996-03-27](#)

Transformed into a National Application: [No](#)

Registration Date: [1997-02-11](#)

Register: [Principal](#)

Law Office Assigned: [LAW OFFICE 107](#)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2007-04-16

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. R&D PROMOTIONS, INC.

Address:

R&D PROMOTIONS, INC.
1005 MABETTE STREET
KISSIMMEE, FL 34741
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Florida

GOODS AND/OR SERVICES

International Class: 041

Class Status: Active

entertainment services in the nature of promoting and conducting
beauty pageants

Basis: 1(a)

First Use Date: 1991-06-00

First Use in Commerce Date: 1991-06-00

ADDITIONAL INFORMATION

Disclaimer: "NUDE INTERNATIONAL"

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2011-09-23 - TEAS Section 7 Request Received

2007-04-16 - First renewal 10 year

2007-04-16 - Section 8 (10-year) accepted/ Section 9 granted

2007-02-12 - Combined Section 8 (10-year)/Section 9 filed

2007-02-12 - TEAS Section 8 & 9 Received

2006-12-20 - Case File In TICRS

2005-12-22 - TEAS Change Of Correspondence Received

2005-01-25 - TEAS Change Of Correspondence Received

2003-04-21 - Section 8 (6-year) accepted & Section 15 acknowledged

2003-01-27 - Section 8 (6-year) and Section 15 Filed

2003-02-10 - PAPER RECEIVED

2003-01-27 - TEAS Section 8 & 15 Received

1997-02-11 - Registered - Principal Register

1996-11-19 - Published for opposition

1996-10-18 - Notice of publication

1996-09-13 - Approved for Pub - Principal Register (Initial exam)

1996-09-10 - Examiner's amendment mailed

1996-09-06 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

THOMAS T. AQUILLA

Correspondent

THOMAS T AQUILLA

AQUILLA PATENTS & MARKS PLLC

221 COE HILL RD

CENTER HARBOR, NH 03226-3605

Phone Number: 603-253-9474

Fax Number: 603-253-9476

Exhibit D

BOX TTAB - NO FEE
Attorney Docket No.: TWP-701L

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

THE WORLD'S PAGEANTS, LLC,)	
Opposer,)	Opposition No. 91,200,183
)	
)	For: "MISS G-STRING
)	INTERNATIONAL"
)	
v.)	Serial No. 77/753,000
)	Published December 7, 2010
MISS G-STRING INTERNATIONAL, LLC,)	
Applicant.)	
)	

COMMISSIONER OF TRADEMARKS
2900 Crystal Drive
Arlington, VA 22202-3513

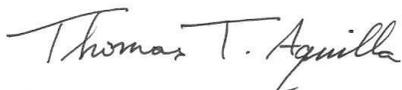
BOX TTAB - NO FEE

DECLARATION OF THOMAS T. AQUILLA

I, Thomas T. Aquilla, the undersigned, do hereby declare and state as follows:

1. I am the attorney of record for Opposer, The Worlds Pageants, LLC, assignee of Registration No. 2,037,202 for MISS NUDE INTERNATIONAL, which is registered on the Principal Register and incontestable. (See Reg. No. 2,037,202, Exhibit C).
2. On June 6, 2011, The World's Pageants, LLC initiated this opposition by filing a Notice of Opposition ("the Notice") against Applicant Miss G-String International, LLC. (See Notice, Exhibit A).
3. On July 19, 2011, Applicant Miss G-String International, LLC, represented by its attorney, Luke Lirot, responded in this opposition by filing an Answer to Opposer's Notice of Opposition ("the Answer"). (See Answer, Exhibit B).

4. Applicant did not file or serve a timely Petition and Fee for Cancellation of Opposer's Reg. No. 2,037,202 and Applicant's Answer did not include a timely counterclaim and Fee for cancellation of Opposer's Reg. No. 2,037,202. (See Answer, Exhibit B).
5. On September 23, 2003, Applicant further attacked Opposer's incontestable Registration, when William Eadie of Miss G-String International, LLC (*i.e.*, Applicant) filed an unauthorized, unconsented Section 7 Declaration in Opposer's asserted Reg. No. 2,037,202. Mr. Eadie failed to file a copy of the Section 7 Declaration and the assignment transmitted therewith (if any) with the Board in this Opposition, and also failed to serve copies on Opposer. (See Section 7, attached as Ex. E and TWP's Dec., attached as Ex. D).
6. Applicant filed the Section 7 Declaration in Opposer's Reg. No. 2,037,202 without Opposer's knowledge or authorization, with the intent to deceive the Office (See TWP's Dec., attached as Ex. D).
7. To the best of my knowledge, Applicant holds no legal title to Opposer's Reg. No. 2,037,202.
8. William Eadie did not have authorization to act on behalf of The Worlds Pageants, LLC and there is no relationship of agency between Eadie William and Opposer.
9. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent or trademark issued thereon.



Thomas T. Aquilla Date September 28, 2011

Exhibit E

PTO Form 1597 (Rev 11/2007)
OMB No. 0651-0055 (Exp. 12/31/2011)

Section 7 Request Form

The table below presents the data as entered.

Input Field	Entered
REGISTRATION NUMBER	2037202
LAW OFFICE ASSIGNED	LAW OFFICE 107
SERIAL NUMBER	75079154
MARK SECTION (current)	
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	MISS NUDE INTERNATIONAL
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size or color.
OWNER SECTION (current)	
NAME	R&D PROMOTIONS, INC.
STREET	1005 MABETTE STREET
CITY	KISSIMMEE
STATE	Florida
ZIP/POSTAL CODE	34741
COUNTRY	United States
OWNER SECTION (proposed)	
NAME	WILLIAM EADIE
STREET	1420 SUNNINGDALE LANE
CITY	ORMOND BEACH
STATE	Florida
ZIP/POSTAL CODE	32174
COUNTRY	United States
PHONE	386 492 6443

FAX	386 492 6443
EMAIL	ssp0607@aol.com
AUTHORIZED TO COMMUNICATE VIA E-MAIL	Yes
LEGAL ENTITY SECTION (current)	
TYPE	corporation
STATE/COUNTRY OF INCORPORATION	Florida
LEGAL ENTITY SECTION (proposed)	
TYPE	individual
EXPLANATION OF FILING	
Partial Satisfaction of Judgment.	
CORRESPONDENCE SECTION	
ORIGINAL ADDRESS	THOMAS T AQUILLA AQUILLA PATENTS & MARKS PLLC 221 COE HILL RD CENTER HARBOR New Hampshire (NH) United States (USX) 03226-3605
NEW CORRESPONDENCE SECTION	
NAME	WILLIAM EADIE
STREET	1420 SUNNINGDALE LANE
CITY	ORMOND BEACH
STATE	Florida
ZIP/POSTAL CODE	32174
COUNTRY	United States
PHONE	386 492 6443
FAX	386 492 6443
EMAIL	ssp0607@aol.com
AUTHORIZED EMAIL COMMUNICATION	Yes
PAYMENT SECTION	
TOTAL FEES DUE	The filing Attorney has elected not to submit a fee payment for the class(es), believing no fee payment is required under the <i>Trademark Rules of Practice</i> .

SIGNATURE SECTION	
DECLARATION SIGNATURE	/WILLIAM EADIE/
SIGNATORY'S NAME	WILLIAM EADIE
SIGNATORY'S POSITION	OWNER
DATE SIGNED	09/23/2011
REQUEST SIGNATURE	/WILLIAM EADIE/
SIGNATORY'S NAME	WILLIAM EADIE
SIGNATORY'S POSITION	OWNER
DATE SIGNED	09/23/2011
AUTHORIZED SIGNATORY	YES
CONCURRENT § 8, 8 &15, OR 8 &9 FILED	NO
FILING INFORMATION SECTION	
SUBMIT DATE	Fri Sep 23 12:23:35 EDT 2011
TEAS STAMP	USPTO/S7R-97.102.45.232-2 0110923122335362521-20372 02-480452cf7bf5ae7aaa87af bfea21507b6f-N/A-N/A-2011 0923120213384202

PTO Form 1597 (Rev 11/2007)
OMB No. 0651-0055 (Exp. 12/31/2011)

Section 7 Request Form

To the Commissioner for Trademarks:

The registrant requests the following amendment(s) to registration no. **2037202** MISS NUDE INTERNATIONAL

EXPLANATION OF FILING

Partial Satisfaction of Judgment.

OWNER AND/OR ENTITY INFORMATION

Registrant proposes to amend the following:

Current: R&D PROMOTIONS, INC., a corporation of Florida, having an address of
1005 MABETTE STREET

KISSIMMEE, Florida 34741
United States

Proposed: WILLIAM EADIE, having an address of

1420 SUNNINGDALE LANE
ORMOND BEACH, Florida 32174
United States
ssp0607@aol.com
386 492 6443
386 492 6443

CORRESPONDENCE ADDRESS CHANGE

Registrant proposes to amend the following:

Current: THOMAS T AQUILLA AQUILLA PATENTS & MARKS PLLC 221 COE HILL RD
CENTER HARBOR New Hampshire (NH) United States (USX) 03226-3605

Proposed: WILLIAM EADIE, having an address of 1420 SUNNINGDALE LANE ORMOND BEACH,
Florida United States 32174, whose e-mail address is ssp0607@aol.com, whose phone number is 386 492
6443 and whose fax number is 386 492 6443.

I hereby elect *not* to submit any fee. I believe no fee is required because I am seeking to correct an immaterial, *e.g.*, clerical, error that was the fault of the USPTO, rather than the fault of the owner. I understand that the Office may, upon later review, require a fee payment.

SIGNATURE(S)

Declaration Signature

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements may jeopardize the validity of the application or document or any resulting registration, declares that all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.

Signature: /WILLIAM EADIE/ Date: 09/23/2011

Signatory's Name: WILLIAM EADIE

Signatory's Position: OWNER

Request Signature

Signature: /WILLIAM EADIE/ Date: 09/23/2011

Signatory's Name: WILLIAM EADIE

Signatory's Position: OWNER

The signatory has confirmed that he/she is not represented by either an authorized attorney or Canadian attorney/agent, and that he/she is either (1) the registrant or (2) a person(s) with legal authority to bind the registrant; and if an authorized U.S. attorney or Canadian attorney/agent previously represented him/her in this matter, either he/she has filed a signed revocation of power of attorney with the USPTO or the USPTO has granted the request of his/her prior representative to withdraw.

The registrant is NOT filing a Declaration of Use of Mark under Section 8; a Combined Declaration of Use of Mark under Sections 8 & 15; or a Combined Declaration of Use of Mark/Application for Renewal of Registration of Mark under Sections 8 & 9 in conjunction with this Section 7 Request.

Mailing Address: WILLIAM EADIE
1420 SUNNINGDALE LANE
ORMOND BEACH, Florida 32174

Serial Number: 75079154

Internet Transmission Date: Fri Sep 23 12:23:35 EDT 2011

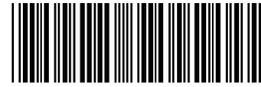
TEAS Stamp: USPTO/S7R-97.102.45.232-2011092312233536

2521-2037202-480452cf7bf5ae7aaa87afbfea2

1507b6f-N/A-N/A-20110923120213384202

ROUTING SHEET TO POST REGISTRATION (PRU)

Registration Number: 2037202



Serial Number: 75079154



RAM Sale# NOT FOUND

Total Fees: \$0

Note: Process in accordance with Post Registration Standard Operating Procedure (SOP)

<u>Transaction</u>	<u>Fee Code</u>	<u>Transaction Date</u>	<u>Fee per Class</u>	<u>Number of Classes</u>	<u>Total Fee</u>	
§7 request		20110923	\$0	0	0	\$0

Physical Location: 900 - FILE REPOSITORY (FRANCONIA)

Lost Case Flag: False

In TICRS (AM-FLG-IN-TICRS): True

Transaction Date: 20110923

