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

Proceeding	91200183
Party	Plaintiff The Worlds Pageants, LLC and Camila Productions Ltd.
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

THE WORLDS PAGEANTS LLC and)	
CAMILA PRODUCTIONS LTD)	
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.)	

OPPOSER'S TRIAL BRIEF

Opposer The Worlds Pageants LLC and Camila Productions Ltd ("TWP" or "Opposer"), by and through its attorney, Thomas T. Aquilla, hereby submits this Trial Brief in support of its Opposition against Applicant Miss G-String International, LLC ("MGI" or "Applicant").

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I. Overview

Applicant entered the adult entertainment industry and began advertising in mid to late 2009. Upon receiving notice from Opposer of its prior registration of its Mark MISS NUDE INTERNATIONAL for identical services, Applicant then applied to register "MISS G-STRING INTERNATIONAL" for services not limited to Applicant's specific activities, but rather covering the field of beauty pageants and competitions.

Opposer has been in the business of providing beauty pageant competitions in the adult entertainment industry continuously since 1964 and holds title to a family of marks pertaining thereto. Were Applicant's applied for mark to be registered, it would cause incalculable harm to Opposer's famous brand and goodwill.

II. Description of the Record

The Record consists of:

- 1) The Pleadings;
- 2) The Registrations;
- 3) The files of all involved Registrations;
- 4) Opposer's Notice of Reliance with Exhibits;
- 5) Applicant's Trial Testimony of Applicant by William D. Eadie with Exhibits.

III. Applicant's Pleading

Applicant, in its Answer to Opposer's Notice of Opposition, denies knowledge as to the basic Opposition allegations and even asserts that Opposer lacks standing, claims fraud before

the USPTO as well as claiming that Opposer's Registrations are invalid, despite Opposer's MISS NUDE INTERNATIONAL incontestability status.

IV. The Facts

Applicant's claimed date of first use of "MISS G-STRING INTERNATIONAL" is April 29, 2009. App. 77/753,000; Eadie Testimony page 6, lines 13-16. Applicant's specimen filed on June 5, 2009 depicts a photograph advertisement apparently promoting a pageant scheduled for October 3, 2009. App. 77/753,000 specimen. Apparently, Applicant's specimen of first use was merely an unpublished advertisement for its first pageant to be held on October 1-3 2009. The specimen does not identify on its face a source or date of publication that can be verified.

Opposer's date of first use of record of the Mark MISS NUDE INTERNATIONAL is June, 1991. Reg. No. 2,037,202. Upon learning of Applicant's advertisement indicating its intent to use a confusingly similar mark, Opposer notified Applicant's attorney of the likelihood of confusion by letter dated May 13, 2009. Applicant's Exhibit 4. Thus, the record shows that, clearly Applicant was aware of Opposer's MISS NUDE INTERNATIONAL Mark prior to its actual use of "MISS G-STRING INTERNATIONAL" and clearly Applicant did not use "MISS G-STRING INTERNATIONAL" prior to Opposer's use of the MISS NUDE INTERNATIONAL Mark, based on the evidence and dates of record.

Furthermore, the record does not show that Applicant ever requested or received permission from Opposer to use "MISS G-STRING INTERNATIONAL", thus Applicant's use of and application for "MISS G-STRING INTERNATIONAL" has been without the consent of Opposer. Therefore, it reasonably can be inferred only that, in choosing the mark MISS G-STRING INTERNATIONAL, Applicant intended to trade off the goodwill established by Opposer's MISS NUDE INTERNATIONAL Mark.

A. The Services Described In The Application Are Identical To The Services Described In The Registration Of The Prior Mark Already In Use

The services cited in Applicant's application are "Entertainment services in the nature of conducting beauty pageants and talent contests". App. 77/753,000. The services cited in Opposer's Registration are "Entertainment services in the nature of conducting beauty pageants and talent contests". Reg. 2,037,202. Thus, Applicant's services under "MISS G-STRING INTERNATIONAL" are absolutely identical to the services offered by Opposer under the MISS NUDE INTERNATIONAL Mark.

B. Similar Appearance, Sound, Connotation, And Commercial Impression

It is apparent from even a cursory review that "MISS G-STRING INTERNATIONAL" is highly similar to MISS NUDE INTERNATIONAL in sight, sound, and meaning. It is clear that the only difference is the substitution of the word "G-string" for the word "nude", and this difference does not change the connotation or commercial impression.

Applicant's argument that the marks are not confusingly similar is based entirely on its repeated assertions that MGI's beauty competition is a fully-clothed, non-nude, G-rated event suitable for all ages and actually attended by general audiences. Applicant furthermore maintains that its logo including a woman's undergarment conveys all of the foregoing information to the public through viewing the mark itself and this somehow distinguishes its services from those of Opposer. Eadie Testimony page 5, lines 5-16; page 19, lines 7-15. In particular Applicant attests that the contestants in the MISS G-STRING INTERNATIONAL beauty contests always appear on stage clothed. Eadie Testimony page 19, lines 7-15. MGI further asserts that its use of "MISS G-STRING INTERNATIONAL" and its "pageants are

geared towards the community as a whole, and not a select group of people interested in nudity".
MGI Motion for Summary Judgment page 3, line 10.

However, MGI displays its mark in association with nude models on Playboy.com (obviously for adults, not the general population), as attested to by Applicant's Eadie Testimony page 14, lines 14 to page 15, line 9, and Opposer's Exhibit H1 pages 100137-139. Opposer's Exhibit H1 page 100181 shows a copy of the nudity warning on the website, which also displays "MISS G-STRING INTERNATIONAL" at the top of the page. Opposer's Exhibit H2 pages 100213-219 are copies of media reports describing the adult-themed nature of MGI's event held at a nudist resort in Florida in 2009 that apparently was sanctioned for holding the event, as it was deemed to be "adult entertainment" and entirely inappropriate for a nudist resort.

Thus the evidence of record directly contradicts MGI's assertions that its pageants are geared towards the community as a whole, and not a select group of people interested in nudity. Indeed, the evidence produced during discovery and trial shows the opposite – that, in fact, MGI uses "MISS G-STRING INTERNATIONAL" without Opposer's consent in association with female models who appear in the nude and/or topless at adult-content events and on adult-content websites that display the mark together with nude and/or topless models and an age-related disclaimer.

In addition, MGI stresses that Opposer's beauty pageants are "completely nude", as opposed to its own pageants. However any level of "nudity" displayed during any public performance obviously is controlled by state and local laws and ordinances, and even club and convention center rules and regulations. Opposer's events are not exempt from such rules and therefore, because total nudity is rarely allowed, contestants typically are required to wear at least a "G-string" and "pasties" or some other cover over the breasts and genitals, as shown in

Opposer's Exhibit J pages 1-4, illustrating the alleged "nudity" of contestants performing in Opposer's 2012 pageant held in Ohio. Also attached as Exhibit B is a sample copy of Opposer's advertising and promotion, which was first published in print and on the Internet in 2001.

All of these exhibits taken together clearly show that "MISS G-STRING INTERNATIONAL" is similar to Opposer's MISS NUDE INTERNATIONAL Mark in sight, sound, and meaning.

C. Similar Established, Likely-To-Continue Trade Channels

Miss G-String International, LLC's customers, clients, or consumers are identical or substantially similar to The Worlds Pageants, LLC's customers, clients, or consumers. For example, promotion and publication of MGI's pageant appears in the same adult-entertainment publications as Opposer's advertising and promotion, including ED Publications' Exotic Dancer magazine, as shown in Opposer's Exhibit G pages 100130-131, and The Floating World as shown in Opposer's Exhibit H1 page 100186. More particularly, in Opposer's Exhibit G pages 100130-131, ED Publications reports that Aspen Reign won Opposer's Miss Nude World title for 2009, and directly beneath that, the same publication reports that Tanya Taylor was crowned Miss G-String International 2009, and then below that it also reports the scheduled date for Opposer's Miss Exotic United States 2009 pageant.

Opposer's Exhibit G1 pages 100126-129 and Exhibit H1 pages 100126-128 show published web pages for a contestant and awardee of both Opposer's and MGI's beauty contests. Furthermore, Opposer's Exhibit H1 pages 100166-169 are copies of advertising by adult industry news reporter and celebrity Tony Batman, who has hosted/emceed beauty contests for both Opposer and MGI.

Thus, the evidence of record clearly shows that Applicant's pageant is advertised and promoted on Playboy.com and in the same adult entertainment industry publications as Opposer's pageants. Furthermore, MGI's pageant has been hosted/emceed by Tony Batman, the same adult industry news celebrity that hosts Opposer's pageants, and MGI's pageant has included at least some of the same contestants and winners that competed in Opposer's pageants, who also are entertainers in the adult entertainment industry.

All of these exhibits taken together clearly show that Applicant's services under "MISS G-STRING INTERNATIONAL" are identical to the services offered by Opposer under the MISS NUDE INTERNATIONAL Mark and related marks, and that Applicant's customers, clients, or consumers are identical or substantially similar to Opposer's customers, clients, or consumers.

It is respectfully submitted that this evidence demonstrates the similarity of the marks, services, trade channels and consumers of the respective parties and disproves MGI's assertions that its use of "MISS G-STRING INTERNATIONAL" and its "pageants are geared towards the community as a whole, and not a select group of people interested in nudity".

D. Fame Of Opposer's Prior Mark

The MISS NUDE INTERNATIONAL Mark is famous and distinctive. Opposer's date of first use of record of the Mark MISS NUDE INTERNATIONAL is June, 1991. Reg. No. 2,037,202. Opposer's adult entertainment pageants have been held continuously since 1964 and have been advertised and reported on widely in industry publications, as exemplified by Opposer's Exhibits B and G pages 100066 and 100126-100131.

E. Market Interface Between Applicant And The Owner Of The Prior Mark

Opposer and Applicant have been direct competitors since Applicant began advertising in 2009. As shown above, Applicant was aware of Opposer's MISS NUDE INTERNATIONAL Mark prior to its first actual use of "MISS G-STRING INTERNATIONAL". Furthermore, Applicant did not use "MISS G-STRING INTERNATIONAL" prior to Opposer's use of the MISS NUDE INTERNATIONAL Mark.

F. The Extent Of Potential Confusion

The services described in the application are identical to the services described in the registration of the prior mark already in use, and the appearance, sound, connotation, and commercial impression of "MISS G-STRING INTERNATIONAL" is highly similar to that of Opposer's MISS NUDE INTERNATIONAL Mark. likely to cause confusion with Opposer's MISS NUDE INTERNATIONAL Mark Therefore, "MISS G-STRING INTERNATIONAL" is likely to cause confusion with Opposer's MISS NUDE INTERNATIONAL Mark. Furthermore, the established, likely-to-continue trade channels are overlapping and virtually identical, and Opposer's MISS NUDE INTERNATIONAL Mark is famous and distinctive. Moreover, Opposer and Applicant are direct competitors and Applicant holds an incontestable Registration for its Mark MISS NUDE INTERNATIONAL. Therefore, it is respectfully submitted that the extent of potential confusion among the public regarding the source of the services is unquestionably severe.

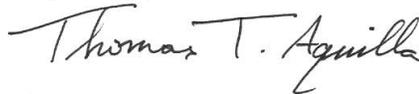
V. Conclusion

Likelihood of confusion in a trademark infringement action is a question of law based on underlying factual determinations. *Packard Press, Inc. v. Hewlett-Packard Co.*, 227 F.3d 1352, 1356 (Fed. Cir. 2000); *Sweats*, 833 F.2d at 1565. Opposer respectfully submits that, based on the above facts, Opposer's case has been established. Opposer has demonstrated the similar or

identical nature of the marks, the services of the parties, and the relevant consumers. *E.I. DuPont DeNemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1073.). Opposer has demonstrated that Applicant is a competitor of Opposer, that MGI intended to trade off the goodwill associated with Opposer's mark, and that Opposer has priority of use. Thus, the evidence produced through discovery and trial shows that Applicant's mark MISS G-STRING INTERNATIONAL is likely to cause confusion with Opposer's MISS NUDE INTERNATIONAL Mark.

For the foregoing reasons, Opposer respectfully requests that the Opposition be sustained and that Applicant's application be refused registration.

Respectfully Submitted:

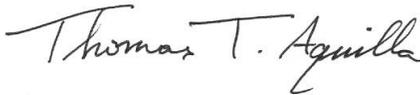


Dated: **December 11, 2015**

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 served via U.S. Postal Service First Class Mail, in an envelope addressed to Counsel for Applicant, Luke Charles Lirot, 2240 Belleair Road, Suite 190 Clearwater FL 33764, on **December 11, 2015**.



Thomas T. Aquilla, Esq.

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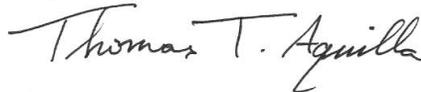
OPPOSER'S MOTION TO EXTEND TIME

Opposer The Worlds Pageants, LLC ("TWP" or "Opposer"), by and through its attorney, Thomas T. Aquilla, hereby respectfully submits this Motion to Extend Time for the filing of the Trial Brief in this case and makes of record the following evidence in support of the Motion:

1. Declaration of Thomas T. Aquilla, attorney for Opposer, setting forth with particularity the facts said to constitute good cause for the requested extension (EXHIBIT A1).

In view of the attached Declaration, Opposer respectfully moves the Board to Extend the Time for the filing of Opposer's Trial Brief. Such relief is respectfully requested.

Respectfully Submitted:



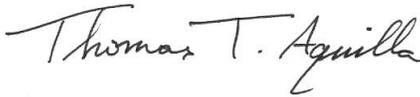
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I hereby certify that a true and correct copy of the foregoing document has been mailed via the U.S. Postal Service via First Class Mail, in an envelope addressed to Counsel for Applicant, Luke Charles Lirot, 2240 Belleair Road, Suite 190 Clearwater FL 33764, on **December 11, 2015**.



Thomas T. Aquilla, Esq.

EXHIBIT A2

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SECOND DECLARATION OF THOMAS T. AQUILLA

I, Thomas T. Aquilla, hereby declare and say as follows:

1. I am the attorney of record for Opposer in the above-captioned proceeding.
2. My wife, Elizabeth Aquilla, was my office assistant, until she began battling breast cancer almost five years ago.
3. In February 2015 it was discovered that the cancer advanced significantly resulting in stage IV metastatic breast cancer.
4. The tumors quickly became numerous, inoperable, in virtually all tissues and the doctors discontinued all treatments, except for palliative care in September.
5. While caring for my wife and children during this time, I was practically unavailable to work and have been able to meet only my clients' most urgent needs.
6. Under these circumstances, I did not have sufficient time to prepare the Trial Brief for this case.

7. By mid to late August 2015, her case became even more severe and my wife began receiving Hospice care; on October 11 she finally passed away at home.
8. From late August through early October virtually all of my time was spent with my wife and providing support for our teenage children.
9. From mid October to the present I have been overwhelmed with grief and the daily responsibilities of caring for my children and being a new homemaker, in addition to single-handedly managing all of the tasks associated with my law practice.
10. I believe the foregoing facts demonstrate good cause for the requested Extension of Time to file the Trial Brief in this case.
11. 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 issued thereon.

Date: December 11, 2015

/Thomas T. Aquilla/

Thomas T. Aquilla