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

Proceeding	91200183
Party	Defendant Miss G-String International LLC
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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 Opposers,	)))))))))))	Opposition No. 91200183 For: "MISS G-STRING INTERNATIONAL"
v.		
MISS G-STRING INTERNATIONAL LLC Applicant.		No. 77/753000 Published: December 7, 2010

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

APPLICANT'S TRIAL BRIEF

Applicant, Miss G-String International LLC, by and through its attorney, hereby submits this Trial Brief in support of the registration of Applicant's Miss G-String International mark.

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I. Overview

Applicant, MISS G-STRING INTERNATIONAL LLC, (hereinafter "Applicant") is in the business of conducting beauty pageants and applied to register MISS G-STRING INTERNATIONAL. All wardrobe worn by Applicant's contestants includes a woman's g-string undergarment, as indicated by the name MISS G-STRING INTERNATIONAL.

Opposers, THE WORLDS PAGEANTS, LLC, and CAMILA PRODUCTIONS LTD, (sic) are currently, or had previously been, in the adult entertainment industry of conducting contests held exclusively at "Adults Only" venues for strippers who compete nude, as indicated by the name MISS NUDE INTERNATIONAL.

Gracinda Bento Cardoso is currently, or had previously been, the principal of R&D PROMOTIONS, INC., THE WORLDS PAGEANTS, LLC, THE WORLDS PAGEANTS LLC, (minus the comma) and CAMILA PRODUCTIONS LTD, all claiming to own, or had previously claimed to have owned, MISS NUDE INTERNATIONAL. Cardoso has a history of forming a new entity, transferring MISS NUDE INTERNATIONAL from the prior entity to the new entity, then dissolving the prior entity. Cardoso's first entity, R&D PROMOTIONS, INC., Cardoso's second entity, THE WORLDS PAGEANTS, LLC, and Cardoso's third entity, THE WORLDS PAGEANTS LLC (minus the comma), have been dissolved and not reinstated.

On May 13, 2009, Cardoso's first entity, R&D Promotions, Inc., through Counsel, issued a "cease and desist" letter to Applicant's Counsel, claiming R&D Promotions, Inc. owns MISS NUDE INTERNATIONAL. However, on June 6, 2011, it was Cardoso's second entity, The Worlds Pageants, LLC that filed the **Notice of Opposition**, now claiming to own MISS NUDE INTERNATIONAL.

On December 11, 2015, Cardoso's fourth entity, the current Opposer, Camila Productions Ltd, inaccurately stated in its **Trial Brief**, "Upon receiving notice from Opposer of its prior registration of its Mark MISS NUDE INTERNATIONAL..." (Opposer's **Trial Brief, Section I. Overview**, Page 3, Paragraph 1, lines 2-3). However, neither Cardoso's second entity, the previous Opposer, The Worlds Pageants, LLC, nor Cardoso's fourth entity, the current Opposer, Camila Productions Ltd, provided notice of its prior registration of MISS NUDE INTERNATIONAL to Applicant. In fact, only Cardoso's first entity, R&D Promotions, Inc., provided notice of its prior registration to Applicant, claiming R&D Promotions, Inc. owns MISS NUDE INTERNATIONAL.

Also on December 11, 2015, the current Opposer, Camila Productions Ltd, further inaccurately stated in its **Trial Brief,** "Opposer has been in the business of providing beauty pageant competitions in the adult entertainment industry **continuously since 1964**." (Opposer's **Trial Brief, Section I. Overview**, Page 3, Paragraph 2, lines 1-2). The previous Opposer, The Worlds Pageants, LLC, could not have claimed the first use date (1964), as it predates the existence of the legal entity, The Worlds Pageants, LLC, not formed until forty-five years later, on May 5, 2009. Therefore, the current Opposer, Camila Productions Ltd, could not have claimed the first use date (1964), as it also predates the existence of the legal entity, Camila Productions Ltd, not formed until **forty-eight years later**, on September 19, 2012.

William Eadie is the Managing Member of the multiple member Applicant. Managing Member Eadie obtained information regarding a judgment against Cardoso's first entity, R&D Promotions, Inc., and Cardoso, named personally. Eadie, as an individual, acquired the assignment of the valid and final State Court Judgment against R&D Promotions, Inc. and Cardoso, named personally.

On September 22, 2011, more than ***three months after*** Cardoso's second entity, Opposer, The Worlds Pageants, LLC, filed its **Notice of Opposition** claiming to own MISS NUDE INTERNATIONAL, Eadie, as Judgment Creditor, filed a **Section 7 Request** to acquire MISS NUDE INTERNATIONAL as partial satisfaction of the judgment award from Cardoso's first entity, Judgment Debtor, R&D Promotions, Inc. The records establish unequivocally that R&D Promotions, Inc., ***not Opposer***, The Worlds Pageants, LLC, was the record owner of MISS NUDE INTERNATIONAL on the date Judgment Creditor Eadie filed the **Section 7 Request**, September 22, 2011. Yet, mere days later, Opposer, The Worlds Pageants, LLC, through Counsel, attempted to avoid the impact of the effort to execute on the subject judgment by contemporaneously filing two nunc pro tunc assignment documents in a desperate attempt to retroactively establish Opposer, The Worlds Pageants, LLC, as the owner of MISS NUDE INTERNATIONAL, on the date its **Notice of Opposition** was filed, June 6, 2011.

Notably, the Opposer, The Worlds Pageants, LLC, signed and filed its ***backdated*** assignment documents with the Board on September 27, 2011, more than ***three months after*** Opposer, The Worlds Pageants, LLC, filed its **Notice of Opposition**, dated June 6, 2011.

On October 28, 2011, **Applicant's Motion to Strike *Nunc Pro Tunc* Trademark Assignments** was filed with the Board. On June 21, 2012, the Board ordered *"Applicant's motion to strike is granted to the limited extent that the copies of Opposer's assignment documents filed with the Board on September 27, 2011, will receive no consideration."* However, Opposer, The Worlds Pageants, LLC, was not precluded from seeking to properly make those documents of record during its testimony period.

On January 23, 2012, Cardoso's third entity, The Worlds Pageants LLC, was next formed, using the identical name as Cardoso's second entity, Opposer, The Worlds Pageants,

LLC, minus the comma. On September 19, 2012, Cardoso's second entity, Opposer, The Worlds Pageants, LLC, filed the third assignment document, claiming to transfer MISS NUDE INTERNATIONAL to Cardoso's fourth entity, Camila Productions Ltd, created earlier the same day, while simultaneously dissolving Cardoso's third entity, The Worlds Pageants LLC. Three months later, Cardoso dissolved her second entity, Opposer, The Worlds Pageants, LLC, leaving Cardoso's fourth entity, Camila Productions Ltd, the only remaining Cardoso entity relevant to this action, now claiming to be the Opposer.

On June 18, 2013, Cardoso issued conflicting testimony in an unrelated TTAB matter. Cardoso testified, under oath, that her third entity, The Worlds Pageants LLC, owns MISS NUDE INTERNATIONAL, despite being ***dissolved by Cardoso*** nine months earlier, on September 19, 2012. Contradictorily, Cardoso's third assignment document, ***also dated*** September 19, 2012, identified Cardoso's fourth entity, Camila Productions Ltd, as the assignee of MISS NUDE INTERNATIONAL.

The current Opposer, Camila Productions Ltd, chose not to attend Applicant's NOTICED DEPOSITION in this TTAB proceeding, nor offer any testimony during its testimony period. Based on the dramatic distinctions between the Applicant's "business model" and the mark at issue, it is clear that Applicant's services are not identical to Opposers, The Worlds Pageants, LLC and Camila Productions Ltd, as they are systemically and categorically different by definition. Applicant's MISS G-STRING INTERNATIONAL is not confusingly similar in appearance, sound, connotation or commercial impression to MISS NUDE INTERNATIONAL. The registration of Applicant's MISS G-STRING INTERNATIONAL will not cause incalculable harm to the current Opposer, Camila Production Ltd, and its claimed famous brand MISS NUDE INTERNATIONAL and good reputation.

Although the Opposer, The Worlds Pageants, LLC, was not required to have recorded documentation establishing a chain of title of the pleaded registration prior to filing its **Notice of Opposition**, the Opposers, The Worlds Pageants, LLC and Camila Productions Ltd, were required to establish a chain of title of the pleaded registration from the original owner to the assignee to rely on at trial. As Opposers failed to make the assignment documents of record during its testimony period, Opposers do not have standing to oppose the registration of Applicant's MISS G-STRING INTERNATIONAL

II. Description of 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 attachments.

(5) The testimony of Applicant by William Eadie (hereinafter referred to as "WE")

(6) Exhibits 1 through 62 identified and explained by William Eadi

III. Opposer's Pleading

Opposer, THE WORLDS PAGEANTS, LLC, claimed in its **NOTICE OF OPPOSITION**, to have used MISS NUDE INTERNATIONAL well prior to Applicant's filing date, is the assignee of U.S. Registration No. 2037202 and the registration is valid, incontestable and enforceable. In fact, the Opposer was not formed as a legal entity until after Applicant's first use date in commerce. Further, Opposer, The Worlds Pageants, LLC, did not execute and file its claimed assignment documents to transfer MISS NUDE INTERNATIONAL, until three months

after Opposer, The Worlds Pageants, LLC, filed its **Notice of Opposition**. Opposer, The Worlds Pageants, LLC, is not now, nor has ever been, the owner of MISS NUDE INTERNATIONAL.

Opposer further claims MISS NUDE INTERNATIONAL identifies and distinguishes its services from the services of others, yet claims similarity of Applicant's MISS G-STRING INTERNATIONAL, despite the fact that the contestants of MISS NUDE INTERNATIONAL are nude, while the contestants of MISS G-STRING INTERNATIONAL are not nude. This fact is supportively evidenced in that Opposer's contests are held exclusively at "Adults Only" venues, whereas the Applicant's contests are not. Consequently, the nature of the services of the respective parties are not likely to cause confusion or to cause mistake or to deceive.

IV. The Facts

A. Applicant and its Business

William Eadie is the Managing Member of Applicant, Miss G-String International LLC, a Florida limited liability company in good standing, formed on April 23, 2009. Applicant's MISS G-STRING INTERNATIONAL was first used in commerce on April 29, 2009, and has actively and continuously used Applicant's MISS G-STRING INTERNATIONAL since its inception. Applicant's MISS G-STRING INTERNATIONAL is a design plus words, letters and/or number mark (WE 4 lines 2-18). The records of the PTO identify Opposers, The Worlds Pageants, LLC and Camila Productions Ltd's MISS NUDE INTERNATIONAL in standard characters.

Eadie testified that his photograph of a lady wearing a g-string undergarment was used in the design of Applicant's MISS G-STRING INTERNATIONAL. Applicant's MISS G-STRING INTERNATIONAL was selected as a design mark because the words "Miss" and "International" are common usage in beauty contests. The Miss Hawaiian Tropic International beauty pageant

and The Miss Hooters International beauty pageants are examples. Applicant's MISS G-STRING INTERNATIONAL was designed with specificity to distinctly identify the mark, thereby reducing the possibility of confusion. Applicant's MISS G-STRING INTERNATIONAL uses a specific script font style for the words "Miss" and "International" appearing in white, the word "G-String" appearing in yellow, all three words outlined in black, then superimposed over an art drawing of a ladies' pink g-string undergarment (WE 4 line 20-WE 5 line 20, Exh 1-2).

Applicant filed an application to register MISS G-STRING INTERNATIONAL on the Principal Register on June 5, 2009, for entertainment services in the nature of conducting beauty pageants and talent contests, including television show production services and videotape production services, all in International Class 041. (WE 5 Line 21-WE 6 line 1). It was not possible for Applicant to be aware of the Opposer, The Worlds Pageants, LLC, prior to the adoption and use of MISS G-STRING INTERNATIONAL, as MISS G-STRING INTERNATIONAL was first used in commerce on April 29, 2009, ***prior to*** the existence of Opposer, The Worlds Pageants, LLC (WE 6 lines 10-16).

Gracinda Bento Cardoso is, or had previously been, the principal of R&D PROMOTIONS, INC., THE WORLDS PAGEANTS, LLC, THE WORLDS PAGEANTS LLC, (minus the comma) and CAMILA PRODUCTIONS LTD, all claiming to own, or had previously claimed to have owned, MISS NUDE INTERNATIONAL. Cardoso has a history of forming a new entity, transferring MISS NUDE INTERNATIONAL from the prior entity to the new entity, then dissolving the prior entity. Cardoso's first entity, R&D PROMOTIONS, INC., Cardoso's second entity, THE WORLDS PAGEANTS, LLC, and Cardoso's third entity, THE WORLDS PAGEANTS LLC (minus the comma), have been dissolved and not reinstated.

All four entities are currently, or had previously been, in the adult entertainment industry of conducting contests held exclusively at "Adults Only" venues for strippers who compete nude, as indicated by the name MISS NUDE INTERNATIONAL (WE Exh 8, WE Exh 54 Page 5, #50 P NOTICE OF RELIANCE, CARDOSO TESTIMONY, Page 6, lines 12-23). Attorney Thomas T. Aquilla is, or had been, the attorney of record for each of Cardoso's four entities.

Cardoso was the President of her first entity, R&D Promotions, Inc., a State of Florida corporation, formed on December 4, 2000, dissolved on September 16, 2005, and not reinstated (# 64 D MOT FOR SUMMARY JUDGMENT, Exh 6).

Cardoso was the Managing Member of her second entity, Opposer, The Worlds Pageants, LLC, formed as a State of Florida limited liability company on May 5, 2009, dissolved on September 24, 2010, reinstated on September 26, 2011, dissolved on September 27, 2013, and not reinstated (# 64 D MOT FOR SUMMARY JUDGMENT, Exh 7-10). Although Cardoso claimed John Witges was the Managing Member of Opposer, The Worlds Pageants, LLC, Cardoso contradictorily testified in a subsequent unrelated TTAB matter that John Witges, was, in fact, ***never the Managing Member*** of the Opposer, The Worlds Pageants, LLC (#50 P NOTICE OF RELIANCE, Exh Group D, Exh 100120-100123, CARDOSO TESTIMONY, Page 19, lines 5-15, # 64 D MOT FOR SUMMARY JUDGMENT, Exh 11, Page 4, Response to Requests #8).

Cardoso was the Manager of her third entity, The Worlds Pageants LLC, a State of New Hampshire limited liability company, formed on January 23, 2012, dissolved on September 19, 2012, and not reinstated. Cardoso used the identical name for her third entity, The Worlds Pageants LLC, as her second entity, The Worlds Pageants, LLC, minus the comma (# 64 D MOT FOR SUMMARY JUDGMENT, Exh 12-14).

Cardoso is now the President and sole member of the Board of her fourth entity, Camila Productions Ltd, formed on September 19, 2012 (# 64 D MOT FOR SUMMARY JUDGMENT, Exh 15). On the same day, Cardoso dissolved her third entity, The Worlds Pageants LLC, while simultaneously filing the third assignment document with the PTO. The third assignment document claims to have transferred MISS NUDE INTERNATIONAL from Cardoso's second entity, Opposer, The Worlds Pageants, LLC, to Cardoso fourth entity, Camila Productions Ltd, created earlier the same day (# 64 D MOT FOR SUMMARY JUDGMENT, Exh 12-14). Cardoso's second entity, Opposer, The Worlds Pageants, LLC, was dissolved three months later, leaving only Cardoso's fourth entity, Camila Productions Ltd, now claiming to be the new Opposer.

Applicant first became aware of MISS NUDE INTERNATIONAL in early May of 2009, when Cardoso telephoned General Manager Christian Schrangl of Paradise Lakes Resort, irately claiming Paradise Lakes Resort had used her photographs of models without her consent in the advertisement for the upcoming Applicant's *The Miss G-String International* beauty pageant. Cardoso further accused Paradise Lakes Resort of infringement of her MISS NUDE INTERNATIONAL mark and threatened to terminate the event (WE 6 line 24-WE 7 line 14). Upon G.M. Schrangl's request, Eadie contacted Cardoso, informing her that the photographs she claimed were used without her consent were, in fact, Eadie's copyrighted photographs to which Cardoso held no claim. (WE 7 lines 16-21). On May 5, 2009, G.M. Schrangl of Paradise Lakes Resort sent a stern letter to Cardoso, via e-mail transmittal and USPS (WE 7 line 2-WE 8 line 20, Exh 3).

On May 13, 2009, Attorney Aquilla issued a demand to cease and desist letter to Applicant's then Attorney, J. Benton Stewart, claiming R&D Promotions, Inc. owned MISS

NUDE INTERNATIONAL (WE 8 line 24-WE 9 line 19, Exh 4). Attorney Aquilla's letter also confirmed that copies of this letter were sent to Cardoso's first entity, R&D Promotions, Inc., Paradise Lakes Resort, and an unknown entity, The Worlds Pageants, LLC (WE 9 lines 20-24, WE Exh 4). Applicant later learned the unknown entity, The Worlds Pageants, LLC, was Cardoso's second entity and the future Opposer. Notably, G.M. Schrangl's e-mail transmittal to Cardoso and the creation of Cardoso's second entity, The Worlds Pageants, LLC, occurred on ***the same day***, May 5, 2009 (WE 11 line 11-WE 12 line 1).

Applicant's Managing Member Eadie subsequently conversed with Attorney Aquilla, which Eadie summarized the conversation as nothing more than a "shake down" to extort payment from Applicant to make this matter "go away". Managing Member Eadie further testified that Attorney Aquilla threatened that if Applicant refused to make payment to R&D Promotions, Inc., he would cause delays for many years to come, thereby preventing MISS G-STRING INTERNATIONAL from registration by the PTO (WE 10 line 18-WE 11 line 6). Managing Member Eadie's testimony has never been refuted.

Applicant later learned that on September 16, 2005, Cardoso's first entity, R&D Promotions, Inc., had been dissolved and never reinstated by the Florida Department of State Division of Corporations, more ***than three years*** before Attorney Aquilla issued his cease and desist letter to Applicant's Attorney, dated May 13, 2009. Further, Applicant eventually learned Cardoso and Attorney Aquilla had knowingly and deceptively continued to represent R&D Promotions, Inc. as the current owner of MISS NUDE INTERNATIONAL with the PTO.

Applicant's *The Miss G-String International* beauty pageant occurred as scheduled on October 1-3, 2009, at Paradise Lakes Resort in Land O' Lakes, Florida. In addition to being the Managing Member of Applicant, Eadie is also a commercial photographer whose work has been

published by THE MISS UNIVERSE ORGANIZATION, PLAYBOY ENTERPRISES, INC. and MAXIM magazine. Managing Member Eadie's professional relationships facilitated the development of a successful business model by co-branding Applicant's *The Miss G-String International* beauty pageants with PLAYBOY ENTERPRISES, INC. (WE 12 lines 5-18). Paradise Lakes Resort is a clothing optional resort for social nudism and was selected to host Applicant's first The Miss G-String International beauty pageant because PLAYBOY ENTERPRISES, INC. had become its Presentation Sponsor and agreed to produce and publish the companion *"PLAYBOY Presents The Women of Miss G-String International"* feature pictorials (WE 12 line 19-WE 13 line 3).

PLAYBOY ENTERPRISES, INC. has published many identical pictorials with other beauty pageant brands, including *"The Girls of Hawaiian Tropic"* and *"The Girls of Hooters"*. The contestants of *The Miss Hawaiian Tropic International* beauty pageants are not nude. The contestants of *The Miss Hooters International* beauty pageants are not nude. However, the contestants of *The Miss Hawaiian Tropic International* beauty pageants and the contestants of *The Miss Hooters International* beauty pageants that elected to appear in the PLAYBOY feature pictorials *"The Girls of Hawaiian Tropic"* and *"The Girls of Hooters"* are nude. Obviously, the sun care product models are not nude while competing as contestants in *The Miss Hawaiian Tropic International* beauty pageants. The restaurants' hostesses and servers are not nude while competing as contestants in *The Miss Hooters International* beauty pageants, evidenced by the fact that both contests are live network television broadcasts. Likewise, the contestants of Applicant's *The Miss G-String International* beauty pageants are not nude. Applicant's *The Miss G-String International* beauty pageant contestants compete wearing swimwear, burlesque attire, Halloween costumes, "biker" clothing and sponsors' branded apparel. (WE Exh 9, 10, 57 & 58).

However, the contestants of Applicant's *The Miss G-String International* beauty pageants that elect to appear in the PLAYBOY feature pictorials *"The Women of Miss G-String International"* are nude.

Applicant's website **www.missgstring.com** confirms these identical distinctions, further corroborating the fact that the contestants of Applicant's *The Miss G-String International* beauty pageants are not nude. Specifically, the last page of Applicant's **www.missgstring.com** website is **The "As Seen on Playboy.com" page contains nudity** which clearly identifies this section of Applicant's **www.missgstring.com** website contains reprints of PLAYBOY articles and photographs (WE Exh 11). This preventive disclaimer requires the viewer to click "AGREE" to view this page or click "CANCEL" to exit. This preventative disclaimer distinctly establishes that ***only the following pages*** contains images of contestants of Applicant's *Miss G-String International* beauty pageants who elected to appear nude in PLAYBOY, not Applicant's entire website.

Cardoso testified in an unrelated TTAB matter that Opposers, The Worlds Pageants, LLC, and Camila Productions Ltd, do not have a website for MISS NUDE INTERNATIONAL (#50 12/01/2014 P NOTICE OF RELIANCE Cardoso Testimony, Page 14, line 3).

Opposer, The Worlds Pageants, LLC, MISS NUDE INTERNATIONAL's contestants are nude, as conflictingly different as night and day, as indicated by the name MISS NUDE INTERNATIONAL and imagery (WE Exh 8 & 54, Page 5). The lower right hand corner of Exhibit 8 is tagged "AVN" which is an acronym for **Adult Video Network**, circumstantiating the Opposers, The Worlds Pageant, LLC and Camila Productions Ltd, contests are held exclusively at "Adults Only" venues. Applicant's Miss G-String International pageants are not "adult entertainment". Opposers, The Worlds Pageant, LLC and Camila Productions LTD,

claims are baseless and self-serving, made by Attorney Aquilla, R&D Promotions, Inc., Opposers, The Worlds Pageant, LLC and Camila Productions LTD, and their President/Managing Member Cardoso, to support this retaliatory opposition, as threatened. (WE 16 line 14-18).

In fact, neither Attorney Aquilla nor Cardoso attended Applicant's *Miss G-String International* beauty pageant at Paradise Lakes Resort on October 1-3, 2009, and, accordingly, have ***no personal and factual knowledge*** to which they could have testified. Notably, Opposers, The Worlds Pageants, LLC and Camila Productions Ltd, chose not to attend the NOTICED DEPOSITION of Applicant in this TTAB proceeding, nor did the Opposers offer any testimony. (WE 16 line 14-WE 17 line 2).

Cardoso was aware of the participation by PLAYBOY ENTERPRISES, INC. with Applicant's *The Miss G-String International* beauty pageants, in early May of 2009 (WE 13 line 12-18). Managing Member Eadie testified that he believes the attempt to extort money from Applicant by Attorney Aquilla, R&D Promotions, Inc., and its President, Gracinda Cardoso, was caused by the participation of PLAYBOY ENTERPRISES, INC. as the Presentation Sponsor of Applicant's *The Miss G-String International* beauty pageant. Managing Member Eadie further testified that, during his telephone conversation with Attorney Aquilla at the time Attorney Aquilla attempted to extort payment from Applicant, Attorney Aquilla stated *"PLAYBOY can afford it"* (WE 13 line 19-WE 14 line 3). Managing Member Eadie believes the cease and desist letter from Attorney Aquilla was a self-serving prelude to R&D Promotions, Inc. and its President, Gracinda Cardoso's to attempt to extort payment from Applicant (WE 16 line 2-13). PLAYBOY ENTERPRISES, INC. has never participated in a Miss Nude International events (WE 14 line 4-7).

PLAYBOY ENTERPRISES, INC. Photo Editor James Trevenen participated as a Celebrity Judge at Applicant's first *The Miss G-String International* beauty pageant, held at Paradise Lakes Resort. In addition, Photo Editor James Trevenen selected the contestant to be awarded the title, Miss Photogenic, whose prize was a feature pictorial published by PLAYBOY ENTERPRISES, INC. He also exclusively photographed the contestants who elected to appear in *"The Women of Miss G-String International"* feature pictorial, also published by PLAYBOY ENTERPRISES, INC.

Managing Member Eadie personally photographed Applicant's *The Miss G-String International* beauty pageant at Paradise Lakes Resort and testified that no contestant at any time during The Miss G-String International beauty pageant was nude. Applicant's ability to secure PLAYBOY ENTERPRISES, INC. as the Presentation Sponsor for Applicant's *The Miss G-String International* beauty pageants, plus having PLAYBOY Photo Editor James Trevenen participate as a Celebrity Judge and exclusively photograph the "PLAYBOY Presents *The Women of Miss G-String International*" feature pictorial, was a huge promotional success for Applicant. (WE 14 line 8-WE 16 line 1, Exh 5-7 & 9-10).

The business model of co-branding Applicant's *The Miss G-String International* beauty pageants with PLAYBOY ENTERPRISES, INC. was so successful that, PLAYBOY ENTERPRISES, INC. Photo Editor James Trevenen, PLAYBOY ENTERPRISES, INC. Creative Director Jay Boersma, and Applicant's Managing Member Eadie, next traveled to Bourbon Street in New Orleans during Mardi Gras for Applicant's second *The Miss G-String International* beauty pageant, this time with a burlesque theme. Both PLAYBOY and MISS G-STRING INTERNATIONAL are clearly identified in their advertisement, inviting attendees to meet James Trevenen, PLAYBOY Photo Editor and Jay Boersma, PLAYBOY Creative Director

(WE Exh 12-16). The second PLAYBOY feature pictorial *"The Women of Miss G-String International"* was also published by PLAYBOY ENTERPRISES, INC.(WE 17 line 24-WE 19 line 19, Exh 17-18).

Applicant's Miss G-String International beauty pageants are held at entertainment venues for the general public, including **The Coca-Cola Pavilion** located at the world's largest Harley-Davidson motorcycle dealership, **Bruce Rossmeyer's Destination Daytona, Home of Daytona Harley Davidson**. Photographs of Applicant's *The Miss G-String International* beauty pageant were featured in a variety of international motorcycle magazine publications, including **EASYRIDERS** and ***IN THE WIND*** magazines, the latter featuring a photograph of a contestant from Applicant's *The Miss G-String International* beauty pageant, as its front cover image (WE Exh 59-60).

As additional evidence which disproves the meritless claim by Opposers, The World Pageant, LLC and Camila Productions Ltd, that the contestants of Applicant's *The Miss G-String International* beauty pageants are nude, is Applicant is an approved promoter of **Southern Wine and Spirits**, the largest liquor distributor in the United States. **Southern Wine and Spirits** strictly prohibits alcoholic beverage sponsors from participation in any event which contains nudity. Southern Wine and Spirits provides Applicant's *The Miss G-String International* beauty pageants with alcoholic beverage sponsors including Jägermeister, Cruzan Rum, Pinnacle Vodka, Sauza Tequila, Lucid Absinthe and Jim Beam, Red Stag, and Maker's Mark Bourbons (WE Exh 57 *see sponsor Jägermeister motorcycle license plate*). Applicant's additional sponsors include national liquor distributors **Premier Beverage Company** and **Republic National Distributing Company**, which also strictly prohibits alcoholic beverage sponsors from

participation in any event which contains nudity, The Indian Motorcycle Company, Nikon Camera, Ed Hardy Apparel, Coquette Lingerie and Sick Boy Apparel.

Applicant's MISS G-STRING INTERNATIONAL was published for opposition by the PTO on December 7, 2010. Opposer, The Worlds Pageants, LLC, filed documents with the PTO declaring Opposer's intent to oppose the registration of Applicant's MISS G-STRING INTERNATIONAL. Opposer filed three back-to-back requests for extensions of time, sequentially dated January 6, 2011, February 3, 2011, and April 4, 2011, further delaying the registration of MISS G-STRING INTERNATIONAL, as threatened (WE 19 line 20-WE 23 line 4). Although Opposer failed to identify the trademark that it intended to use to oppose the registration of Applicant's MISS G-STRING INTERNATIONAL, the records of the PTO authenticate that on January 6, 2011, February 3, 2011 and April 4, 2011, *"No assignments have been recorded at the USPTO for Assignee: THE WORLDS PAGEANTS, LLC"* a fact undeniably known by Opposer. On June 6, 2011, the day after Opposer's third extension of time expired on June 5, 2011, Opposer filed its **Notice of Opposition** claiming Opposer was the assignee of MISS NUDE INTERNATIONAL, stating *"Opposer is the assignee of U.S. Registration No. 2,037,202 issued February 11, 1997 for the mark MISS NUDE INTERNATIONAL"* (WE 23 line 5-WE 24 line 22).

Disturbingly, Opposer's filing of the **Notice of Opposition** caused PLAYBOY ENTERPRISES, INC. to withdraw from co-branding with Applicant until the opposition was favorably resolved (WE 24 line 23-WE 25 line 2). Applicant was further prevented from selling its television broadcast quality video productions of Applicant's *The Miss G-String International* beauty pageants. As these productions were created as date specific events, they are no longer

marketable by Applicant, consequently causing Applicant to incur the loss of all production costs.

Eadie, as an individual, next acquired the assignment of a valid and final state court Judgment against Cardoso's first entity, R&D Promotions, Inc., and Cardoso, personally. (WE 27 line 23-WE 30, Exh 22-24). On September 22, 2011, Judgment Creditor Eadie filed a **Section 7 Requests** for partial satisfaction of judgment. The records of the PTO authenticate Judgment Debtor, R&D Promotions, Inc., ***not* Opposer,** The Worlds Pageants, LLC, was the record owner of MISS NUDE INTERNATIONAL on September 22, 2011, the date Judgment Creditor Eadie filed the **Section 7 Request** with the PTO (WE 24 line 7-WE 32 line 15 Exh 27-28, # 64 D MOT FOR SUMMARY JUDGMENT, Exh 19-20).

On September 26, 2011, Cardoso reinstated Opposer, The Worlds Pageants, LLC, with The State of Florida Division of Corporations, once again claiming John Witges was the Managing Member. The next day, September 27, 2011, Opposer filed two *nunc pro tunc* assignment documents in a desperate attempt to retroactively establish Opposer was the owner of MISS NUDE INTERNATIONAL on the date the **Notice of Opposition** was filed, June 6, 2011. Notably, Opposer's ***backdated*** assignment documents were signed and filed with the Board ***more than three months after*** Opposer filed its **Notice of Opposition** (# 64 D MOT FOR SUMMARY JUDGMENT, Exh 21-22). Opposer's filing of the *nunc pro tunc* trademark assignments further obstructed the enforcement of a valid State Court Judgment and its lawful use to obtain assets from Judgment Debtor R&D Promotions, Inc. by Judgment Creditor Eadie, while further delaying the registration of Applicant's MISS G-STRING INTERNATIONAL, as threatened (WE 32 line 17-WE 38 line 12, Exh 29-32).

On October 28, 2011, **Applicant's Motion to Strike Nunc Pro Tunc Trademark Assignments** was filed with the Board. On June 21, 2012, the Board ordered *"Applicant's motion to strike is granted to the limited extent that the copies of Opposer's assignment documents filed with the Board on September 27, 2011, will receive no consideration."* However, Opposer, The Worlds Pageants, LLC, was not precluded from seeking to properly make those documents of record during its testimony period.

Three months later, on January 23, 2012, Cardoso's third entity, The Worlds Pageants LLC, was next formed, using the identical name as Cardoso's second entity, Opposer, The Worlds Pageants, LLC, minus the comma. Eight months later, on September 19, 2012, Cardoso's second entity, Opposer, The Worlds Pageants, LLC, filed the third assignment document claiming to transfer MISS NUDE INTERNATIONAL to Cardoso's fourth entity, Camila Productions Ltd, created earlier the same day, while simultaneously dissolving Cardoso's third entity, The World Pageants LLC (# 64 D MOT FOR SUMMARY JUDGMENT, Exh 23).

Three months later, Cardoso's second entity, Opposer, The Worlds Pageants, LLC, was dissolved, leaving Cardoso's fourth entity, Camila Productions Ltd, the only remaining Cardoso entity relevant to this action, claiming to be the Opposer. A cursory review of Cardoso's third assignment document reveals it is temporally and factually false, thereby invalid.

On June 18, 2013, Cardoso issued conflicting testimony in the unrelated Board matter No. 9120624 *Miss World Limited, Opposer against The Worlds Pageants LLC.*

Cardoso testified, under oath, that her third entity, The World Pageants LLC, owns MISS NUDE INTERNATIONAL, despite being ***dissolved by Cardoso*** nine month earlier, on September 19, 2012. Contradictorily, Cardoso's third assignment document, ***also dated***

September 19, 2012, identified Cardoso's fourth entity, Camila Productions Ltd, as the assignee of MISS NUDE INTERNATIONAL.

On December 1, 2014, Opposer, Camila Productions LTD, filed its **Notice of Reliance** with the Board in this matter, including copies of the **Trademark Assignment Abstract of Title** for MISS NUDE INTERNATIONAL and a copy of the deposition of **Gracinda Bento Cardoso** from the unrelated Board matter No. 9120624 *Miss World Limited, Opposer against The Worlds Pageants LLC* dated June 18, 2013, as exhibits (# 64 D MOT FOR SUMMARY JUDGMENT, Exh 17 & 24).

However, the copy of the deposition of **Gracinda Bento Cardoso** filed by Opposer, Camila Productions Ltd, with the Board, had been materially altered from the original. Specifically, a second Page 6 had been inserted, while Pages 8-12, Pages 15-16 and Page 33 had been deleted (#50 12/01/2014 P NOTICE OF RELIANCE, Cardoso Testimony).

The deposition of **Gracinda Bento Cardoso** on June 18, 2013, revealed that Cardoso knowingly issued false testimony in the unrelated Board matter No. 91206024 *Miss World Limited, Opposer against The Worlds Pageants LLC.* Cardoso claimed her current use of MISS NUDE INTERNATIONAL had ***inexplicably*** been conveyed from Cardoso's second entity, Opposer, The Worlds Pageants, LLC, to Cardoso's third entity, The Worlds Pageants LLC (minus the comma), a fact undeniably known by Cardoso to be false. (#50 12/01/2014 P NOTICE OF RELIANCE Cardoso Testimony, Deleted Page 16 lines 15-19).

The deleted Page 16 authenticates Cardoso was asked "Which of the company names are you presently using?" to which Cardoso replied "The Worlds Pageants, LLC." Cardoso was next asked "Florida or New Hampshire or both?" Cardoso replied "I'm not using Florida at the moment." Cardoso's false testimony deceptively contends MISS NUDE INTERNATIONAL had

been conveyed from Cardoso's second entity, Opposer The Worlds Pageants, LLC, to Cardoso's third entity, The Worlds Pageants LLC (minus the comma). Notably, Cardoso's second entity, Opposer, The Worlds Pageants, LLC, that Cardoso testified "I'm not using Florida at the moment" was dissolved and not reinstated **three month later**, on September 27, 2013.

Cardoso's testimony was knowingly false for three reasons. First, the PTO has no record of an assignment document transferring MISS NUDE INTERNATIONAL from Cardoso's second entity, Opposer, The Worlds Pageants, LLC, to Cardoso's third entity, The Worlds Pageants LLC, (minus the comma), a fact undeniably known by Cardoso to be false. The second, reason Cardoso's testimony is knowingly false, occurred when Cardoso testified *"I'm not using Florida at the moment."* Clearly, Cardoso's admission only left Cardoso's third entity, The Worlds Pageants LLC, (minus the comma) remaining for Cardoso to claim use of MISS NUDE INTERNATIONAL, relevant to her testimony. Cardoso's response was temporally and factually false, because ***nine months earlier***, on September 19, 2012, Cardoso's third entity, The Worlds Pageants LLC, (minus the comma), was ***dissolved by Cardoso***. The third reason Cardoso's testimony is knowingly false is that on September 19, 2012, the same day Cardoso dissolved her third entity, The Worlds Pageants LLC, (minus the comma), Cardoso created her fourth entity, Camila Productions LTD, while simultaneously filing her third assignment document with the PTO. Cardoso's third assignment document claims to transfer MISS NUDE INTERNATIONAL from Cardoso's second entity, Opposer, The Worlds Pageants, LLC, to Cardoso's fourth entity, Camila Productions Ltd. Therefore, Cardoso filed the third assignment document claiming to transfer MISS NUDE INTERNATIONAL to Cardoso's fourth entity, Camila Productions Ltd, ***nine months before*** Cardoso testified in the unrelated Board matter on ***June 18, 2013***.

Cardoso knowingly issued false testimony in her deposition claiming another transfer of MISS NUDE INTERNATIONAL, despite the fact that Cardoso's second entity, Opposer, The Worlds Pageants, LLC, ***never owned*** MISS NUDE INTERNATIONAL. Cardoso's knowingly false testimony was issued to further delay the registration of Applicant's MISS G-STRING INTERNATIONAL, as threatened.

Finally, the copy of the deposition of **Gracinda Bento Cardoso** filed by Opposer, Camila Productions Ltd, as an exhibit to its **Notice of Reliance** with the Board, revealed the extraordinary fact regarding John Witges, repeatedly identified to be the Managing Member of Cardoso's second entity, Opposer, The Worlds Pageants, LLC, since its inception. Cardoso testified that John Witges was ***never the Managing Member*** of Opposer, The Worlds Pageants, LLC. (#50 P NOTICE OF RELIANCE, Cardoso Testimony Page 19, lines 5-15).

First, Cardoso falsely represented John Witges to be the Managing Member of Opposer, The Worlds Pageants, LLC, with the Florida Department of State Division of Corporations when Opposer, The Worlds Pageants, LLC, was formed ***four years earlier***, on May 5, 2009. Second, Cardoso falsely represented John Witges was the Managing Member of Opposer, The Worlds Pageants, LLC, with the State of Florida Secretary of State when Cardoso reinstated Opposer, The Worlds Pageants, LLC two years earlier, on September 26, 2011, notably the day ***before*** Cardoso executed and caused Opposer, The Worlds Pageants, LLC, to file two *nunc pro tunc* assignment documents with the Board. Third, Cardoso falsely represented John Witges was the Managing Member of Opposer, The Worlds Pageants, LLC, when the **Notice of Opposition** to oppose the registration of Applicant's MISS G-STRING INTERNATIONAL was filed with the Board, more than ***two years earlier***, on June 6, 2011 (#50 12/01/2014 P NOTICE OF RELIANCE, Exh Group D 100120-100123).

Contradictorily, The Trademark Assignment Abstract of Title Assignment: 3 identifies Brava Enterprises, Inc. was the owner of MISS NUDE INTERNATIONAL on June 6, 2011, *not Opposer*, The Worlds Pageants, LLC. The Trademark Assignment Abstract of Title Assignment: 3 authenticates that on February 10, 2003, assignor Huggy Bear Productions, Inc. assigned MISS NUDE INTERNATIONAL to assignee Brava Enterprises, Inc. Samantha Jones is authenticated as the common signatory for both assignor Huggy Bear Productions, Inc. and assignee Brava Enterprises, Inc., executing the transactional document as Chief Executive Officer for each entity (# 64 D MOT FOR SUMMARY JUDGMENT, Exh 18). Brava Enterprises, Inc. was continuously authenticated as the owner of MISS NUDE INTERNATIONAL until September 22, 2011, the date The Trademark Assignment Abstract of Title Assignment: 4 was recorded.

Cardoso's testimony confirmed **Brava Enterprises, Inc.** was owned by Samantha Jones, ***not Cardoso*** (#50 12/01/2014 P NOTICE OF RELIANCE, Cardoso Testimony, Page 17, lines 3-11). **The Trademark Assignment Abstract of Title Assignment: 3** verifies that the effective date which assignee **Brava Enterprises, Inc.** became the owner of MISS NUDE INTERNATIONAL is ***February 10, 2003***, the month ***before*** Cardoso's second entity, Opposer, The Worlds Pageants, LLC, first backdated assignment document claimed to have transferred MISS NUDE INTERNATIONAL from assignor Judgment Debtor R&D Promotions, Inc. to assignee, Judgment Debtor Cardoso, an individual, *nunc pro tunc* to ***March 31, 2003***.

Contradictorily, the records of the PTO irrefutably confirm R&D Promotions, Inc. was still the record owner of MISS NUDE INTERNATIONAL ***many years after*** Cardoso claims MISS NUDE INTERNATIONAL was transferred to her, on February 12, 2007, April 16, 2007, May 13, 2009, and September 22, 2011,

On February 12, 2007, Cardoso's first entity, R&D Promotions, Inc., was still the record owner of MISS NUDE INTERNATIONAL when Attorney Aquilla, then representing Cardoso as the President of R&D Promotions, Inc., filed its **Combined Declaration of Use in Commerce and Application For Renewal of a Mark Under Sections 8 & 9** for MISS NUDE INTERNATIONAL, nearly ***four years after*** Cardoso now claims MISS NUDE INTERNATIONAL was retroactively transferred from Cardoso's first entity, R&D Promotions, Inc., to Gracinda Cardoso, an individual, *nunc pro tunc* to March 31, 2003 (WE 59 line 13-WE 60 line 11, Exh 54).

On April 16, 2007, Cardoso's first entity, R&D Promotions, Inc., was still the record owner of MISS NUDE INTERNATIONAL when Attorney Aquilla, then representing Cardoso as the President of R&D Promotions, Inc., was issued its **Notice of Acceptance and Notice of Renewal** for MISS NUDE INTERNATIONAL, more than ***four years after*** Cardoso now claims MISS NUDE INTERNATIONAL was retroactively transferred from Cardoso's first entity, R&D Promotions, Inc., to Gracinda Cardoso, an individual, *nunc pro tunc* to March 31, 2003 (WE 60 line 11-WE 60 line 21, Exh 55).

On May 13, 2009, Cardoso's first entity, R&D Promotions, Inc. was still the record owner of MISS NUDE INTERNATIONAL, when Attorney Aquilla, then representing Cardoso as the President of Cardoso's first entity, R&D Promotions, Inc., issued a "cease and desist" letter to Applicant's Attorney, claiming R&D Promotions, Inc. was the record owner of MISS NUDE INTERNATIONAL, dated May 13, 2009, ***six years after*** Cardoso now claims MISS NUDE INTERNATIONAL was retroactively transferred from Cardoso's first entity, R&D Promotions, Inc., to Gracinda Cardoso, an individual, *nunc pro tunc* March 31, 2003. Opposer, The World Pageants, LLC, further stated in its second backdated assignment document that

MISS NUDE INTERNATIONAL was contemporaneously transferred from Gracinda Cardoso, an individual, to Cardoso's second entity, Opposer, The Words Pageants, LLC, *nunc pro tunc* to ***May 6, 2009***, which is notably ***one week before*** Aquilla, still representing Cardoso's first entity, R&D Promotions, Inc., issued the cease and desist letter to Applicant's Attorney Stewart, ***dated May 13, 2009***. (WE 60 line 21-WE 61 line 8, Exh 4).

On September 22, 2011, Cardoso's first entity, R&D Promotions, Inc., was still the record owner of MISS NUDE INTERNATIONAL when Judgment Creditor Eadie filed the **Section 7 Request** for partial satisfaction of judgment with the PTO, which authenticated R&D Promotions, Inc. was ***still*** the record owner of MISS NUDE INTERNATIONAL on ***September 22, 2011,*** more than ***eight years after*** Cardoso now claims MISS NUDE INTERNATIONAL was retroactively transferred from Cardoso's first entity, R&D Promotions, Inc., to Gracinda Cardoso, an individual, *nunc pro tunc* to March 31, 2003. (WE 61 line 8-WE 61 line 18, Exh 25 & 26).

The first backdated assignment document claiming to transfer MISS NUDE INTERNATIONAL from Cardoso's first entity, R&D Promotions, Inc., to Gracinda Cardoso, an individual, *nunc pro tunc* to March 31, 2003, is temporally and factually false, thereby invalid.

As the transfer of MISS NUDE INTERNATIONAL in the first backdated assignment document is invalid, then the second backdated assignment document claiming to transfer MISS NUDE INTERNATIONAL from Gracinda Cardoso, an individual, to Opposer, The Worlds Pageants, LLC, *nunc pro tunc* to May 6, 2009, is thereby invalid.

Finally, as the transfer of MISS NUDE INTERNATIONAL in the second backdated assignment document claiming to transfer MISS NUDE INTERNATIONAL from Gracinda Cardoso, an individual, to Cardoso's second entity, Opposer The Worlds Pageants, LLC, is

invalid, then the third assignment document claiming to transfer MISS NUDE INTERNATIONAL from Cardoso's second entity, Opposer, The Worlds Pageants, LLC, to Cardoso's fourth entity, Camila Productions Ltd, dated September 19, 2012, is therefore invalid.

The Opposers, The Worlds Pageants, LLC, and Camila Productions LTD, were required to establish a chain of title of the pleaded registration from the original owner to the assignee, to rely on at trial. As the Opposers failed to make the assignment documents of record during its testimony period, Opposers do not have standing to oppose the registration of Applicant's MISS G-STRING INTERNATIONAL.

B. Internet and Other Evidence of Fame

Applicant created and has continuously maintained its website **www.missgstring.com** since 2009. Applicant's Miss G-String International pageants were also showcased in the PLAYBOY *"The Girls of Miss G-String International"* feature pictorials on **PLAYBOY.COM** which received more than a million views per day internationally, referencing Applicant's website.

Applicant provides media credentials to select media sources that produce photographic images and videography of events, including the Miss G-String International pageants, for publishing on various platforms, including **YouTube**. Pat Nitro Miller, an independent videographer, posted a video of Applicant's Miss G-String International pageant at the **Coca Cola Pavilion** on **YouTube**, which has generated more than a millions views. **YouTube strictly prohibits nudity**.

In addition to PLAYBOY, Applicant's Miss G-String International pageants have appeared in numerous international motorcycle magazines, including **Easyriders, BIKER**

PARTIES and **INN THE WIND**, the latter featuring a contestant of the Miss G-String International pageant as the front cover image.

On June 18, 2013, Cardoso testified in the unrelated TTAB matter No. 91206024, *Miss World Limited, Opposer against The Worlds Pageants LLC* that Opposer does not have a website for MISS NUDE INTERNATIONAL (#50 12/01/2014 P NOTICE OF RELIANCE Cardoso Testimony Page 17 lines 3-11).

C. Charitable Activities

Applicant performs voluntary community services for non-profit organizations, including **ROLLING THUNDER**, the Washington D.C. based organization dedicated to the return of POW and MIA military veterans (WE Exh 62). The **ROLLING THUNDER** Military Tribute Motorcycles were revealed on Memorial Day at the 25th Anniversary of Rolling Thunder in Washing D.C.

The Air Force Military Tribute Motorcycle was built by Billy Lane, the star of the **Discovery Channel's Bikers Build-Off** program, while Mr. Lane was incarcerated at the Avon Park Correction Institution. Applicant was requested to script and produce a short video, also featuring legendary motorcyclist Jay Allen who holds twenty-five motorcycle world speed records, accepting the Air Force tribute motorcycle from Billy Lane on behalf of **ROLLING THUNDER**. Applicant's video was broadcast on the **ROLLING THUNDER** stage's jumbo screen on Memorial Day in Washington D.C., during the reveal of all five military tribute motorcycles representing each branch of the Armed Forces.

The State of Florida Governor Rick Scott and Warden Alan Chapman granted Applicant permission to access the correctional facility and video Billy Lane's segment of the reveal. The

25th Anniversary of **ROLLING THUNDER** in Washington D.C. drew more than one million attendees.

D. Registrations / Filings

Applicant is a Florida limited liability company in good standing, formed on April 23, 2009, and first used MISS G-STRING INTERNATIONAL in commerce on April 29, 2009. Applicant filed an application to register MISS G-STRING INTERNATIONAL on the Principal Register on June 5, 2009, and further identified and testified to the continued use of Serial Number 77/753000 for MISS G-STRING INTERNATIONAL.

On May 5, 2009, Opposer, The Worlds Pageants, LLC, was formed as a Florida limited liability company. On June 6, 2011, Opposer, The Worlds Pageants, LLC, filed its **Notice of Opposition** with the Board, attesting to be the assignee of the pleaded U.S. Registration Number 2037202 for MISS NUDE INTERNATIONAL. However, the records of the PTO conflictingly authenticate that a *"No assignments have been recorded at the USPTO for Assignee: THE WORLDS PAGEANTS, LLC"* on June 6, 2011, a fact undeniably known by Opposer, The Worlds Pageants, LLC. Notably, Opposer, The Worlds Pageants, LLC failed to provided any testimony during its testimony period.

William Eadie is the Managing Member of the multiple member Miss G-String International LLC. On September 22, 2011, Eadie, as an individual, filed a **Section 7 Request** to acquire MISS NUDE INTERNATIONAL as partial satisfaction of the judgment award from Judgment Debtor, R&D Promotions, Inc. The records of the PTO authenticate Judgment Debtor, R&D Promotions, Inc. was the record owner of MISS NUDE INTERNATIONAL on September 22, 2011.

On September 27, 2011, Opposer, The Worlds Pageants, LLC, filed two *nunc pro tunc* assignment documents in a desperate attempt to retroactively establish Opposer, The Worlds Pageants, LLC, as the owner of MISS NUDE INTERNATIONAL on the date the **Notice of Opposition** was filed, June 6, 2011. Notably, Opposer, The Worlds Pageants, LLC's ***backdated*** assignment documents were signed and filed with the Board more than ***three months after*** Opposer, The Worlds Pageants, LLC, filed its **Notice of Opposition**.

On October 28, 2011, **Applicant's Motion to Strike Nunc Pro Tunc Trademark Assignments** was filed with the Board. On June 21, 2012, the Board ordered *"Applicant's motion to strike is granted to the limited extent that the copies of Opposer's assignment documents filed with the Board on September 27, 2011, will receive no consideration."* However, Opposer, The Worlds Pageants, LLC, was not precluded from seeking to properly make those documents of record during its testimony period.

Contradictorily, the records of the PTO irrefutably confirm R&D Promotions, Inc. was still the record owner of MISS NUDE INTERNATIONAL ***many years after*** Cardoso claims MISS NUDE INTERNATIONAL was transferred to her, notably on February 12, 2007, April 16, 2007, May 13, 2009, and September 22, 2011.

On February 12, 2007, Cardoso's first entity, R&D Promotions, Inc., was still the record owner of MISS NUDE INTERNATIONAL when Attorney Aquilla, then representing Cardoso as the President of R&D Promotions, Inc., filed its **Combined Declaration of Use in Commerce and Application For Renewal of a Mark Under Sections 8 & 9** for MISS NUDE INTERNATIONAL, nearly ***four years after*** Cardoso now claims MISS NUDE INTERNATIONAL was retroactively transferred from Cardoso's first entity, R&D Promotions,

Inc., to Gracinda Cardoso, an individual, *nunc pro tunc* to March 31, 2003 (WE 59 line 13-WE 60 line 11, Exh 54).

On April 16, 2007, Cardoso's first entity, R&D Promotions, Inc., was still the record owner of MISS NUDE INTERNATIONAL when Attorney Aquilla, then representing Cardoso as the President of R&D Promotions, Inc., was issued its **Notice of Acceptance and Notice of Renewal** for MISS NUDE INTERNATIONAL, more than ***four years after*** Cardoso now claims MISS NUDE INTERNATIONAL was retroactively transferred from Cardoso's first entity, R&D Promotions, Inc., to Gracinda Cardoso, an individual, *nunc pro tunc* to March 31, 2003 (WE 60 line 11-WE 60 line 21, Exh 55).

On May 13, 2009, Cardoso's first entity, R&D Promotions, Inc. was still the record owner of MISS NUDE INTERNATIONAL, when Attorney Aquilla, then representing Cardoso as the President of Cardoso's first entity, R&D Promotions, Inc., issued a "cease and desist" letter to Applicant's Attorney, claiming R&D Promotions, Inc. was the record owner of MISS NUDE INTERNATIONAL, dated May 13, 2009, ***six years after*** Cardoso now claims MISS NUDE INTERNATIONAL was retroactively transferred from Cardoso's first entity, R&D Promotions, Inc., to Gracinda Cardoso, an individual, *nunc pro tunc* March 31, 2003. Opposer, The World Pageants, LLC, further stated in its second backdated assignment document that MISS NUDE INTERNATIONAL was contemporaneously transferred from Gracinda Cardoso, an individual, to Cardoso's second entity, Opposer, The Words Pageants, LLC, *nunc pro tunc* to May 6, 2009, ***one week before*** Aquilla, still representing Cardoso's first entity, R&D Promotions, Inc., issued the cease and desist letter to Applicant's Attorney Stewart, ***dated May 13, 2009***. (WE 60 line 21-WE 61 line 8, Exh 4).

On September 22, 2011, Cardoso's first entity, R&D Promotions, Inc., was still the record owner of MISS NUDE INTERNATIONAL when Judgment Creditor Eadie filed the **Section 7 Request** for partial satisfaction of judgment with the PTO, which authenticated R&D Promotions, Inc. was ***still*** the record owner of MISS NUDE INTERNATIONAL on ***September 22, 2011***, more than ***eight years after*** Cardoso now claims MISS NUDE INTERNATIONAL was retroactively transferred from Cardoso's first entity, R&D Promotions, Inc., to Gracinda Cardoso, an individual, *nunc pro tunc* to March 31, 2003. (WE 61 line 8-WE 61 line 18, Exh 25 & 26).

The first backdated assignment document claiming to transfer MISS NUDE INTERNATIONAL from Cardoso's first entity, R&D Promotions, Inc., to Gracinda Cardoso, an individual, *nunc pro tunc* to March 31, 2003, is temporally and factually false, thereby invalid.

On September 19, 2012, Opposer, The Worlds Pageants, LLC, filed a third assignment document, claiming to transfer MISS NUDE INTERNATIONAL to Camila Productions LTD, crated earlier the same day. As the transfer of MISS NUDE INTERNATIONAL in the first backdated assignment document is invalid, then the second backdated assignment document claiming to transfer MISS NUDE INTERNATIONAL from Gracinda Cardoso, an individual, to Opposer, The Worlds Pageants, LLC, *nunc pro tunc* to May 6, 2009, is also invalid.

Finally, as the transfer of MISS NUDE INTERNATIONAL in the second backdated assignment document claiming to transfer MISS NUDE INTERNATIONAL from Gracinda Cardoso, an individual to Cardoso's second entity, Opposer The Worlds Pageants, LLC, is invalid, then the third assignment document claiming to transfer MISS NUDE INTERNATIONAL from Cardoso's second entity, Opposer The Worlds Pageants, LLC, to Cardoso's fourth entity, Camila Productions Ltd, dated September 19, 2012, is also invalid.

The Opposers, The Worlds Pageants, LLC, and Camila Productions LTD, were required to establish a chain of title of the pleaded registration from the original owner to the assignee, to rely on at trial. As the Opposer failed to make the assignment documents of record during its testimony period, Opposers do not have standing to oppose the registration of Applicant's MISS G-STRING INTERNATIONAL.

V. Relevant Legal Authorities

A. The Opposer has no Standing to Pursue any Opposition Because the Opposer Does not Own The Opposition Mark

To prevail in this action, the Opposer must prove (1) that it owns the exclusive rights in the Opposition mark and (2) that the Applicant's use of a similar mark infringes those rights. The second component of this theory is addressed in Section C below, however, the requirement of Ownership is discussed as follows. The requirements for proving ownership vary with the type of mark, however the Opposer in this action does not meet any of these requirements, based on the extensive description of transfers, corporate entities being dissolved, *nunc pro tunc* assignments being effected (addressed in Section B, below) and the various and sundry rat's nest of machinations before, and, even more troubling, during the Application at issue herein. No applicable legal authority supports the Opposer's efforts to establish ownership of the Opposition mark. See, e.g., RESTATEMENT (THIRD) OF UNFAIR COMPETITION § 20 (1995); *Two Pesos, Inc. v. Taco Cabana, Inc.*, 505 U.S. 763, 768 (1992) (citing *Abercrombie & Fitch Co. v. Hunting World, Inc.*, 537 F.2d 4, 9 (2d Cir. 1976)); see also 2 MCCARTHY, supra note 15, § 11:1. 21; MCCARTHY, supra note 15, § 11:4.

The inability to establish ownership has been consistently held to be ***fatal*** to any opposition. *Zatarains, Inc. v. Oak Grove Smokehouse, Inc.*, 698 F.2d 786, 791 (5th Cir. 1983)

(describing the leap-of-imagination and other tests used to distinguish suggestive from descriptive marks). Id. (citing *Douglas Labs., Corp. v. Copper Tan, Inc.*, 210 F.2d 453 (2d Cir. 1954)). Id. at 790, 792–93; *King-Seeley Thermos Co. v. Aladdin Indus., Inc.*, 321 F.2d 577, 579 (2d Cir. 1963); *Wal-Mart Stores, Inc. v. Samara Bros.*, 529 U.S. 205, 210–12 (2000). See 2 MCCARTHY, supra note 15, § 11:4.

B. The *Nunc Pro Tunc* Assignments Are Invalid and an Effort to Commit Fraud

In this action, it is clear, as explained in the extensive recitation of facts above, that, not only did the Opposer not have any ownership rights in the Opposition Mark when the opposition was filed, it undertook extensive efforts to "assign" the Opposition Mark to other internecine entities in a clear effort to avoid the execution of a valid state court judgment. Such an effort is not only tantamount to fraud, it is simply a complete misapplication of the concept of "*nunc pro tunc*" actions, which are simply not available to "parties," they are available only to clear up clerical mistakes, and primarily only with judicial or administrative intervention. When courts take some action *nunc pro tunc*, that action has retroactive legal effect, as though it had been performed at a particular, earlier date. The concept was not designed for use to commit fraud or "move" assets to avoid the execution of a lawful judgment.

The most common use, and the only legitimate use an action *nunc pro tunc* is to correct past clerical errors, or omissions made by the court, that may hinder the efficient operation of the legal system. For example, if the written record of a trial court's judgment failed to correctly recite the judgment as the court rendered it, the court has the inherent power to change the record at a later date to reflect what happened at trial. The decision, as corrected, would be given legal force from the time of the initial decision so that neither party is prejudiced, or harmed, by the

error. The purpose of *nunc pro tunc* is to correct errors or omissions to achieve the results intended by the court at the earlier time.

In Trademark usage, the Board, in *Hotel Corporation of America v. Inn America, Inc.*, 153 USPQ 574, 578 (TTAB 1967), has previously stated the following regarding such 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).

A "*Nunc pro tunc*" assignment is an assignment that comes into existence later in time than the effective date of the transfer. Note, though, there is a difference between the date that the transfer is effective—the date as stated in the agreement—and the date that one has Article III standing to assert the rights in the assigned property, which will arise when the document is actually executed. The Courts have held that, as a general matter, parties should possess rights before seeking to have them vindicated in court. Allowing a subsequent assignment to automatically cure a standing defect would unjustifiably expand the number of people who are statutorily authorized to sue. *Epic Sporting Goods, Inc. v. Fungoman LLC,* No. 09-1981 (W.D. La. Feb. 10, 2011).

It is well established that "[f]raud in the securing and maintenance of the registration of a federal trademark constitutes a ground for the cancellation thereof within the purview of Section 14(c) [15 U.S.C. § 1064]." *Gen'l Car Truck Leasing Sys., Inc. v. Gen'l Rent-A-Car, Inc.*, No. 88-6500, 1990 U.S. Dist. LEXIS 12749 (S.D. Fla. July 11, 1990).

While there are legitimate uses of *nunc pro tunc* assignments, the instant action, and the tortured factual background do not comport with any legitimate basis for such conduct. The assignment should be invalidated and removed as any impediment to the Applicant.

C. There is no Likelihood of Confusion Between Applicant's Mark and Opposer's Mark

Under the Lanham Act, § 2(d) prohibits registration of a mark that gives rise to a likelihood of confusion with a federally registered mark or a previously used mark or trade name. The pertinent statutory language reads as follows:

> No trademark .. shall be refused registration on the principal register on account of its nature unless it—
>
> (d) Consists of or comprises a mark which so resembles a mark registered in the Patent and Trademark Office, or a mark or trade name previously used in the United States by another and not abandoned, as •to be likely, when used on or in connection with the goods of the applicant, to cause confusion, or to cause mistake, or to deceive.

Lanham Act § 2(d), 15 U.S.C. § 1052(d).

Trademark owners, when they seek "protection of their marks" under Section 2(d), are in essence protecting their right to market their goods and services to purchasers who are free from confusion caused by the use of similar marks of others. By protecting their marks, trademark owners "are thus serving the statutory goal of protecting the public against confusion, mistake or deception."

In re Clorox Co., 578 F.2d 305,308 n.6, 198 USPQ 337, 340 (CCPA 1978)

The Board and its primary reviewing court, the Federal Circuit, determine likelihood of confusion on a case-by-case basis, applying the *DuPont* factors as set forth by Chief Judge Markey' in *In re E.I. DuPont DeNemours & Co.,* 476 F.2d 1357, 1361, 177 USPQ 563, 567 (CCPA 1973), the seminal case which enumerates the factors that may be considered when relevant evidence is of record. It is clear that the parties reviewing this submission have

extensive experience applying the *DuPont* factors in the cases that come before them. The thirteen *DuPont* factors are listed here, and the most salient of these factors will be discussed in summary fashion as it pertains to the Application.

Factor 1: The similarity or dissimilarity of the marks in their entireties as to appearance, sound, connotation and commercial impression.

*In this case, the very usage of the terms "G-String" and "Nude" are irreconcilably different, one depicting clothing and one describing the complete lack of clothing. This is not, by any stretch, a similarity.

Factor 2: The similarity or dissimilarity and nature of the goods or services as described in an application or registration or in connection with which a prior mark is in use.

*Again, while there may be "pageants" involved, the very usage of the terms "G-String" and "Nude" are irreconcilably different, one depicting clothing and one describing the complete lack of clothing. This is not, by any stretch, a similarity.

Factor 3: The similarity or dissimilarity of established, likely-to-continue trade channels.

*The Opposer presents pageants at "Gentlemen's Clubs" featuring full nudity. The Applicant has no business model that would embrace this concept

Factor 4: The conditions under which and the buyers to whom sales are made, i.e. "impulse purchasing" vs. careful, sophisticated purchasing.

*There would be no "impulse" buyer participating in or spectating any "pageants" involved, and, again, the very usage of the terms "G-String" and "Nude" are irreconcilably different, one depicting clothing and one describing the complete lack of clothing. This is not, by any stretch, a similarity.

Factor 5: The fame of the prior mark (sales, advertising, length of use).

*The Opposer has no overwhelming fame that would make this factor applicable.

Factor 6: The number and nature of similar marks in use on similar goods.

*As explained herein, there are scores of other uses of the terms "Miss" and "International," and the overall generic nature of the terms involved. This is not, by any stretch, a similarity

Factor 7: The nature and extent of any actual confusion.

*No actual confusion has occurred nor could any such actual confusion be alleged.

Factor 8: The length of time during, and conditions under which, there has been concurrent use without evidence of actual confusion.

* Based on the dates specified in the statement of facts, Miss G-String International has operated for over 4 years with no evidence of actual confusion with the Opposer.

Factor 9: The variety of goods on which a mark is or is not used (house mark, "family" mark, product mark).

*There is no "variety of goods" associated with either mark, therefore, this factor is not applicable.

Factor 10: The market interface between applicant and the owner of a prior mark:

(a) a mere "consent" to register or use.
*N/a
(b) agreement provisions designed to preclude confusion, *i.e.* limitations on continued use of the marks by each party.
*N/a
(c) assignment of mark, application, registration and goodwill of the related business.
*N/a
(d) laches and estoppel attributable to owner of prior mark and indicative of lack of confusion.
*N/a

Factor 11: The extent to which applicant has a right to exclude others from use of its mark on its goods.

*Applicant has taken the positon, and shown unequivocally, that the Opposer has no ownership rights to the opposition mark in question, therefore this factor supports the Applicant.

Factor 12: The extent of potential confusion, *i.e.*, whether *de minimis* or substantial.

Factor 13: Any other established fact probative of the effect of use.

As well established, in most cases, the two most important factors to be considered are Factors 1 & 2: (1) the similarity of the marks as to appearance, sound, meaning and commercial impression, and (2) the similarity of the involved goods and/or services. *Federated Foods, Inc. v. Ft. Howard Paper Co.,* 544 F.2d 1098, 1103, 192 USPQ 24, 29 (CCPA I976). However the Federal Circuit has recognized that, in cases involving a famous or strong mark, Factor 5 *(i.e.,* the fame or strength of the mark) is often a dominant factor in the likelihood-of-confusion analysis. *Recot, Inc. v. Becton,* 214 F.3d 1322, 1327, 54 USFQ2d 1894, 1897 (Fed. Cir. 2000)

The Federal Circuit has held that a determination of likelihood of confusion is a legal conclusion based on underlying facts. *In re Majestic Distilling Co.,* 315 F.3d 1311, 1314, 65 USPQ2d 1201, 1204 (Fed. Cir. 2003); *Bose Corp. v. Q5C Audio Prods.,* 293 F.3d 1367, 1370, 63 USPQ2d 1303, 1305 (Fed. Cir. 2002); *Cunningham v. Laser Golf Corp.,* 222 F.3d 943, 945, 55 USPQ2d 1842, 1843-44 (Fed. Cir. 2000); *In re Dixie Rests.,* 105 F.3d 1405, 1406, 41 USPQ2d 1531, 1533 (Fed. Cir. 1997).

The analytical framework for deciding likelihood of confusion can be described as follows: In assessing whether a likelihood of confusion exists, the Board first will evaluate each of the *DuPont* factors that are pertinent to the case at hand. Based on its weighing of the *DuPont* factors as a whole, the Board will then determine whether there is a likelihood of confusion.

The Federal Circuit has recognized that the first *DuPont* factor, the "similarity or dissimilarity of the marks in their entireties," is a predominant inquiry. *Hewlett-Packard Co. v. Packard Press, Inc.,* 281 F.3d 1261, 1265, 62 USPQ2d 1001, 1003 (Fed. Cir. 2002). This factor examines the relevant features of the marks, including appearance, sound, connotation, and commercial impression. *Hewlett-Packard Co. v. Packard Press, Inc.,* 281 F.3d 1261, 1265

62 USPQ2d 1001, 1003 (Fed. Cir. 2002); *Recot, Inc. v. Becton,* 214 F.3d 1322, 132.9, 54 USPQ2d 1894, 1898 (Fed. Cir. 2000).

In addressing the similarity or dissimilarity of the marks, the question is whether the newcomer's (Applicant's) mark so resembles the mark of a prior user or prior registrant as to be likely to confuse relevant purchasers and prospective purchasers. In appropriate cases, any one of the three types of similarity (appearance, sound, or meaning) may be sufficient to support a finding of likelihood of confusion. However, "it must be emphasized that any one of the three factors *may* be sufficient to indicate likelihood of confusion, but does not *necessarily* do so." *Sure-Fit Prods. Co. v. Saltzson Drapery Co.,* 254 F.2d 158, 160, 117 USPQ 295, 296 (CCPA 1958). In the instant action, this factor must be viewed most favorably to the Applicant, because, in this case, the very usage of the terms "G-String" and "Nude" are irreconcilably different, one depicting clothing and one describing the complete lack of clothing, and the "pageants" involved require long term planning and execution, which, based on ***the systemic difference between the "business models,"*** there can be no likelihood to confuse relevant purchasers and prospective purchasers. Again, the very usage of the terms "G-String" and "Nude" are irreconcilably different, one depicting clothing and one describing the complete lack of clothing. This is not, by any stretch, a similarity.

It has long been recognized that marks must be compared in their entireties to determine likelihood of confusion, because likelihood of confusion depends on the overall impression of the marks. Thus, marks should not be dissected, and no feature of a mark should be ignored. *In re Hearst Corp.,* 982 F.2d 493, 494, 25 USPQ 2d , 1238, 1239 (Fed. Cir. 1992), *reh'g, en banc, denied,* 1993 U.S. App. LEXIS 7705 (Fed. Cir. Apr. 7, 1993).

As has been shown herein, the use of the terms "Miss" and "International" are so widespread as to become ubiquitous, thus, the only operative terms at issue would be "G-String" and "Nude." As stated *ad nauseum* (a necessary evil to protect the Applicant) the very usage of the terms "G-String" and "Nude" are irreconcilably different, one depicting clothing and one describing the complete lack of clothing. This is not, by any stretch, a similarity.

As it pertains to the remainder of the factors, based on the extensive recitation of facts supporting the Applicant, there is simply no factual or legal basis to find that there is any possibility for any "likelihood of confusion" with any aspect of the two Marks in question.

Conclusion

Based on the foregoing, the Opposer has no standing to pursue any opposition because the Opposer does not own the opposition mark; the *nunc pro tunc* assignments are invalid and an effort to commit fraud; and there is no likelihood of confusion between applicant's mark and Opposer's mark. The Applicant should be granted the use of the mark.

Respectfully submitted,

By _____ February 3, 2016

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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **Applicant's Trial Brief** has been served on Thomas T. Aquilla, Esq., as domestic representative of The Worlds Pageants, LLC and Camila Productions Ltd., by mailing said copy on February 6, 2016, via First Class U.S. Mail, postage prepaid to: Thomas T. Aquilla, Esq., 221 Coe Hill Road, Center Harbor, New Hampshire 03226.

Luke Lirot

Luke Lirot, Esq.

Signed: February 6, 2016