

ESTTA Tracking number: **ESTTA458789**

Filing date: **02/27/2012**

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	Activision Publishing, Inc.
Granted to Date of previous extension	02/26/2012
Address	3100 Ocean Park Boulevard Santa Monica, CA 90405 UNITED STATES
Attorney information	Michael Culver Millen White Zelano & Branigan PC 2200 Clarendon Blvd. Suite 1400 Arlington, VA 22201 UNITED STATES culver@mwzb.com, major@mwzb.com, docketing@mwzb.com Phone:703-243-6333

Applicant Information

Application No	85145554	Publication date	08/30/2011
Opposition Filing Date	02/27/2012	Opposition Period Ends	02/26/2012
Applicant	Kabam, Inc. Suite 250 101 Redwood Shores Parkway Redwood City, CA 94065 UNITED STATES		

Goods/Services Affected by Opposition

Class 041. First Use: 2011/02/22 First Use In Commerce: 2011/02/22
All goods and services in the class are opposed, namely: Entertainment services, namely, providing on-line computer games

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
The mark is merely descriptive	Trademark Act section 2(e)(1)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition


U.S. Registration No.	3987485	Application Date	10/15/2010
Registration Date	07/05/2011	Foreign Priority Date	NONE

Word Mark	MODERN WARFARE
Design Mark	MODERN WARFARE
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2007/11/05 First Use In Commerce: 2007/11/05 Computer game software; computer game software and related instruction manuals sold together as a unit; computer game cartridges; computer game discs; interactive multimedia computer game programs; downloadable computer game software

U.S. Application No.	85035875	Application Date	05/11/2010
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	SPACE WARFARE
Design Mark	SPACE WARFARE
Description of Mark	NONE
Goods/Services	Class 009. First use: Computer game software and related instruction manual sold together as a unit; interactive video game programs; computer game cartridges; computer game discs; downloadable computer game software; video game controllers; interactive video game comprised of a cartridge or DVD sold as a unit with a video game controller Class 041. First use: Entertainment services, namely, providing an on-line computer game; online entertainment in the nature of computer game tournaments; Providing online news and information in the field of computer games; Entertainment services, namely, conducting contests online; Providing a website for organizing, planning and conducting exhibitions and special events between computer game players and interest groups for entertainment purposes

U.S. Application No.	85035869	Application Date	05/11/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	FUTURE WARFARE		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 009. First use: Computer game software and related instruction manual sold together as a unit; interactive video game programs; computer game cartridges; computer game discs; downloadable computer game software; video game controllers; interactive video game comprised of a cartridge or DVD sold as a unit with a video game controller</p> <p>Class 041. First use: Entertainment services, namely, providing an on-line computer game; online entertainment in the nature of computer game tournaments; Providing online news and information in the field of computer games; Entertainment services, namely, conducting contests online; Providing a website for organizing, planning and conducting exhibitions and special events between computer game players and interest groups for entertainment purposes</p>

Attachments	76704907#TMSN.gif (1 page)(bytes) 85035875#TMSN.jpeg (1 page)(bytes) 85035869#TMSN.jpeg (1 page)(bytes) Notice of Opposition 02-27-12.pdf (5 pages)(233212 bytes) Exhibit A to Notice of Opposition.pdf (14 pages)(647915 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	/michaelculver/
Name	Michael Culver
Date	02/27/2012

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

ACTIVISION PUBLISHING, INC.,)	
)	
Opposer)	
)	
v.)	Opposition No. _____
)	App. No. 85145554
KABAM, INC.)	Mark: GLOBAL WARFARE
)	
Applicant)	

NOTICE OF OPPOSITION

Activision Publishing, Inc. ("Activision"), a Delaware corporation with a business address at 3100 Ocean Park Boulevard, Santa Monica, California 90405, believes that it will be damaged by the registration of the mark that is the subject of Application No. 85145554, and hereby opposes its registration on the following grounds:

1. Activision is the owner of the mark MODERN WARFARE as used to identify computer game software, computer game software and related instruction manuals sold together as a unit, computer game cartridges, computer game discs, interactive multimedia game programs, and downloadable computer game software, entertainment services, namely, providing an online computer game, online entertainment in the nature of computer game tournaments, providing online news and information in the field of computer games, entertainment services, namely, conducting contests online, providing a website for organizing, planning and conducting exhibitions and special events between computer game players and interest groups for entertainment purposes.

2. Activision is the owner of Registration No. 3987485 as issued by the U.S. Patent and Trademark Office (“PTO”) on July 5, 2011 for the mark MODERN WARFARE for the goods recited above in paragraph 1.

3. Activision is also the owner of the applications pending in the PTO to register the marks SPACE WARFARE, Application No. 85035875, and FUTURE WARFARE, Application No. 85035869, both filed May 11, 2010 and published for opposition on May 17, 2011, for the following goods and services: computer game software and related instruction manual sold together as a unit, interactive video game programs, computer game cartridges, computer game discs, downloadable computer game software, video game controllers, interactive video game comprised of a cartridge or DVD sold as a unit with a video game controller, entertainment services, namely, providing an online computer game, online entertainment in the nature of computer game tournaments, providing online news and information in the field of computer games, entertainment services, namely, conducting contests online, providing a website for organizing, planning and conducting exhibitions and special events between computer game players and interest groups for entertainment purposes.

4. As proof of status and title, attached as Exhibit A hereto and incorporated by reference herein are true and correct printouts of the TARR and Assignment records from the PTO’s online databases for the foregoing registration of MODERN WARFARE and Application No. 85035875 for SPACE WARFARE and Application No. 85035869 for FUTURE WARFARE.

5. Activision has expended considerable funds and made significant efforts in promoting and advertising Activision’s goods identified by the mark MODERN

WARFARE, and the goods identified by this mark have enjoyed enormous commercial success, won various industry awards and been the subject of substantial, unsolicited media attention. As a result, Activision has established an enviable reputation, acquired substantial goodwill, and attained distinctiveness and fame in the mark MODERN WARFARE throughout the entire United States.

6. Activision's rights in the marks MODERN WARFARE, SPACE WARFARE, and FUTURE WARFARE notwithstanding, Applicant filed on October 5, 2010 with the PTO Application No. 85145554 to register the mark GLOBAL WARFARE to identify entertainment services, namely, providing on-line computer games (hereinafter the "Opposed Application").

7. Activision's use of its MODERN WARFARE mark is prior to any rights of Applicant in the mark GLOBAL WARFARE. The filing dates of Activision's applications for the marks SPACE WARFARE and FUTURE WARFARE precede the filing date of the Opposed Application.

8. In view of the similarities between, on the one hand, Activision's marks MODERN WARFARE, SPACE WARFARE, and FUTURE WARFARE and, on the other hand, the GLOBAL WARFARE mark that is the subject of the Opposed Application, and the relationship between Activision's goods and services as identified by its marks MODERN WARFARE, SPACE WARFARE, and FUTURE WARFARE and the services identified in the Opposed Application, it is likely that members of the public will erroneously believe that Applicant's services originate with, or are in some manner connected or associated with, or sponsored by, Activision, all to the harm of Activision's goodwill and reputation.

9. Applicant's GLOBAL WARFARE mark so resembles Activision's marks MODERN WARFARE, SPACE WARFARE, and FUTURE WARFARE when used on or in connection with Applicant's services as to be likely to cause confusion, mistake or to deceive, and Applicant's Opposed Application is therefore precluded from registration under Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

10. In view of the fame of Activision's MODERN WARFARE mark, and that this fame preceded any of Applicant's rights in its mark, Applicant's GLOBAL WARFARE mark is likely to cause dilution, and registration is therefore precluded under Section 43(c), 15 U.S.C. § 1125(c).

11. Applicant's mark GLOBAL WARFARE is merely descriptive in that the mark describes the features, subject matter and nature of the games provided through Applicant's service, and registration is therefore precluded under Section 2(e)(1), 15 U.S.C. § 1052(e)(1).

12. If Applicant is granted registration of the GLOBAL WARFARE mark, it would obtain a *prima facie* exclusive right to use of its mark that would cause damage and injury to Activision.

WHEREFORE, Activision respectfully requests that this opposition be granted and that Application No. 85145554 be denied registration.

ACTIVISION PUBLISHING, INC.

Date: February 27, 2012

By: 

Scott J. Major
Michael Culver
Millen, White, Zelano & Branigan, P.C.
2200 Clarendon Blvd., Suite 1400

Tel: 703-243-6333
Fax: 703-243-6410
major@mwzb.com; culver@mwzb.com

Attorneys for Opposer

Certificate of Service

This is to certify that a copy of the foregoing Notice of Opposition with Exhibit A was served this 27th day of February 2012 by first-class mail, postage prepaid, on the following as Applicant's attorney of record:

Tsan Abrahamson, Esq.
COBALT LLP
Suite A21
918 Parker Street
Berkley, CA 94710-2596

By: Michael Culver
Attorney for Opposer

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

ACTIVISION PUBLISHING, INC.,)	
)	
Opposer)	
)	
v.)	Opposition No. _____
)	App. No. 85145554
KABAM, INC.)	Mark: GLOBAL WARFARE
)	
Applicant)	

NOTICE OF OPPOSITION

Exhibit A

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2012-02-27 15:21:24 ET

Serial Number: 76704907 Assignment Information Trademark Document Retrieval

Registration Number: 3987485

Mark

MODERN WARFARE

(words only): MODERN WARFARE

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2011-07-05

Filing Date: 2010-10-15

Transformed into a National Application: No

Registration Date: 2011-07-05

Register: Principal

Law Office Assigned: LAW OFFICE 116

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: 650 -Publication And Issue Section

Date In Location: 2011-07-05

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

1. Activision Publishing, Inc.

Address:

Activision Publishing, Inc.
3100 Ocean Park Boulevard
Santa Monica, CA 90405
United States

Legal Entity Type: Corporation**State or Country of Incorporation:** Delaware

GOODS AND/OR SERVICES

International Class: 009**Class Status:** Active

Computer game software; computer game software and related instruction manuals sold together as a unit; computer game cartridges; computer game discs; interactive multimedia computer game programs; downloadable computer game software

Basis: 1(a)**First Use Date:** 2007-11-05**First Use in Commerce Date:** 2007-11-05

ADDITIONAL INFORMATION

Section 2(f)**Prior Registration Number(s):**

3403754

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.

2011-07-05 - Registered - Principal Register

2011-04-19 - Official Gazette Publication Confirmation E-Mailed

2011-04-19 - Published for opposition

2011-03-11 - Law Office Publication Review Completed

2011-03-11 - Assigned To LIE

2011-03-10 - Approved for Pub - Principal Register (Initial exam)

2011-01-23 - Attorney Revoked And/Or Appointed

2011-01-23 - TEAS Revoke/Appoint Attorney Received

2010-12-28 - Notification Of Non-Final Action E-Mailed

2010-12-28 - Non-final action e-mailed

2010-12-28 - Non-Final Action Written

2010-12-15 - Assigned To Examiner

2010-10-26 - Application Filing Receipt Mailed

2010-10-21 - New Application Office Supplied Data Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Scott J. Major

Correspondent

Scott J. Major

Millen White Zelano & Branigan, PC

2200 Clarendon Blvd., 14th Floor

Arlington VA 22201

Phone Number: 703-465-5356



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No assignment has been recorded at the USPTO

For Serial Number: 76704907

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350. v.2.3.1
Web interface last modified: Jan 26, 2012 v.2.3.1

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Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2012-02-27 15:22:43 ET

Serial Number: 85035869 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

FUTURE WARFARE

(words only): FUTURE WARFARE

Standard Character claim: Yes

Current Status: A first request for extension of time to file a Statement of Use has been granted.

Date of Status: 2012-01-12

Filing Date: 2010-05-11

The Notice of Allowance Date is: 2011-07-12

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 101

Attorney Assigned:
WEIGLE KATHERINE CONNOLLY

Current Location: 700 -Intent To Use Section

Date In Location: 2011-07-12

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

1. Activision Publishing, Inc.

Address:
Activision Publishing, Inc.
3100 Ocean Park Boulevard
Santa Monica, CA 90405

United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 009

Class Status: Active

Computer game software and related instruction manual sold together as a unit; interactive video game programs; computer game cartridges; computer game discs; downloadable computer game software; video game controllers; interactive video game comprised of a cartridge or DVD sold as a unit with a video game controller

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

International Class: 041

Class Status: Active

Entertainment services, namely, providing an on-line computer game; online entertainment in the nature of computer game tournaments; Providing online news and information in the field of computer games; Entertainment services, namely, conducting contests online; Providing a website for organizing, planning and conducting exhibitions and special events between computer game players and interest groups for entertainment purposes

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

USPTO Reference Number: A0022049

International Registration Number: 1063846

International Registration Date: 2010-11-10

Original Filing Date with USPTO: 2010-11-10

International Registration Status: Application For IR Registered By IB

Date of International Registration Status: 2011-02-03

International Registration Renewal Date: 2020-11-10

Irregularity Reply by Date: (DATE NOT AVAILABLE)

Madrid History:

02-03-2011 - 21:00:58 - Application For IR Registered By IB

11-10-2010 - 21:05:36 - IR Certified And Sent To IB

11-10-2010 - 10:37:44 - New Application For IR Received

11-10-2010 - 10:37:44 - Automatically Certified

PROSECUTION HISTORY

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

2012-01-14 - Notice Of Approval Of Extension Request E-Mailed
2012-01-12 - Extension 1 granted
2012-01-12 - Extension 1 filed
2012-01-12 - TEAS Extension Received
2011-07-12 - NOA E-Mailed - SOU Required From Applicant
2011-05-17 - Official Gazette Publication Confirmation E-Mailed
2011-05-17 - Published for opposition
2011-04-08 - Law Office Publication Review Completed
2011-04-08 - Assigned To LIE
2011-04-08 - Approved For Pub - Principal Register
2011-04-07 - Teas/Email Correspondence Entered
2011-04-07 - Communication received from applicant
2011-04-07 - TEAS Response to Office Action Received
2010-10-13 - Notification Of Non-Final Action E-Mailed
2010-10-13 - Non-final action e-mailed
2010-10-13 - Non-Final Action Written
2010-10-08 - Previous Allowance Count Withdrawn
2010-09-17 - Withdrawn From Pub - Og Review Query
2010-09-04 - Law Office Publication Review Completed
2010-09-04 - Assigned To LIE
2010-08-23 - Approved For Pub - Principal Register
2010-08-23 - Assigned To Examiner
2010-05-17 - New Application Office Supplied Data Entered In Tram
2010-05-14 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Mary Tuck

Correspondent

MARY TUCK

ACTIVISION LEGAL DEPARTMENT

3100 OCEAN PARK BLVD

SANTA MONICA, CA 90405-3032

Phone Number: 310-255-2000

Fax Number: 310-255-2152



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Serial Number: 85035875 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

SPACE WARFARE

(words only): SPACE WARFARE

Standard Character claim: Yes

Current Status: A first request for extension of time to file a Statement of Use has been granted.

Date of Status: 2012-01-12

Filing Date: 2010-05-11

The Notice of Allowance Date is: 2011-07-12

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 101

Attorney Assigned:
WEIGLE KATHERINE CONNOLLY

Current Location: 700 -Intent To Use Section

Date In Location: 2011-07-12

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Legal Entity Type: Corporation**State or Country of Incorporation:** Delaware

GOODS AND/OR SERVICES

International Class: 009**Class Status:** Active

Computer game software and related instruction manual sold together as a unit; interactive video game programs; computer game cartridges; computer game discs; downloadable computer game software; video game controllers; interactive video game comprised of a cartridge or DVD sold as a unit with a video game controller

Basis: 1(b)**First Use Date:** (DATE NOT AVAILABLE)**First Use in Commerce Date:** (DATE NOT AVAILABLE)**International Class:** 041**Class Status:** Active

Entertainment services, namely, providing an on-line computer game; online entertainment in the nature of computer game tournaments; Providing online news and information in the field of computer games; Entertainment services, namely, conducting contests online; Providing a website for organizing, planning and conducting exhibitions and special events between computer game players and interest groups for entertainment purposes

Basis: 1(b)**First Use Date:** (DATE NOT AVAILABLE)**First Use in Commerce Date:** (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

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SANTA MONICA, CA 90405-3032

Phone Number: 310-255-2000

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