

ESTTA Tracking number: **ESTTA504267**

Filing date: **11/07/2012**

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	PartyGaming IA Limited
Granted to Date of previous extension	11/21/2012
Address	Clarendon House, 2 Church Street Hamilton, HM11 BERMUDA
Attorney information	Scott W. Johnston Merchant & Gould P.C. P.O. Box 2910 Minneapolis, MN 55402-0910 UNITED STATES SJohnston@merchantgould.com, slindemeier@merchantgould.com Phone:612-332-5300

Applicant Information

Application No	85571885	Publication date	07/24/2012
Opposition Filing Date	11/07/2012	Opposition Period Ends	11/21/2012
Applicant	Soffin, Yessenia 11688 Old Pumphouse Road Boca Raton, FL 33498 UNITED STATES		

Goods/Services Affected by Opposition

Class 041. First Use: 2011/10/00 First Use In Commerce: 2011/10/00 All goods and services in the class are opposed, namely: Gambling services; Providing a web-based system and on-line portal for customers to participate in on-line gaming, operation and coordination of game tournaments, leagues and tours

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2986410	Application Date	12/10/2003
Registration Date	08/16/2005	Foreign Priority Date	NONE
Word Mark	PARTYPOKER		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 009. First use: First Use: 2001/07/01 First Use In Commerce: 2001/07/01 Computer game software distributed via the Internet; and Electronic newsletters distributed via the Internet and electronic mail</p> <p>Class 041. First use: First Use: 2001/07/01 First Use In Commerce: 2001/07/01 Arranging, organizing and conducting entertainment services in the form of online contests and games of chance</p> <p>Class 042. First use: First Use: 2001/07/01 First Use In Commerce: 2001/07/01 [Providing affiliate website services for others via the Internet]</p>

Attachments	78338873#TMSN.jpeg (1 page)(bytes) 2012 11 07 Notice of Opposition 85571885.PDF (13 pages)(413236 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	/SWJ/
Name	Scott W. Johnston
Date	11/07/2012

PARTYPOKER and PARTYPOKER & Design (shown below) to the bwin.party group, which owns and operates the website www.partypoker.net, through which it offers online gaming services. The bwin.party group (and its predecessors in title) has used the trademarks PARTYPOKER and PARTYPOKER & Design, which are hereafter collectively referred to as Opposer's "PARTYPOKER Marks," in connection with its online gaming services since at least as early as 2001. (For the purposes of this Notice of Opposition, references to the use of the trademarks by Opposer shall refer to such use by the bwin.party group and its predecessors in title under license by Opposer.)



4. Opposer owns U.S. Registration No. 2,986,410 for its PARTYPOKER & Design mark for "computer game software distributed via the internet; and electronic newsletters distributed via the internet and electronic mail" in Class 9 and "arranging, organizing and conducting entertainment services in the form of online contests and games of chance" in Class 41. A printout of the current status and title of this registration from the USPTO's Trademark Status & Document Retrieval (TSDR) database is attached as Exhibit A.

5. Opposer's U.S. Registration No. 2,986,410 is incontestable under Section 15 of the Lanham Act, 15 U.S.C. § 1065. Consequently, this registration is conclusive evidence of the validity of the registered mark and of the registration of the mark, of Opposer's ownership of the mark and of Opposer's exclusive right to use the registered mark in commerce under Section 33 of the Lanham Act, 15 U.S.C. § 1115.

6. Opposer has advertised and promoted its PARTYPOKER Marks continuously and extensively and made substantial use of goods and services under the marks. As a result,

Opposer's PARTYPOKER Marks have developed and represent valuable goodwill inuring to the benefit of Opposer.

7. There is no issue of priority concerning Applicant's PARTY STAR POKER mark since Opposer used its PARTYPOKER Marks and registered its PARTYPOKER & Design mark long before Applicant filed its PARTY STAR POKER application or started using the mark. Opposer started using its PARTYPOKER Marks at least as early as July 1, 2001, more than ten (10) years before Applicant filed its PARTY STAR POKER application on March 16, 2012, and nearly nine (9) years before the alleged June 1, 2010 dates of first use and first use in commerce cited therein. Opposer therefore has priority over Applicant with respect to the marks at issue.

8. Upon information and belief, Applicant had knowledge of Opposer's PARTYPOKER Marks before it adopted its PARTY STAR POKER mark.

9. Applicant's PARTY STAR POKER mark is confusingly similar to Opposer's PARTYPOKER Marks in sight, sound and commercial impression.

10. Applicant's alleged services are closely related, if not identical, to the goods and services marketed and supplied by Opposer under its PARTYPOKER Marks.

11. Upon information and belief, Opposer's goods and services and Applicant's services are supplied and marketed in the same channels of trade to the same consumers or class of consumers.

12. Based on the similarities between the parties' marks and the closely related nature of the parties' goods and services, consumers and potential consumers are likely to believe that Applicant's services originate from Opposer or are otherwise endorsed, sponsored or approved by Opposer, resulting in a likelihood of confusion in the marketplace and damage to Opposer.

13. Registration of the mark shown in Application Serial No. 85/571,885 will result in damage to Opposer under the provisions of Section 2 of the U.S. Trademark Act, 15 U.S.C. Section 1052, pursuant to the allegations stated above.

WHEREFORE, Opposer requests that this opposition be sustained and the registration sought by Applicant be refused.

Please direct all correspondence to:

Scott W. Johnston
MERCHANT & GOULD P.C.
P.O. Box 2910
Minneapolis, MN 55402-0910

Opposer herein appoints John A. Clifford, Reg. No. 30,247; Gregory C. Golla; Andrew S. Ehard; Scott W. Johnston, Reg. No. 39,721; Heather J. Kliebenstein; Laura M. Konkel; Danielle I. Mattessich; Christopher J. Schulte; William D. Schultz, and all other attorneys of the firm of Merchant & Gould P.C., its attorneys to transact all business in the U.S. Patent and Trademark Office relating to this matter with full power of substitution.

Respectfully submitted,

PARTYGAMING IA LIMITED

By its Attorneys,



Scott W. Johnston
MERCHANT & GOULD P.C.
80 South Eighth Street, Suite 3200
Minneapolis, Minnesota 55402-2215
(612) 332-5300

Date: 11-7-12

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Notice of Opposition was served upon Applicant's attorney of record by First Class Mail, postage prepaid, this 7th day of Novemberr, 2012:

Matthew H. Swyers
The Trademark Company
344 Maple Ave W., Ste. 151
Vienna, VA 22180-5612


Scott W. Johnston

EXHIBIT A

Generated on: This page was generated by TSDR on 2012-11-07 15:18:29 EST

Mark: PARTYPOKER

PARTYPOKER

US Serial Number:	78338873	Application Filing Date:	Dec. 10, 2003
US Registration Number:	2986410	Registration Date:	Aug. 16, 2005
Register:	Principal		
Mark Type:	Trademark, Service Mark		
Status:	A partial Sections 8 and 15 combined declaration has been accepted and acknowledged.		
Status Date:	Sep. 09, 2011		
Publication Date:	Feb. 22, 2005	Notice of Allowance Date:	May 17, 2005

Mark Information

Mark Literal Elements:	PARTYPOKER
Standard Character Claim:	No
Mark Drawing Type:	3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/LETTER(S)/NUMBER(S)
Design Search Code(s):	24.17.03 - Dollar symbol (\$) 26.01.02 - Circles, plain single line; Plain single line circles 26.01.20 - Circles within a circle 26.01.21 - Circles that are totally or partially shaded. 27.03.01 - Geometric figures forming letters, numerals or punctuation

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Computer game software distributed via the Internet; and Electronic newsletters distributed via the Internet and electronic mail

International Class: 009 - Primary Class **U.S Class:** 021, 023, 026, 036, 038

Class Status: ACTIVE

Basis: 1(a)

First Use: Jul. 01, 2001 **Use in Commerce:** Jul. 01, 2001

For: Arranging, organizing and conducting entertainment services in the form of online contests and games of chance

International Class: 041 - Primary Class **U.S Class:** 100, 101, 107

Class Status: ACTIVE

Basis: 1(a)

First Use: Jul. 01, 2001 **Use in Commerce:** Jul. 01, 2001

For: [Providing affiliate website services for others via the Internet]

International Class: 042 - Primary Class **U.S Class:** 100, 101

Class Status: SECTION 8 - CANCELLED

Basis: 1(a)

First Use: Jul. 01, 2001 **Use in Commerce:** Jul. 01, 2001

Basis Information (Case Level)

Filed Use:	No	Currently Use:	Yes	Amended Use:	No
Filed ITU:	Yes	Currently ITU:	No	Amended ITU:	No
Filed 44D:	No	Currently 44D:	No	Amended 44D:	No
Filed 44E:	No	Currently 44E:	No	Amended 44E:	No
Filed 66A:	No	Currently 66A:	No		
Filed No Basis:	No	Currently No Basis:	No		

Current Owner(s) Information

Owner Name: PARTYGAMING IA LIMITED
CLARENDON HOUSE, 2 CHURCH STREET
Owner Address: HAMILTON HM11
BERMUDA

Legal Entity Type: CORPORATION
State or Country Where Organized: BERMUDA

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Joseph Welch
Docket Number: 02102-00001

Correspondent

Correspondent Name/Address: Joseph Welch
Pattishall, McAuliffe, Newbury, Hilliard & Gerald
311 S. Wacker Drive - Suite 5000
CHICAGO, ILLINOIS 60606-6631
UNITED STATES

Phone: 312 554 8000
Fax: 312 554 8015

Domestic Representative

Domestic Representative Name: Joseph Welch
Phone: 312 554 8000
Fax: 312 554 8015

Prosecution History

Date	Description	Proceeding Number
Sep. 09, 2011	NOTICE OF ACCEPTANCE OF SEC. 8 & 15 - MAILED	
Sep. 09, 2011	REGISTERED - PARTIAL SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	77315
Aug. 01, 2011	REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED	77315
Sep. 08, 2011	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	77315
Aug. 01, 2011	TEAS SECTION 8 & 15 RECEIVED	
Dec. 27, 2006	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY	

Dec. 20, 2006	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Jun. 07, 2006	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	88888
Jun. 07, 2006	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Aug. 16, 2005	REGISTERED-PRINCIPAL REGISTER	
Jun. 30, 2005	LAW OFFICE REGISTRATION REVIEW COMPLETED	71441
Jun. 30, 2005	ASSIGNED TO LIE	71441
Jun. 24, 2005	ASSIGNED TO LIE	73797
Jun. 21, 2005	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Jun. 16, 2005	STATEMENT OF USE PROCESSING COMPLETE	73797
Jun. 01, 2005	USE AMENDMENT FILED	73797
Jun. 01, 2005	TEAS STATEMENT OF USE RECEIVED	
May 17, 2005	NOA MAILED - SOU REQUIRED FROM APPLICANT	
Feb. 22, 2005	PUBLISHED FOR OPPOSITION	
Feb. 02, 2005	NOTICE OF PUBLICATION	
Dec. 17, 2004	LAW OFFICE PUBLICATION REVIEW COMPLETED	66230
Dec. 14, 2004	ASSIGNED TO LIE	66230
Dec. 09, 2004	APPROVED FOR PUB - PRINCIPAL REGISTER	
Oct. 26, 2004	AMENDMENT FROM APPLICANT ENTERED	78288
Oct. 08, 2004	CORRESPONDENCE RECEIVED IN LAW OFFICE	78288
Oct. 08, 2004	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Jun. 30, 2004	NON-FINAL ACTION MAILED	
Jun. 28, 2004	ASSIGNED TO EXAMINER	68788
Jan. 16, 2004	PAPER RECEIVED	
Jan. 05, 2004	NEW APPLICATION ENTERED IN TRAM	

Maintenance Filings or Post Registration Information

Affidavit of Continued Use:	Section 8 - Accepted in Part
Affidavit of Incontestability:	Section 15 - Accepted
Change in	Yes

Registration:

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: Not Found

Date in Location: Sep. 09, 2011

Assignment Abstract of Title Information

Summary

**Total
Assignments:**

3

Registrant:

WPC Productions, Inc.

Assignment 1 of 3

Conveyance: CHANGE OF NAME

Reel/Frame: 3061/0111

Pages: 4

Date Recorded: Apr. 06, 2005

**Supporting
Documents:** assignment-tm-3061-0111.pdf

Assignor

Name: WPC PRODUCTIONS, INC. **Execution Date:** Nov. 11, 2004

Legal Entity Type: CORPORATION **State or Country
Where
Organized:** VIRGIN ISLANDS,
BRITISH

Assignee

Name: WPC PRODUCTIONS LIMITED

Legal Entity Type: CORPORATION **State or Country
Where
Organized:** GIBRALTAR

Address: IMOSI HOUSE #3A
1/5 IRISH TOWN, GIBRALTAR

Correspondent

**Correspondent
Name:** MARK V. B. PARTRIDGE

**Correspondent
Address:** 311 S. WACKER DRIVE, SUITE 5000
CHICAGO, IL 60606

Domestic Representative - Not Found

Assignment 2 of 3

Conveyance: NUNC PRO TUNC ASSIGNMENT EFFECTIVE 08162005

Reel/Frame: 3447/0360 **Pages:** 3

Date Recorded: Dec. 19, 2006

Supporting Documents: assignment-tm-3447-0360.pdf

Assignor

Name: WPC PRODUCTIONS LIMITED

Execution Date: Dec. 11, 2006

Legal Entity Type: CORPORATION **State or Country Where Organized:** GIBRALTAR

Assignee

Name: ELECTRAWORKS LIMITED

Legal Entity Type: CORPORATION **State or Country Where Organized:** GIBRALTAR

Address: 711 EUROPORT
GIBRALTAR, GIBRALTAR

Correspondent

Correspondent Name: MARK V. B. PARTRIDGE

Correspondent Address: 311 S. WACKER DRIVE, SUITE 5000
CHICAGO, IL 60606

Domestic Representative

Domestic Representative Name: MARK V. B. PARTRIDGE

Domestic Representative Address: 311 S. WACKER DRIVE, SUITE 5000
CHICAGO, IL 60606

Assignment 3 of 3

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: 3450/0223 **Pages:** 4

Date Recorded: Dec. 22, 2006

Supporting Documents: assignment-tm-3450-0223.pdf

Assignor

Name: ELECTRAWORKS LIMITED **Execution Date:** Dec. 11, 2006

Legal Entity Type: CORPORATION **State or Country Where Organized:** GIBRALTAR

Assignee

Name: PARTYGAMING IA LIMITED

Legal Entity Type: CORPORATION **State or Country Where Organized:** BERMUDA

Address: CLARENDON HOUSE, 2 CHURCH STREET
HAMILTON HM11, BERMUDA

Correspondent

Correspondent Name: MARK V. B. PARTRIDGE

Correspondent Address: 311 S. WACKER DRIVE, SUITE 5000
CHICAGO, IL 60606

Domestic Representative

Domestic Representative Name: MARK V. B. PARTRIDGE

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