

ESTTA Tracking number: **ESTTA578041**

Filing date: **12/20/2013**

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

Proceeding	91207899
Party	Plaintiff PartyGaming IA Limited
Correspondence Address	SCOTT W JOHNSTON MERCHANT & GOULD PC PO BOX 2910 MINNEAPOLIS, MN 55402-0910 UNITED STATES dmattessich@merchantgould.com, dockmpls@merchantgould.com
Submission	Reply in Support of Motion
Filer's Name	Danielle I. Mattessich
Filer's e-mail	dockmpls@merchantgould.com, dmattessich@merchantgould.com
Signature	/daniellemattessich/
Date	12/20/2013
Attachments	party_20131220152153.pdf(1160805 bytes)

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

PartyGaming IA Limited,)	Opposition No. 91207899
)	
Opposer,)	Mark: PARTY STAR POKER
)	
v.)	Serial No.: 85/571,885
)	
Yessenia Soffin,)	Filing Date: March 16, 2012
)	
Applicant.)	Published: July 24, 2012
)	

REPLY TO APPLICANT’S OPPOSITION TO MOTION FOR SUMMARY JUDGMENT

Opposer PartyGaming IA Limited, by and through its attorneys, herein replies to Applicant’s Opposition to the Motion for Summary Judgment.

STATEMENT OF THE FACTS¹

1. On or about November 7, 2012, Opposer instituted the instant proceeding seeking to prevent the registration of Applicant’s PARTY STAR POKER mark based on priority and likelihood of confusion grounds. Applicant filed a timely Answer to the Notice of Opposition on December 3, 2012. On or about January 17, 2013, the parties held the requisite discovery conference; Applicant served its Initial Disclosures on February 5, 2013; Opposer served its Initial Disclosures on February 15, 2013.
2. On May 31, 2013, Applicant served Discovery (Interrogatories, Document Requests and Requests for Admission) on Opposer.

¹ As noted by Applicant, the discovery response deadlines referenced in Opposer’s Motion for Summary Judgment were inadvertently misidentified. Opposer apologizes for any confusion this may have caused and recounts the relevant facts in this Reply to avoid any further confusion.

3. On June 13, 2013, Opposer served Discovery (Interrogatories, Document Requests and Requests for Admission) on Applicant.
4. On or about June 21, 2013, the parties agreed to extend the deadlines for responses to discovery (for 60 days), extending Opposer's deadline from July 18th to September 16, 2013 and extending Applicant's deadline from July 5th to September 3, ²⁰¹³. See Applicant's Opposition to Motion for Summary Judgment, Exhibit D.
5. Accordingly to Applicant's Opposition to Motion for Summary Judgment (Paragraph 9), "Applicant completed its Applicant's Responses to Opposer's First Set of Requests for Admissions on July 18, 2013 at 1:37 PM...and mailed same to counsel for Opposer via U.S. Mail."
6. On July 18, 2013 at 1:59 PM eastern time (12:59 PM central time), after Applicant supposedly already completed and mailed the responses to Opposer's counsel, Applicant's counsel called Opposer's counsel and left a voice mail message as follows:

Hey Danielle it's Matt Swyers over at The Trademark Company. We have a case together – Party Gaming Limited verses Yessina Soffin – this is regarding the PARTY POKER/PARTY STAR POKER matters. Umm...I have a relatively interesting scenario that's going on over here. Umm...we– our discovery – according to our calculations that is due back to you – I am just finalizing it right now – it's due today if I'm not mistaken. Umm..we had the...the principal paralegal, who is in charge of this file, umm...umm. gave me a Dear John letter at 9 o'clock on Sunday night...ahh...and I've actually never had this happen before – like literally no transfer of files – no...she just walked out the door, left her key on the desk, etcetera. Fascinating little story...and so as I am preparing these, I'm realizing I need to actually sit down and chat with the client one more time just to make sure that she had done her job and that I have done my job properly. So what I was hoping for – not a significant extension – a one week extension if that would be OK. I'm going to have them done by the end of today because I don't want to waste any time on this. However, I would hope that you would be willing to grant me – given this extenuating circumstance – a one week extension because I want to get you guys the right answers because I don't want to basically give you something that is based upon notes that I am like "umm OK is this you know exactly what happened? etcetera" umm..especially with this involved of a case so that we can proceed forward and figure out you know how to actually do this on the proper facts. So, if you would be willing to grant me that extension, that would

be greatly appreciative. Umm, please give me a call back at your convenience 800-906-8626 ext. 100 or just drop me an email. Thank you so much. Bye, bye” See Mattessich Decl. ¶¶ 6-7.²

7. On July 18, 2013 at 2:12 PM eastern time (1:12 PM central time), Opposer’s counsel replied to Applicant’s counsel via email as follows: “I received your voice mail message. We actually agreed to mutual extensions back in June, so I believe your responses are not due until September 16, 2013 (and I believe ours are due to you on September 3, 2013). Please let me know if you have a different understanding.” Id. at Exhibit C.
8. On July 18, at 2:23 PM eastern time (1:23 PM central time), Applicant’s counsel responded “Thank you. That works great.” Id. at Exhibit D. Again, this email exchange occurred after the time Applicant now contends he mailed the responses.
9. On September 3, 2013, Opposer and Applicant agreed to extend the respective deadlines for responding to the discovery requests another 30 days, thereby making Opposer’s responses due on October 3, 2013, and Applicant’s responses due on October 16, 2013. Id. at Exhibit E.
10. On October 3, 2013, Opposer timely served its responses to Applicant’s outstanding Admissions Requests, Interrogatory Requests, and Requests to the Production of Documents.
11. Opposer’s counsel never received any responses to its discovery requests from Applicant’s counsel, including the Requests for Admissions.
12. On October 21, 2013, Opposer’s counsel left a voice mail message for Applicant’s counsel, and followed up via email, inquiring about, among other things, whether or not Applicant had served its discovery responses since Opposer had not received any responses. As a result, Opposer also requested that Applicant email a copy of any responses that may have been served so that Opposer could review the responses and make arrangements for scheduling the

² An electronic recording of the voicemail is available.

requisite depositions. Opposer also noted the urgency of the matter as discovery was scheduled to close on November 12, 2013. Id. at Exhibit F.

13. On October 24, 2013, Opposer's counsel sent another email to Applicant's counsel requesting a reply to her voice mail message and email from October 21, 2013. Id. at Exhibit G.
14. On October 28, 2013, Opposer again contacted Applicant's counsel via telephone and left a voice mail message in an attempt to discuss the outstanding discovery issues with Applicant. Id. at Exhibit H.
15. On October 29, 2013, Opposer again contacted Applicant's counsel via telephone and left a voice mail message in an attempt to discuss the outstanding discovery issues with Applicant. Id. at Exhibit I.
16. Despite Opposer's timely submission of its Responses to Applicant's Discovery Requests and good faith efforts in trying to resolving any potential discovery disputes with Applicant, Applicant remained completely unresponsive to Opposer's communications.
17. Believing Applicant lost interest in defending this Opposition, Opposer filed its Motion for Summary Judgment on October 31, 2013.
18. Applicant's counsel never mentioned to Opposer's counsel that he had served responses to Opposer's discovery until filing its Opposition to Motion for Summary Judgment, and in fact sought at least two extensions of time to respond to the discovery after supposedly serving the responses.

Applicant's Admissions Stand Admitted By Operation of Law

If a party on which requests for admissions have been served fails to timely respond thereto, the requests will stand admitted by operation of law. Fed. R. Civ. P. 36(a)(3). While Applicant contends that it timely served its responses to Opposer's First Set of Requests for Admissions,

Applicant did not effectuate service properly and thus, Applicant's Admissions stand admitted by operation of law. Given that Applicant has admitted that Opposer has priority, that the parties' goods and services are related, and that the parties' marks are confusingly similar, there is no genuine issue of material fact as to whether Opposer is likely to be damaged by the registration of Applicant's mark to Applicant. Opposer's Motion for Summary Judgment should be granted.

The "proof of service requirement assumes actual service....Proof of service is meaningless in the absence of actual service in accordance with the statements contained in the proof of service. *Springfield, Inc. v. XD*, 2008 TTAB LEXIS 5, 2-3 (Trademark Trial & App. Bd. Feb. 7, 2008). The requirement of the rules is for proof of service, not a promise to make service at some time in the future. " *Id.*

As proof of proper service, Applicant relies on the properties page for the document entitled Applicant's Responses to Opposer's Admissions.docx which merely shows that a document entitled *Applicant's Responses to Opposer's Admissions* was electronically created on Thursday, July 18, 2013 at 12:30 PM and modified and accessed on July 18, 2013 at 1:37 PM.³ These actions merely show that Applicant may have been working on a document entitled *Applicant's Responses to Opposer's Admissions* at the noted time. Merely "accessing and modifying" an electronic document does not constitute proof of proper service as set forth in 37 CFR §2.119(a). Proper service requires actual service, but Applicant did not mail its responses to Opposer's requests for admissions on July 18, 2013.

³ Applicant's properties page also shows that Applicant's Answers to Opposer's Document Requests were modified on July 18, 2013 as 12:35 PM, and Applicant's Answers to Opposer's Interrogatories were modified on July 19, 2013 at 10:19 AM. If the Properties page were to serve as Applicant's proof of service, then it follows that Applicant mailed Applicant's Answers to Opposer's Interrogatories on July 19th after 10:19 AM. However, Opposer did not receive any discovery responses from Applicant – not ones allegedly mailed on July 18th, and not ones mailed on July 19th. Therefore, the evidence Applicant relies on to establish proper service of Applicant's admissions responses is not reliable for purposes of proving when documents were deposited into U.S. Mail.

According to Applicant, the events of July 18th transpired as follows:

- A. At 12:30PM eastern time, Applicant created a document entitled Applicant's responses to Opposer's Request for Admissions. (Applicant's Opposition to Motion for Summary Judgment, Paragraph 8).
- B. During the morning of July 18, 2013 Applicant's counsel called Opposer's counsel to request an extension of time to respond to Opposer's discovery to Applicant (Applicant's Opposition to Motion for Summary Judgment, Paragraph 5).
- C. Unsure as to whether Opposer's counsel would grant the requested extension, Applicant prepared Applicant's Responses to Opposer's First Set of Requests for Admissions. (Applicant's Opposition to Motion for Summary Judgment, Paragraph 6).
- D. Not having received a response from Opposer's counsel to the request for an extension and believing that it was under an obligation to provide responses to Opposer's First Set of Requests for Admissions to Applicant on July 18, 2013, Applicant completed its Applicant's Responses to Opposer's First Set of Requests for Admissions on July 18, 2013 at 1:37 PM and mailed the same to counsel for the Opposer via U.S. Mail. (Applicant's Opposition to Motion for Summary Judgment, Paragraph 9).
- E. Thereafter, at 2:12 PM on July 18, 2013, Opposer's counsel emailed Applicant's counsel reminding Applicant's counsel that a 60-day extension had previously been granted and that Applicant's responses were not due until September 16, 2013. (Applicant's Opposition to Motion for Summary Judgment, Paragraph 10).

However, the evidence of record shows that the following sequence of events transpired on July 18th:

- A. At 12:20PM eastern time, Applicant created a document entitled Responses to Opposer's Request for Admissions. (Applicant's Opposition to Motion for Summary Judgment, Paragraph 8).
- B. At 1:37 PM eastern time, Applicant modified and/or accessed the document *Applicant's Responses to Opposer's Admissions*. See Applicant's Opposition to Motion for Summary Judgment, Ex. B.
- C. At 1:59 PM eastern time, Applicant's counsel left a voice mail message for Opposer's counsel indicating, among other things, that he was not in a good position to respond to the outstanding discovery requests. See attached Exhibit B.
- D. At 2:12 PM eastern time, Opposer's counsel emailed Applicant's counsel informing him that an extension was previously granted and thus, no discovery responses were due at that time. See attached Exhibit C.
- E. At or around 2:23 PM eastern time, Applicant's counsel responded via email by stating "Thank you. That works great." See attached Exhibit D.

The sequence of events on July 18, 2013 can be summed up and compared as follows:

APPLICANT'S VERSION OF THE EVENTS	FACTS SUBSTANTIATED BY THE EVIDENCE OF RECORD
<p>During the morning of July 18, 2013 Applicant's counsel called Opposer's counsel to request an extension of time to respond to Opposer's discovery to Applicant (Applicant's Opposition to Motion for Summary Judgment, Paragraph 5).</p>	
<p>Unsure as to whether Opposer's counsel would grant the requested extension, Applicant prepared Applicant's Responses to Opposer's First Set of Requests for Admissions. (Applicant's Opposition to Motion for Summary Judgment, Paragraph 6).</p>	
<p>Not having received a response from Opposer's counsel to the request for an extension and believing that it was under an obligation to provide responses to Opposer's First Set of Requests for Admissions to Applicant on July 18, 2013, Applicant completed its Applicant's Responses to Opposer's First Set of Requests for Admissions on July 18, 2013 at 1:37 PM and mailed the same to counsel for the Opposer via U.S. Mail. (Applicant's Opposition to Motion for Summary Judgment, Paragraph 9).</p>	<p>At 1:37 PM eastern time, Applicant modified and/or accessed a document entitled <i>Applicant's Responses to Opposer's Admissions</i>. See Applicant's Opposition to Motion for Summary Judgment, Ex. B.</p>
	<p>At 1:59 PM eastern time, Applicant's counsel left a voice mail message for Opposer's counsel indicating, among other things, that he was not in a good position to respond to the outstanding discovery requests. See attached Exhibit B.</p>
<p>Thereafter, at 2:12 PM on July 18, 2013, Opposer's counsel emailed Applicant's counsel reminding Applicant's counsel that a 60-day extension had previously been granted and that Applicant's responses were not due until September 16, 2013. (Applicant's Opposition to Motion for Summary Judgment, Paragraph 10).</p>	<p>At 2:12 PM eastern time, Opposer's counsel emailed Applicant's counsel reminding Applicant's counsel that a 60-day extension had previously been granted and that Applicant's responses were not due until September 16, 2013. (Paragraph 10).</p>
	<p>At or around 2:23 PM eastern time, Applicant's counsel responded via email by stating "Thank you. That works great." See attached Exhibit D.</p>

If Applicant's recitation of the facts were accurate, he would have had to have discussed the discovery responses with his client, completed the written discovery responses, and mailed them – all within 13 minutes (between 1:59 PM when he left his voice mail message indicating that he was in the process of finalizing his discovery responses but needed to consult with his client, and 2:12 PM when he learned that an extension had already been granted). Moreover, Applicant's counsel failed to mention to opposing counsel, just minutes later, that he had just served the discovery responses because he was unsure that Opposer's counsel would agree to an extension. This is not plausible, especially in light of the fact that Opposer never received any discovery responses from Applicant.

Although Applicant attaches a Certificate of Service to Applicant's Responses to Opposer's First Set of Requests for Admissions dated July 18, 2013, this Certificate is rebutted by the evidence of record. See TMBP §113.04. With the confusion he faced due to his paralegal's sudden departure, Applicant's counsel thought he mailed his responses when in fact, he did not. Because the responses to Opposer's Request for Admissions were not properly served, Applicant's admissions must stand admitted by operation of law. Given that Applicant has admitted that Opposer has priority, that the parties' goods and services are related, and that the parties' marks are confusingly similar, there is no genuine issue of material facts as to whether Opposer is likely to be damaged by the registration of Applicant's mark to Applicant. Opposer's Motion for Summary Judgment should be granted.

Respectfully submitted,

PARTYGAMING IA LIMITED

By its Attorneys,

Dec. 20, 2013

Date: _____



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

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing REPLY TO APPLICANT'S
OPPOSITION TO MOTION FOR SUMMARY JUDGMENT was served upon the following attorney
for Applicant by First Class Mail, postage prepaid, this 20th day of December, 2013.

MATTHEW H SWYERS
THE TRADEMARK COMPANY
344 MAPLE AVENUE WEST, SUITE 151
VIENNA, VA 22180-5612



Scott Johnston

DECLARATION OF DANIELLE I. MATTESSICH

I, Danielle I. Mattessich, being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, declare that all statements made of my own knowledge are true, and all statements made on information and belief are believed to be true. The facts set forth herein are known personally to me or are based on company records.

1. I am currently employed at Merchant & Gould P.C. (“hereinafter “Merchant” or “my Company”), an intellectual property law firm with a principal place of business located at 80 S. 8th Street, Suite 3200, Minneapolis, MN 55412. 2. I have practiced as an attorney in the field of trademarks with Merchant since September 2005. Prior to this position, I served as an Examining Attorney at the U.S. Patent & Trademark Office from February 1999 through August 2005.

2. My job duties at Merchant include, among other things, providing trademark counseling to clients conducting business in a wide variety of industries, drafting availability and infringement opinions, developing trademark protection and enforcement strategies on a global basis, preparing and prosecuting trademark applications for federal registration, managing appeals before the Trademark Trial and Appeal Board, handling opposition and cancellation proceedings before the Trademark Trial and Appeal Board, and negotiating agreements for settlement, coexistence and licensing purposes in the U.S. and abroad.

4. Upon information and belief, Merchant uses Microsoft Outlook Voice Access for its voice mail system, and Microsoft Outlook Exchange for its email system.

5. I have been assisting Attorney Scott Johnston of Merchant, since at least as early as June 5, 2013, with the matter captioned PartyGaming IA Limited vs. Yessenia

Soffin, Opposition No. 91207899, currently pending before the Trademark Trial and Appeal Board.

6. On July 18, 2013 at 12:59 central time, I received a voice mail message from Matthew Swyers. The voice mail message stated the following:

Hey Danielle it's Matt Swyers over at The Trademark Company. We have a case together – Party Gaming Limited verses Yessina Soffin – this is regarding the PARTY POKER/PARTY STAR POKER matters. Umm...I have a relatively interesting scenario that's going on over here. Umm...we– our discovery – according to our calculations that is due back to you – I am just finalizing it right now – it's due today if I'm not mistaken. Umm..we had the...the principal paralegal, who is in charge of this file, umm...umm. gave me a Dear John letter at 9 o'clock on Sunday night...ahh...and I've actually never had this happen before – like literally no transfer of files – no...she just walked out the door, left her key on the desk, etcetera. Fascinating little story...and so as I am preparing these, I'm realizing I need to actually sit down and chat with the client one more time just to make sure that she had done her job and that I have done my job properly. So what I was hoping for – not a significant extension – a one week extension if that would be OK. I'm going to have them done by the end of today because I don't want to waste any time on this. However, I would hope that you would be willing to grant me – given this extenuating circumstance – a one week extension because I want to get you guys the right answers because I don't want to basically give you something that is based upon notes that I am like “umm OK is this you know exactly what happened? etcetera” umm..especially with this involved of a case so that we can proceed forward and figure out you know how to actually do this on the proper facts. So, if you would be willing to grant me that extension, that would be greatly appreciative. Umm, please give me a call back at your convenience 800-906-8626 ext. 100 or just drop me an email. Thank you so much. Bye, bye.”¹

7. Attached as Exhibit B is a copy of the message from Microsoft Outlook noting the time and date that Mr. Swyers left the above referenced voicemail message.

8. Attached as Exhibit C is a true and correct copy of the email I sent to Matthew Swyers on Thursday, July 18, 2013 at 1:12 PM central time.

¹ An electronic recording of the voicemail is available.

9. Attached as Exhibit D is a true and correct copy of the email Matthew Swyers sent to me on Thursday, July 18, 2013. It was delivered to my inbox at 1:23 PM central time.

10. Attached as Exhibit E is a true and correct copy of an email exchange that I was copied on between Scott Johnston and Matthew Swyers. The initial email was sent by Scott Johnston to Matthew Swyers on September 3, 2013 at 2:34 PM central time. The responding email was sent by Matthew Swyers to Scott Johnston on September 3, 2013 at 4:00 PM central time.

11. Attached as Exhibit F is a true and correct copy of an email exchange between Matthew Swyers and me. The initial email was sent by Matthew Swyers to me on October 16, 2013 at 1:31 PM central time. The responding email, also in follow up to a voicemail message I left for Matthew Swyers, was sent by me to Matthew Swyers on October 21, 2013 at 3:37 PM central time.

12. Attached as Exhibit G is a true and correct copy of an email I sent to Matthew Swyers on October 24, 2013 at 3:11 PM central time.

13. Attached as Exhibit H is a true and correct copy of a document I drafted to Merchant's internal electronic file noting that I called Matthew Swyers on October 28, 2013 at 12:57 PM central time and left him a voice mail message in follow up to my prior communications that remained unanswered.

14. Attached as Exhibit I is a true and correct copy of a document I drafted to Merchant's internal electronic file noting that I called Matthew Swyers on October 29, 2013 at 2:56 PM central time and left him a voice mail message in follow up to my prior communications that remained unanswered.

Dated: 12/20/2013


Signature

EXHIBIT B

Danielle I. Mattessich

From: Danielle I. Mattessich
Sent: Thursday, December 12, 2013 12:27 PM
To: 13367.0017usta.active@ef.merchantgould.com
Subject: SWYERS: Voice Mail from 9198615271 (1 minute and 40 seconds) JULY 18, 2013
Attachments: 9198615271 (1 minute and 40 seconds) Voice Mail.mp3

From: Microsoft Outlook **On Behalf Of** 9198615271
Sent: Thursday, July 18, 2013 12:59 PM
To: Danielle I. Mattessich
Subject: Voice Mail from 9198615271 (1 minute and 40 seconds)

Voice Mail Preview isn't available for this message.

The message is too long.

You received a voice mail from 9198615271

Caller-Id: 9198615271

EXHIBIT C

Danielle I. Mattessich

From: Danielle I. Mattessich
Sent: Thursday, July 18, 2013 1:12 PM
To: 'mswyers@thetrademarkcompany.com'
Cc: 17339.0009US01.active@ef.merchantgould.com; SJohnston@merchantgould.com
Subject: Yessenia Soffin vs. PartyGaming (Opp. No. 91207899)

RE: Yessenia Soffin vs. PartyGaming (Opp. No. 91207899)

Matt,

I received your voice mail message. We actually agreed to mutual extensions back in June, so I believe your responses are not due until September 16, 2013 (and I believe ours are due to you on September 3, 2013). Please let me know if you have a different understanding.

Danielle I. Mattessich

Attorney at Law
Merchant & Gould P.C.
3200 IDS Center
80 South 8th Street
Minneapolis, MN 55402-2215
USA

Telephone (612) 336-4725

Fax (612) 332-9081

Email dmattessich@merchantgould.com

www.merchantgould.com

Assistant: Amanda Avery | aavery@merchantgould.com | (612) 336-4712

GUARDIANS OF GREAT IDEAS™

Atlanta | Denver | Knoxville | Madison | **Minneapolis** | New York | Seattle | Washington D.C.

Note: This e-mail message is confidential and may be privileged or otherwise protected by law. If you are not the intended recipient, please: (1) reply via e-mail to sender; (2) destroy this communication entirely, including deletion of all associated text files from all individual and network storage devices; and (3) refrain from copying or disseminating this communication by any means whatsoever. Thank you.

EXHIBIT D

Danielle I. Mattessich

From: Matthew H. Swyers <mswyers@thetrademarkcompany.com>
Sent: Thursday, July 18, 2013 1:23 PM
To: Danielle I. Mattessich
Cc: 17339.0009US01.active@ef.merchantgould.com; Scott W. Johnston
Subject: RE: Yessenia Soffin vs. PartyGaming (Opp. No. 91207899)

Thank you.

That works great.

Matt

From: Danielle I. Mattessich [<mailto:DMattessich@merchantgould.com>]
Sent: Thursday, July 18, 2013 2:12 PM
To: mswyers@thetrademarkcompany.com
Cc: 17339.0009US01.active@ef.merchantgould.com; Scott W. Johnston
Subject: Yessenia Soffin vs. PartyGaming (Opp. No. 91207899)

RE: Yessenia Soffin vs. PartyGaming (Opp. No. 91207899)

Matt,

I received your voice mail message. We actually agreed to mutual extensions back in June, so I believe your responses are not due until September 16, 2013 (and I believe ours are due to you on September 3, 2013). Please let me know if you have a different understanding.

Danielle I. Mattessich

Attorney at Law
Merchant & Gould P.C.
3200 IDS Center
80 South 8th Street
Minneapolis, MN 55402-2215
USA

Telephone (612) 336-4725
Fax (612) 332-9081
Email dmattessich@merchantgould.com
www.merchantgould.com

Assistant: Amanda Avery | aavery@merchantgould.com | (612) 336-4712

GUARDIANS OF GREAT IDEAS[®]

Atlanta | Denver | Knoxville | Madison | **Minneapolis** | New York | Seattle | Washington D.C.

Note: This e-mail message is confidential and may be privileged or otherwise protected by law. If you are not the intended recipient, please: (1) reply via e-mail to sender; (2) destroy this communication entirely, including deletion of all associated text files from all individual and network storage devices; and (3) refrain from copying or disseminating this communication by any means whatsoever. Thank you.

EXHIBIT E

Danielle I. Mattessich

From: Matthew H. Swyers <mswyers@thetrademarkcompany.com>
Sent: Tuesday, September 03, 2013 4:00 PM
To: Scott W. Johnston
Cc: Danielle I. Mattessich; 13367.0017usta.active@ef.merchantgould.com
Subject: RE: Party Gaming IA Limited v. Yessina Soffin -- PARTY STAR POKER opposition

Scott:

Sorry for the delay in my response.

You may have the additional 30 days to respond to our discovery provided you will also file with the Board a consent motion to extend all dates in the matter by 30 days.

Please let me know if that is agreeable. If so, go ahead and file the radio-button motion with the Board and just serve me via email.

Thanks,

Matthew H. Swyers

The Trademark Company, PLLC
344 Maple Avenue West, PBM 151
Vienna, VA 22180 USA
Phone (800) 906-8626 x100
Facsimile (270) 477-4574
www.TheTrademarkCompany.com



NOTICE: This electronic mail message and all attachments transmitted with it are intended solely for the use of the addressee and may contain legally privileged and confidential information. If the reader of this message is not the intended recipient, or if an employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination, distribution, copying, or other use of this message or its attachments is strictly prohibited. If you have received this message in error, please notify the sender immediately by replying to this message and please delete it from your computer.

The Trademark Company PLLC is a Virginia Professional Limited Liability Company, Matthew H. Swyers, Esq. principal. Principal admitted to practice law in the Commonwealth of Virginia and the District of Columbia. Practice limited to the federal protection of trademarks and copyrights.

From: Scott W. Johnston [<mailto:SJohnston@merchantgould.com>]
Sent: Tuesday, September 03, 2013 2:34 PM
To: mswyers@TheTrademarkCompany.com
Cc: Danielle I. Mattessich; 13367.0017usta.active@ef.merchantgould.com
Subject: Party Gaming IA Limited v. Yessina Soffin -- PARTY STAR POKER opposition

Matthew,

I just left you a voicemail asking for additional time to respond to the discovery responses that are due today. I thought I was going to be able to complete them but the IP person at the client just got married and is on her honeymoon right

now and the rest of Europe pretty much took August off so I am not done with them yet. Will you consent to extend dates 30 days? Please let me know as soon as possible. I will certainly consent to extend your response deadline similarly. However, if I cannot get your consent I will simply file a motion asking for an extension. I look forward to hearing from you.

Scott W. Johnston

Merchant & Gould P.C.
3200 IDS Center
80 South 8th Street
Minneapolis, MN 55402-2215
USA

Telephone (612) 371-5274

Fax (612) 332-9081

www.merchantgould.com

GUARDIANS OF GREAT IDEAS

Atlanta | Denver | Knoxville | Madison | **Minneapolis** | New York | Seattle | Washington D.C.

Note: This e-mail message is confidential and may be privileged or otherwise protected by law. If you are not the intended recipient, please: (1) reply via e-mail to sender; (2) destroy this communication entirely, including deletion of all associated text files from all individual and network storage devices; and (3) refrain from copying or disseminating this communication by any means whatsoever. Thank you.

EXHIBIT F

Danielle I. Mattessich

From: Danielle I. Mattessich <DMattessich@merchantgould.com>
Sent: Monday, October 21, 2013 3:37 PM
To: Matthew H. Swyers
Cc: 13367.0017usta.active@ef.merchantgould.com; Scott W. Johnston
Subject: RE: Party Gaming IA Limited v. Yessina Soffin -- PARTY STAR POKER opposition

Hi Matthew,

In follow up to my voicemail message, I wanted to shoot you a quick email listing the various matters I was inquiring about –

1. Did you receive our client's signed verification page (to the Interrogatory Responses)?
2. Did you receive our documents?
3. Have you sent your discovery to us? If so, would you mind emailing us a copy so that we can make arrangements for any additional depositions we may need to take.
4. We would like to schedule a deposition of Yessina Soffin and William Soffin. Note, there may be other people that we will need to depose once we review your discovery responses. Nevertheless, can you provide us with some availability dates and a convenient location for these depositions.

We look forward to receiving your reply.

Danielle Mattessich

From: Matthew H. Swyers [<mailto:mswyers@thetrademarkcompany.com>]
Sent: Wednesday, October 16, 2013 1:31 PM
To: Scott W. Johnston
Cc: Danielle I. Mattessich; 13367.0017usta.active@ef.merchantgould.com
Subject: Party Gaming IA Limited v. Yessina Soffin -- PARTY STAR POKER opposition

Scott:

Please permit this correspondence to initiate our good faith efforts to resolve a potential discovery dispute concerning your client's responses to our client's discovery. I note that the interrogatories were not verified by your client. Kindly let me know when we may expect to receive the same. Also, I note that no documents were produced in conjunction with the responses to requests for production of documents. Kindly let me know when we may expect to receive the same as well.

Thank you,

Matthew H. Swyers

The Trademark Company, PLLC
344 Maple Avenue West, PBM 151
Vienna, VA 22180 USA
Phone (800) 906-8626 x100
Facsimile (270) 477-4574
www.TheTrademarkCompany.com



NOTICE: This electronic mail message and all attachments transmitted with it are intended solely for the use of the addressee and may contain legally privileged and confidential information. If the reader of this message is not the intended recipient, or if an employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination, distribution, copying, or other use of this message or its attachments is strictly prohibited. If you have received this message in error, please notify the sender immediately by replying to this message and please delete it from your computer.

The Trademark Company PLLC is a Virginia Professional Limited Liability Company, Matthew H. Swyers, Esq. principal. Principal admitted to practice law in the Commonwealth of Virginia and the District of Columbia. Practice limited to the federal protection of trademarks and copyrights.

EXHIBIT G

Danielle I. Mattessich

From: Danielle I. Mattessich <DMattessich@merchantgould.com>
Sent: Thursday, October 24, 2013 3:11 PM
To: Matthew H. Swyers
Cc: 13367.0017usta.active@ef.merchantgould.com; Scott W. Johnston
Subject: RE: Party Gaming IA Limited v. Yessina Soffin -- PARTY STAR POKER opposition

Hi Matthew,

I wanted to follow up with you regarding my email from earlier this week on the PARTY STAR POKER opposition as discovery closes on November 12th and we still have a lot to do. Please let us know the status of the matters below at your earliest convenience.

Thanks so much (and feel free to call me with any questions). Have a great afternoon!

Danielle

From: Danielle I. Mattessich
Sent: Monday, October 21, 2013 3:37 PM
To: 'Matthew H. Swyers'
Cc: 13367.0017usta.active@ef.merchantgould.com; SJohnston@merchantgould.com
Subject: RE: Party Gaming IA Limited v. Yessina Soffin -- PARTY STAR POKER opposition

Hi Matthew,

In follow up to my voicemail message, I wanted to shoot you a quick email listing the various matters I was inquiring about –

1. Did you receive our client's signed verification page (to the Interrogatory Responses)?
2. Did you receive our documents?
3. Have you sent your discovery to us? If so, would you mind emailing us a copy so that we can make arrangements for any additional depositions we may need to take.
4. We would like to schedule a deposition of Yessina Soffin and William Soffin. Note, there may be other people that we will need to depose once we review your discovery responses. Nevertheless, can you provide us with some availability dates and a convenient location for these depositions.

We look forward to receiving your reply.

Danielle Mattessich

From: Matthew H. Swyers [<mailto:mswyers@thetrademarkcompany.com>]
Sent: Wednesday, October 16, 2013 1:31 PM
To: Scott W. Johnston
Cc: Danielle I. Mattessich; 13367.0017usta.active@ef.merchantgould.com
Subject: Party Gaming IA Limited v. Yessina Soffin -- PARTY STAR POKER opposition

Scott:

EXHIBIT H

Danielle I. Mattessich

From: Danielle I. Mattessich <DMattessich@merchantgould.com>
Sent: Monday, October 28, 2013 1:00 PM
To: 13367.0017usta.active@ef.merchantgould.com
Cc: Scott W. Johnston
Subject: NOTE TO FILE: Party Gaming IA Limited v. Yessina Soffin -- PARTY STAR POKER opposition

Call to Matthew Swyers on Oct. 28, 2013 at 12:57 (central time). Left voice mail message asking for a follow up to my prior emails.

From: Danielle I. Mattessich [<mailto:DMattessich@merchantgould.com>]
Sent: Thursday, October 24, 2013 3:11 PM
To: Matthew H. Swyers
Cc: 13367.0017usta.active@ef.merchantgould.com; Scott W. Johnston
Subject: RE: Party Gaming IA Limited v. Yessina Soffin -- PARTY STAR POKER opposition

Hi Matthew,

I wanted to follow up with you regarding my email from earlier this week on the PARTY STAR POKER opposition as discovery closes on November 12th and we still have a lot to do. Please let us know the status of the matters below at your earliest convenience.

Thanks so much (and feel free to call me with any questions). Have a great afternoon!

Danielle

From: Danielle I. Mattessich
Sent: Monday, October 21, 2013 3:37 PM
To: 'Matthew H. Swyers'
Cc: 13367.0017usta.active@ef.merchantgould.com; SJohnston@merchantgould.com
Subject: RE: Party Gaming IA Limited v. Yessina Soffin -- PARTY STAR POKER opposition

Hi Matthew,

In follow up to my voicemail message, I wanted to shoot you a quick email listing the various matters I was inquiring about –

1. Did you receive our client's signed verification page (to the Interrogatory Responses)?
2. Did you receive our documents?
3. Have you sent your discovery to us? If so, would you mind emailing us a copy so that we can make arrangements for any additional depositions we may need to take.
4. We would like to schedule a deposition of Yessina Soffin and William Soffin. Note, there may be other people that we will need to depose once we review your discovery responses. Nevertheless, can you provide us with some availability dates and a convenient location for these depositions.

We look forward to receiving your reply.

EXHIBIT I

Danielle I. Mattessich

From: Danielle I. Mattessich <DMattessich@merchantgould.com>
Sent: Tuesday, October 29, 2013 2:58 PM
To: 13367.0017usta.active@ef.merchantgould.com
Cc: Scott W. Johnston
Subject: NOTE TO FILE: Party Gaming IA Limited v. Yessina Soffin -- PARTY STAR POKER opposition

Call to Matthew Swyers on Oct. 29, 2013 at 2:56 (central time). Left voice mail message asking for a follow up to my prior emails and phone calls.

From: Danielle I. Mattessich [mailto:DMattessich@merchantgould.com]
Sent: Monday, October 28, 2013 1:00 PM
To: 13367.0017usta.active@ef.merchantgould.com
Cc: Scott W. Johnston
Subject: NOTE TO FILE: Party Gaming IA Limited v. Yessina Soffin -- PARTY STAR POKER opposition

Call to Matthew Swyers on Oct. 28, 2013 at 12:57 (central time). Left voice mail message asking for a follow up to my prior emails.

From: Danielle I. Mattessich [mailto:DMattessich@merchantgould.com]
Sent: Thursday, October 24, 2013 3:11 PM
To: Matthew H. Swyers
Cc: 13367.0017usta.active@ef.merchantgould.com; Scott W. Johnston
Subject: RE: Party Gaming IA Limited v. Yessina Soffin -- PARTY STAR POKER opposition

Hi Matthew,

I wanted to follow up with you regarding my email from earlier this week on the PARTY STAR POKER opposition as discovery closes on November 12th and we still have a lot to do. Please let us know the status of the matters below at your earliest convenience.

Thanks so much (and feel free to call me with any questions). Have a great afternoon!

Danielle

From: Danielle I. Mattessich
Sent: Monday, October 21, 2013 3:37 PM
To: 'Matthew H. Swyers'
Cc: 13367.0017usta.active@ef.merchantgould.com; SJohnston@merchantgould.com
Subject: RE: Party Gaming IA Limited v. Yessina Soffin -- PARTY STAR POKER opposition

Hi Matthew,

In follow up to my voicemail message, I wanted to shoot you a quick email listing the various matters I was inquiring about –

1. Did you receive our client's signed verification page (to the Interrogatory Responses)?
2. Did you receive our documents?
3. Have you sent your discovery to us? If so, would you mind emailing us a copy so that we can make arrangements for any additional depositions we may need to take.
4. We would like to schedule a deposition of Yessina Soffin and William Soffin. Note, there may be other people that we will need to depose once we review your discovery responses. Nevertheless, can you provide us with some availability dates and a convenient location for these depositions.

We look forward to receiving your reply.

Danielle Mattessich

From: Matthew H. Swyers [<mailto:mmswyers@thetrademarkcompany.com>]
Sent: Wednesday, October 16, 2013 1:31 PM
To: Scott W. Johnston
Cc: Danielle I. Mattessich; 13367.0017usta.active@ef.merchantgould.com
Subject: Party Gaming IA Limited v. Yessina Soffin -- PARTY STAR POKER opposition

Scott:

Please permit this correspondence to initiate our good faith efforts to resolve a potential discovery dispute concerning your client's responses to our client's discovery. I note that the interrogatories were not verified by your client. Kindly let me know when we may expect to receive the same. Also, I note that no documents were produced in conjunction with the responses to requests for production of documents. Kindly let me know when we may expect to receive the same as well.

Thank you,

Matthew H. Swyers

The Trademark Company, PLLC
344 Maple Avenue West, PBM 151
Vienna, VA 22180 USA
Phone (800) 906-8626 x100
Facsimile (270) 477-4574
www.TheTrademarkCompany.com



NOTICE: This electronic mail message and all attachments transmitted with it are intended solely for the use of the addressee and may contain legally privileged and confidential information. If the reader of this message is not the intended recipient, or if an employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination, distribution, copying, or other use of this message or its attachments is strictly prohibited. If you have received this message in error, please notify the sender immediately by replying to this message and please delete it from your computer.

The Trademark Company PLLC is a Virginia Professional Limited Liability Company, Matthew H. Swyers, Esq. principal. Principal admitted to practice law in the Commonwealth of Virginia and the District of Columbia. Practice limited to the federal protection of trademarks and copyrights.