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

Proceeding	91207899
Party	Plaintiff PartyGaming IA Limited
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Date	11/13/2014
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**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

AMENDED NOTICE OF OPPOSITION

PartyGaming IA Limited (hereinafter "Opposer"), a Bermuda corporation with an address at Clarendon House, 2 Church Street, Hamilton HM11, Bermuda, believes that it will be damaged by registration of the mark PARTY STAR POKER shown in Application Serial No. 85/571,885 filed by Yessenia Soffin (hereinafter "Applicant") on March 16, 2012 and hereby opposes the same. The grounds for opposition are as follows:

1. Applicant seeks registration of PARTY STAR POKER on the Principal Register for "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" in Class 41.

2. Applicant's mark was published for opposition on July 24, 2012. Opposer filed and the Board approved an extension of time to oppose Applicant's mark until November 21, 2012. This Notice of Opposition is timely filed.

3. bwin.party digital entertainment plc is the ultimate parent company of Opposer and other companies within the bwin.party group. Opposer licenses the use of the trademarks

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. Applicant testified that she knew nothing regarding the PARTY STAR POKER mark or business prior to the day prior to her deposition.

14. Applicant had no knowledge of anything related to the case, the business, or the mark PARTY STAR POKER.

15. Applicant indicated that she was partners with her husband, Will Jordan, and that he handled everything related to the mark and business.

16. Will Jordan testified that he was responsible for every aspect of the trademark filing and the business associated with PARTY STAR POKER.

17. Both Applicant and Will Jordan testified that they were partners.

18. Will Jordan testified that his wife's sole responsibility with respect to the business and mark was finance.

19. Based upon the testimony of Applicant and Will Jordan, Applicant is not a bona fide applicant for the mark.

20. Applicant had no intention to use the mark PARTY STAR POKER.

21. Applicant never used the mark PARTY STAR POKER.

22. Applicant had no knowledge of any use and had never even seen any of the uses of the mark PARTY STAR POKER.

23. Applicant is not the owner of the mark PARTY STAR POKER.

24. Upon information and belief, Will Jordan is the true owner of the mark.

25. If Will Jordan is not the sole owner of the mark, the owner of the mark is a partnership of Will Jordan and Applicant.

26. The application is void ab initio because Will Jordan is not listed as the Applicant.

27. Alternatively, the application is void ab initio because Will Jordan and Yessina Soffin are not listed partners as the Applicant.

28. The application is void as Applicant had no intention to use the mark PARTY STAR POKER.

29. The application is void for fraud as Applicant has not used the mark PARTY STAR POKER despite being filed based upon actual use in commerce.

30. 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

Gregory Golla

MERCHANT & GOULD P.C.

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Date: 11-12-2014

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 13 th day of November, 2014:

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



Gregory Golla