

ESTTA Tracking number: **ESTTA603684**

Filing date: **05/12/2014**

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	Nevada Property 1 LLC
Granted to Date of previous extension	05/11/2014
Address	3708 Las Vegas Boulevard South Las Vegas, NV 89109 UNITED STATES
Attorney information	Michael J. McCue Lewis Roca Rothgerber LLP Ste. 6003993 Howard Hughes Parkway Las Vegas, NV 89169 UNITED STATES TRADEMARKS-LASVEGAS@LRRLAW.COM, MMCCUE@LRRLAW.COM Phone:702.949.8200

Applicant Information

Application No	85793733	Publication date	11/12/2013
Opposition Filing Date	05/12/2014	Opposition Period Ends	05/11/2014
Applicant	Hearst Communications, Inc. 300 W. 57th Street New York, NY 10019 UNITED STATES		

Goods/Services Affected by Opposition

Class 028. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Slot machines, lottery tickets and scratch cards for playing lottery games

Grounds for Opposition

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

U.S. Registration No.	3938873	Application Date	01/11/2010
Registration Date	03/29/2011	Foreign Priority Date	NONE
Word Mark	THE COSMOPOLITAN OF LAS VEGAS		

Design Mark	THE COSMOPOLITAN OF LAS VEGAS
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 2010/12/15 First Use In Commerce: 2010/12/15 Casinos

U.S. Registration No.	3955619	Application Date	01/26/2010
Registration Date	05/03/2011	Foreign Priority Date	NONE
Word Mark	C THE COSMOPOLITAN OF LAS VEGAS		
Design Mark			
Description of Mark	The mark consists of three overlapping and stylized letter "C"s to the left of the words "THE COSMOPOLITAN OF LAS VEGAS".		
Goods/Services	Class 041. First use: First Use: 2010/12/15 First Use In Commerce: 2010/12/15 Casinos		

Attachments	77909504#TMSN.jpeg(bytes) 77920748#TMSN.jpeg(bytes) cosmo(28).pdf(38240 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	/Michael J. McCue/
Name	Michael J. McCue
Date	05/12/2014

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

NEVADA PROPERTY 1 LLC,)	Mark:	COSMOPOLITAN
)		
Opposer,)		
)		
vs.)		
)	Serial No.	85/793,733
HEARST COMMUNICATIONS, INC.,)		
)		
Applicant.)	Published:	November 12, 2013
)		

NOTICE OF OPPOSITION

Pursuant to 15 U.S.C. § 1063(a), Opposer Nevada Property 1 LLC (“Opposer”), a Delaware limited liability company, hereby opposes trademark application Serial No. 85/793,733 (the “733 Application”) for the COSMOPOLITAN mark filed by Applicant Hearst Communications, Inc., a Delaware corporation (“Applicant”) and published in the *Official Gazette* on November 12, 2013. As grounds for this opposition, Opposer alleges the following:

1. Opposer owns and operates a luxury resort hotel and casino on the Las Vegas Strip known as The Cosmopolitan of Las Vegas. The Cosmopolitan of Las Vegas has received several awards and recognition, including recognition by *Travel + Leisure* as one of the world’s best hotels.

2. Opposer owns common law rights in and federal trademark registrations for THE COSMOPOLITAN OF LAS VEGAS word mark (U.S. Reg. No. 3,938,873) and THE COSMOPOLITAN OF LAS VEGAS design mark (U.S. 3,955,619) for casino services in International Class 41 (collectively, “THE COSMOPOLITAN Marks”). Opposer’s trademark registrations for THE COSMOPOLITAN Marks are valid and subsisting.

3. Opposer has continuously used THE COSMOPOLITAN Marks for casino services since December 2010.

4. Opposer's casino services include, among other things, table games and more than 1,400 slot machines. Slot machines are closely related to casino services or, at a minimum, are within the natural zone of expansion of casino operators, including Opposer.

5. On December 4, 2012, Applicant filed the '733 Application based on intent to use the COSMOPOLITAN mark for slot machines, lottery tickets and scratch cards for playing lottery games in International Class 28.

6. Applicant filed the '733 Application after Opposer's date of first use of and Opposer's registration of THE COSMOPOLITAN Marks.

7. Applicant's registration and use of the COSMOPOLITAN mark for slot machines, lottery tickets and scratch cards is likely to cause confusion, cause mistake or to deceive consumers within the meaning of 15 U.S.C. § 1052(d). As a result, Opposer is likely to be injured by Applicant's registration of the COSMOPOLITAN mark.

WHEREFORE, Opposer requests that the opposition be sustained and that registration of the '733 Application be refused.

Please process payment of the \$300 fee required by 37 C.F.R. § 2.6(a)(17) from deposit account No. 502847.

Dated this 12th day of May, 2014

LEWIS ROCA ROTHGERBER LLP

By: 

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Attorneys for Opposer

CERTIFICATE OF SERVICE

I, Tammy L. Bunch, hereby certify that a true and accurate copy of the foregoing **NOTICE OF OPPOSITION** has been served by mailing a copy on May 12, 2014, via First Class Mail postage prepaid to:

Bridgette Fitzpatrick
Hearst Corporation
300 W 57TH Street, Floor 42
New York, New York 10019-3790

/s/ Tammy L. Bunch
Tammy L. Bunch
An employee of Lewis Roca Rothgerber LLP