

ESTTA Tracking number: **ESTTA609621**

Filing date: **06/12/2014**

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	Kiss Catalog, Ltd.
Granted to Date of previous extension	09/03/2014
Address	c/o Joseph Young Associates, Ltd. 18 Hook Mountain Road, Suite 203 Pine Brook, NJ 07058 UNITED STATES
Attorney information	William H. Cox Gordon, Herlands, Randolph & Cox LLP 355 Lexington Avenue New York, NY 10017 UNITED STATES wcox@gordonherlands.com Phone:212-986-1200

Applicant Information

Application No	86024407	Publication date	05/06/2014
Opposition Filing Date	06/12/2014	Opposition Period Ends	09/03/2014
International Registration No.	NONE	International Registration Date	NONE
Applicant	Aristocrat Technologies Australia Pty Ltd. Building A, Pinnacle Office Park North Ryde, NSW, 2113 AUSTRALIA		

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: Electronic gaming machines, namely, devices which accept a wager

Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1155932	Application Date	10/24/1979
Registration Date	05/26/1981	Foreign Priority	NONE

		Date	
Word Mark	KISS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1974/02/08 First Use In Commerce: 1974/02/08 Musical Entertainment Services Renderedby a Group		

U.S. Registration No.	4009074	Application Date	12/23/2010
Registration Date	08/09/2011	Foreign Priority Date	NONE

Word Mark	KISS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1974/02/18 First Use In Commerce: 1974/02/18 sound recordings featuring music; soundand video recordings featuring music and musical performances		

U.S. Registration No.	3411939	Application Date	02/02/2005
Registration Date	04/15/2008	Foreign Priority Date	NONE

Word Mark	KISS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2006/05/25 First Use In Commerce: 2006/05/25 CURRENCY AND CREDIT OPERATED SLOT MACHINES AND GAMING DEVICES, NAMELY, GAMING MACHINES FOR USE IN GAMING ESTAB-		

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Attachments	85205034#TMSN.jpeg(bytes) 76630294#TMSN.gif(bytes) karmaskiss.notice.opposition.pdf(202336 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	/peter j. vranum/
Name	Peter J. Vranum
Date	06/12/2014

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

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KISS CATALOG, LTD.,)
)
Opposer,)
)
v.)
)
ARISTOCRAT TECHNOLOGIES)
AUSTRALIA PTY LTD.,)
)
Applicant.)
-----X

Opposition
No. _____

Re: Trademark Application:
Applicant: Aristocrat Technologies Australia Pty Ltd., an Australian corporation
Mark: KARMA'S KISS
Serial No. 86024407
Filed: July 31, 2013
For: Electronic gaming machines, namely, devices which accept a wager
Class: 28
Published: May 6, 2014

NOTICE OF OPPOSITION

In the matter of an application for registration of the mark "KARMA'S KISS"
Serial No. 86024407 for "Electronic gaming machines, namely, devices which
accept a wager " (International Class 28), filed under Sections 1B and 44D of the
Trademark Act on July 31, 2013 by Aristocrat Technologies Australia Pty Ltd., an
Australian corporation with an address of Building A, Pinnacle Office Park, 85
Epping Road, North Ryde, NSW Australia 2113 (hereinafter called "Applicant"),
published May 6, 2014, Kiss Catalog, Ltd., a corporation organized under the laws

of the State of New York, having an address c/o Joseph Young Associates, Ltd., 18 Hook Mountain Road Pine Brook, Suite 203, New Jersey 07058 (hereinafter called "Opposer"), believes that it would be damaged by such registration and hereby opposes the same.

The grounds for opposition, on information and belief, are as follows:

1. Opposer, Kiss Catalog, Ltd., is the owner of the intellectual property rights, including federal and common law trademark rights, pertaining to the musical group KISS, and as such has been engaged in the production of musical entertainment services and in merchandising the term KISS and variations thereof, and the likenesses of the band members on various goods, including jewelry, comic books, photographs, posters, toys, prerecorded media featuring musical performances, clothing and apparel items and currency and credit operated slot machines and gaming devices, namely, gaming machines for use in gaming establishments. Opposer has also used the mark KISS and variations thereof in connection with services, including online services, chat rooms and restaurant services.

2. Petitioner has used and presently uses the marks "KISS" and variations thereof in connection with the design, sale and distribution of the goods and services identified in paragraph 1.

3. Petitioner is the owner of the following registrations: "KISS" (Registration No. 1,155,932 dated May 26, 1981); "KISS" (Registration No. 4,009,074 dated August 9, 2011); and "KISS" (Registration No. 3,411,939 dated April 15, 2008) which registrations are valid, subsisting and unrevoked.

4. Since prior to the date of filing of Application Serial No. 86024407 Opposer did use and has continuously used in interstate commerce the mark "KISS" and variations thereof in connection with the various products and services described in paragraph 1 herein extensively throughout the United States. By reason of such extensive use and promotion, Opposer has attained an enviable reputation for high standards of quality, and the mark KISS and variations thereof have become distinctive of and associated in the minds of the trade and purchasing public with the Opposer.

5. Both Applicant's mark and Opposer's mark contain the term "KISS." Applicant's mark is different only by the inclusion of the term "KARMA" which does not serve to distinguish Applicant's mark. Because the two marks are nearly identical, both have a similar commercial impression. Furthermore, the services of the Applicant are related and/or identical to the various services and products of Opposer as described in paragraph 1 herein, and are likely to move within the same channels of trade and be purchased by the same class of purchaser. As such, Applicant's mark is likely, when used in association with the services of Applicant, to cause confusion or to deceive purchasers in the mistaken belief that the services of Applicant emanate from, are offered for sale, or are sold by Opposer or under Opposer's approval, sponsorship or control, all to the great damage of Opposer.

6. Opposer believes that Applicant's selection of the mark KARMA'S KISS may take advantage of the nationwide reputation of Opposer and its mark KISS, and combination marks featuring the term KISS, and may take advantage of

the goodwill of Opposer gained by extensive and persistent advertising and expenditures of large sums of money therefore, and if continued in commerce, will be likely to confuse, mislead or deceive the trade and members of the public in suggesting to them that Applicant's mark identifies goods and/or services sold, sponsored or approved by Opposer or to suggest falsely a trade connection between Opposer and Applicant.

7. If specified services of Applicant are inferior in quality, there will be irreparable injury to Opposer's valuable goodwill and its registered marks. Furthermore, the use and registration of the mark KARMA'S KISS will dilute the distinctive character of Opposer's valuable registered trademarks, and combination marks featuring the term KISS.

WHEREFORE, Opposer, by and through its counsel, respectfully requests that the mark sought to be registered by Applicant be refused and that a Notice of Opposition be sustained.

Please recognize William H. Cox, William B. Randolph and Peter J. Vranum of the firm of Gordon, Herlands, Randolph & Cox LLP, all members of the Bar of the State of New York, 355 Lexington Avenue, New York, New York 10017, as attorneys for Opposer.

Respectfully submitted,

GORDON, HERLANDS,
RANDOLPH & COX, LLP



Peter J. Vranum, Esq.
Attorneys for Opposer
355 Lexington Avenue
New York, New York 10017
(212) 986-1200

CERTIFICATE OF SERVICE

I hereby certify that I caused a true copy of the foregoing Opposer's Notice of Opposition to be served by First Class mail, postage prepaid, on June 12, 2014, on:

Aristocrat Technologies Australia Pty Ltd.
Building A. Pinnacle Office Park
85 Epping Road
North Ryde, NSW 2113
Australia

Abiola Shobola
Aristocrat Technologies, Inc.
7230 Amigo Street
Las Vegas, NV 89119-4306



Peter J. Vranum