

ESTTA Tracking number: **ESTTA632125**

Filing date: **10/10/2014**

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

Proceeding	91218268
Party	Defendant Cayle N. Rose
Correspondence Address	CAYLE N ROSE 11145 ALDEN DR GULFPORT, MS 39503 UNITED STATES caylerose@mail.com
Submission	Answer
Filer's Name	Cayle Rose
Filer's e-mail	caylerose@mail.com
Signature	/Cayle Rose/
Date	10/10/2014
Attachments	MINECRAP Answer - Serviced to Opposition.pdf(29453 bytes) ANSWER 2 - Serviced to Opposition.pdf(28030 bytes)

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

Mojang Synergies AB v. Rose, Cayle, N.

Opposition No. 91218268

ANSWER

Opposer's claim of reproducing their Brand and their Game as "MINECRAP" is invalid.

On the defendant's website (<http://www.minecrap.co/>), a disclaimer explicitly notes that if a user wants to play on the defendant's ("MINECRAP") server, the user must first purchase an account from <http://www.minecraft.net>. Users are unable to play on the defendant's server without registering an account with MOJANG, and purchasing the game, Minecraft, for \$26.95 from MOJANG. MOJANG's business model is for server owners to host the game "Minecraft", so that online users can purchase their game in order to play on these privately owned servers. The defendant has chosen to name his server "MINECRAP", there are over 1,000,000+ privately owned "Minecraft" servers online (<http://www.planetminecraft.com/resources/servers/>), generating MOJANG business, and like the defendant, all servers owners give their individual server a name (a community server brand name, like the defendant has).

Examples of community server brand names:

MineLife - (<http://www.planetminecraft.com/server/minelife---vanilla/>)

MineSlam - (<http://www.planetminecraft.com/server/mineslam-network/>)

GuildCraft - (<http://guildcraft.org/>)

Opposer's claim of misleading users to confuse "MINECRAP" for "Minecraft" is invalid.

When a user wants to search for the defendant's server, the user searches for "MINECRAP", there is no confusion between the names "MINECRAP" and "Minecraft". MOJANG does not host Minecraft servers as their business model allows and strongly encourages server owners to host the game online itself; further differentiating "MINECRAP" from "Minecraft". The defendant has even gone unneedingly as far as noting a disclaimer on the "MINECRAP" website, <http://www.minecrap.co>, noting that, "MineCrap server is one of hundreds of thousands of international Minecraft communities. "MineCrap" is our community server brand name.", and further linking MOJANG's company website and game website for users to purchase a "Minecraft" account from MOJANG in order to log in and play on the defendant's "MINECRAP" server.

Opposer's claim of the defendant conducting commerce is invalid.

MOJANG allowed server owners to use "Minecraft" in commerce until MOJANG changed their End User License Agreement on June 16th, 2014. After this date, server owners were no longer allowed to use "Minecraft" in commerce on their privately owned individual servers. The

defendant stopped conducting commerce upon agreeing to MOJANG's End User License Agreement on June 16th, 2014. The defendant has also not conducted commerce since before the month of May, 2014.

Opposer's claim of the defendant committing copyright infringement is invalid.

In the opposer's letter to the defendant,

- "Further and in the alternative, your use of our client's Game, Content, and Get-Up amounts to copyright infringement."

The above claims of the opposer are invalid, making this copyright infringement allegation false.

Opposer's claims of unregistered trademark infringement is invalid.

in the opposer's letter to the defendant,

- "The use of the Get-Up and misappropriation of the Brand as "MINECRAP" by you on the Infringing Website misleads consumers into thinking that it is created by our client or otherwise endorsed by, affiliated with or associated."

This claim is invalid, as no where on the defendant's "MINECRAP" website has or has ever affiliated itself with MOJANG, in fact, the website explicitly notes that the "MINECRAP" server is not affiliated with MOJANG, as the server's C++ programming is not created by MOJANG. The website of "MINECRAP" since it's start has always displayed in it's "News" log entry on the website's main index page, that it is an independant website which first developed on 4/10/2010 as a fan website of MOJANG's game, "Minecraft".

On a personal note, this has been the most ridiculous claim that has ever been brought to my attention. I have NEVER had any issues or complaints like this in these last 4 years since this start of my hobby. I am trademarking MineCrap to prevent other server owners from branding their server with my MineCrap name. They do this to confuse my users in joining an imposter's server which is copyright infringement against me when it comes right down to it.

/Cayle Rose/

I hereby certify that a true and complete copy of the foregoing Infringement and TM Opposition ANSWER has been served on Opposer's lawyers, Sheridans' Neil Eagleton, by mailing said copy on 10/10/2014, via electronic email to: neagleton@sheridans.co.uk.

Signature: /Cayle Rose/

Date: 10/10/2014

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

Mojang Synergies AB v. Rose, Cayle, N.

Opposition No. 91218268

ANSWER 2

Opposers claim #8 of "MINECRAP" not actually being created and first use in commerce on 4/10/2012 is invalid.

The "MINECRAP" development log found on the home page of www.MineCrap.co displays evidence of MINECRAP's date of creation, development logs, and proof of existence on 4/10/2010.

First records of development logs:

8/21/2012

- Website created.

8/14/2012

- Experimental code added to database.

8/13/2012

- New world has been generated.

3/23/2012

- Server DNS has been created.

1/9/2012

- MineCrap is back in development.

7/4/2011

- MineCrap development is going slow - seeking staff recruitment.

3/11/2011

- MineCrap is back in development.

4/10/2010

- MineCrap server is under development.

/Full development log is found on www.minecrap.co

Opposer's belief that "MINECRAP" was not created, nor conducted commerce on 4/10/2010 is based on the records of domain, www.minecrap.co. "MINECRAP" was created long before the domain was purchased, and was first hosted on the defendant's home computer as a hobby.

Users connected to the defendant's "MINECRAP" server through the defendant's home IP address in the early stages of "MINECRAP", and later on when "MINECRAP" became more well known, the defendant purchased the domain, www.minecrap.co and begun hosting MINECRAP on root servers.

In the Opposer's Exhibit D,E, and F, the Opposer has submitted information and history of the domain, www.minecrap.com, and screenshot printouts of www.minecrap.com's website WHOIS, and history logs from Wayback Machine (web.archive.org, a service that publicly logs images of website's history), which www.minecrap.com is owned by a third party, and has no affiliation with the defendant. Again, www.MineCrap.com and www.MineCrap.co are different websites owned by two different individuals that have no affiliation. The defendant believes the opposer is trying to create confusion in this case.

/Cayle Rose/

I hereby certify that a true and complete copy of the foregoing Infringement and TM Opposition ANSWER has been served on Opposer's lawyers, Sheridans' Neil Eagleton, by mailing said copy on 10/10/2014, via electronic email to: neagleton@sheridans.co.uk.

Signature: /Cayle Rose/

Date: 10/10/2014