

ESTTA Tracking number: **ESTTA647403**

Filing date: **12/29/2014**

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	Disney Enterprises, Inc.
Granted to Date of previous extension	01/14/2015
Address	500 South Buena Vista Street Burbank, CA 91521 UNITED STATES
Attorney information	Linda K. McLeod Kelly IP, LLP 1330 Connecticut Avenue, N.W.Suite 300 WASHINGTON, DC 20036 UNITED STATES linda.mcleod@kelly-ip.com, docketing@kelly-ip.com, larry.white@kelly-ip.com, anjie.vichayanonda@kelly-ip.com

**Applicant Information**

Application No	85676620	Publication date	09/16/2014
Opposition Filing Date	12/29/2014	Opposition Period Ends	01/14/2015
International Registration No.	NONE	International Registration Date	NONE
Applicant	ID&Q LICENTIES B.V. RhÅ´neweg 54 Amsterdam, 1043AH NETHERLANDS		

**Goods/Services Affected by Opposition**

Class 041. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: entertainment, namely, entertainment in the nature of organization of dance festivals and electronic music festivals for young adults (21+); producing, arranging and conducting of music and dance festivals for young adults (21+); entertainment provided via electronic channels, namely, live disc jockeys performances with audio/video recordings at dance festivals, and electronic music festivals; audiovisual productions, namely, production of audio and video recordings; providing of information in the field of electronic music festivals, such information provided via computer and communication networks, via electronic channels or otherwise
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**Grounds for Opposition**

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

U.S. Registration No.	895722	Application Date	01/28/1970
Registration Date	07/28/1970	Foreign Priority Date	NONE
Word Mark	TOMORROWLAND		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1955/07/17 First Use In Commerce: 1955/12/31 PROVIDING PARTICIPATION TYPE ENTERTAINMENT IN AMUSEMENT AND EDUCATIONAL PARK		

Attachments	TOMORROWLAND - Notice of Opposition.pdf(199633 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	/Linda K. McLeod/
Name	Linda K. McLeod
Date	12/29/2014



2. Since 1955, Opposer has used its TOMORROWLAND mark in connection entertainment in the nature of an amusement park and education services.

3. The TOMORROWLAND attraction is a key destination within Opposer's four theme parks, namely, Disneyland, Magic Kingdom, Tokyo Disneyland, and Hong Kong Disneyland. The TOMORROWLAND attraction is home to one of the world's most famous roller coasters, SPACE MOUNTAIN, among others.

4. The TOMORROWLAND attraction within Opposer's theme parks features stages that host live musical performances. For example, the TOMORROWLAND section of Opposer's Disneyland theme park features live music performances on the TOMORROWLAND Terrace Stage. The TOMORROWLAND section of Opposer's Walt Disney World Magic Kingdom theme park has featured various live performances including, "A Totally Tomorrowland Christmas," a live show featuring musical performances by several of Opposer's beloved characters.

5. For many years, the TOMORROWLAND attraction within Opposer's theme parks has featured retail stores selling a wide variety of consumer products including apparel, accessories, pins, gifts, toys, and housewares all bearing the TOMORROWLAND mark.

6. In addition, as early as January 2013, Opposer's upcoming film *Tomorrowland* has received extensive media attention. Opposer's TOMORROWLAND film is a science-fiction mystery adventure about a former boy-genius with scientific curiosity who embarks on a danger-filled mission to unearth the secrets of an enigmatic place somewhere in time and space known only as "Tomorrowland." The film, set for release on May 22, 2015, will feature George Clooney, among others.

7. Opposer is also launching *Miles from Tomorrowland*—a Disney Junior television series set in the TOMORROWLAND attraction of Disney parks, which will feature educational programs about science, technology, and space travel. Consumers can view trailers and teasers about Opposer’s *Miles from Tomorrowland* series on Disney’s website.

8. In sum, through its long use and substantial advertising and promotion of the TOMORROWLAND mark in connection with Opposer’s attractions and goods and services described above, Opposer has developed valuable goodwill in its TOMORROWLAND mark.

**Opposer’s Registration and Applications for its  
TOMORROWLAND and TOMORROWLAND-Formative Marks**

9. Opposer owns valid and subsisting U.S. Registration No. 0895722 for the mark TOMORROWLAND in connection with “providing participation type entertainment in amusement and educational park” services in Class 41. A printout from the USPTO TSDR database of U.S. Registration No. 0895722 is attached as Exhibit A. This registration is incontestable and constitutes conclusive evidence of the mark’s validity and of Opposer’s exclusive right to use the TOMORROWLAND mark in connection with the services recited in the registration (collectively, the goods and services set forth in Paragraphs 2-6 and 9 are referred to as “Opposer’s Goods and Services”).

10. Opposer has also filed for the following trademark applications for its MILES OF TOMORROWLAND mark:

MARK	SERIAL NO. FILING DATE	GOODS/SERVICES FIRST USE IN COMMERCE
MILES FROM TOMORROWLAND	Serial. No.: 86197022  Filing Date: February 18, 2014	Non-alcoholic beverages; juices; syrups for making soft drinks in Class 32
MILES FROM TOMORROWLAND	Serial. No.: 86197013  Filing Date: February 18, 2014	Bakery goods; biscuits and bread; breakfast cereals and preparations made from cereals; brownie and cake mixes; candy; cereal bars; snack foods; confectionery and chewing gum; chocolate; cocoa; coffee; condiments; cookie mixes; corn chips; crackers; flavorings for beverages; flour; food flavorings; frozen confectionery; frozen meals consisting primarily of pasta or rice; honey; ices; ice; ice cream; ice milk; ketchup; macaroni and cheese; mayonnaise; muffin bars; mustard; oatmeal; pancakes; pancake mixes and syrup; pasta and noodles; peppermint sweets; pies; pita; pizza; pizza dough and sauce; popcorn; pretzels; puddings; rice; sandwiches; sauces; spaghetti; spices; sugar and sugar substitutes; staple foods; sweets; tea; tortilla chips; tortillas; waffles in Class 30
MILES FROM TOMORROWLAND	Serial. No.: 86197000  Filing Date: February 18, 2014	Processed foods; processed, canned, bottled, dried, frozen, cooked, or preserved fruits and vegetables; frozen, prepared or packaged entrees or meals consisting primarily of meat, fish, poultry or vegetables; frozen, prepared or packaged vegetable-based entrees; applesauce; banana chips; butter or butter substitutes; candied fruits, fruit snacks; cheese and cracker combinations; chili; dips; dried fruit-based snacks; eggs; fruits; fruit peels and preserves; fruit salads; fruit-based snack foods; hamburgers; hot dogs; jellies; jams; margarine; marmalades; meat, fish, poultry and game; dairy products excluding ice cream, ice milk and frozen yogurt; nuts; nut butters; pickles; potato chips; potato salad; potato-based snack foods; raisins; soup mixes; soups; vegetables; veggie burger patties in Class 29

MARK	SERIAL NO. FILING DATE	GOODS/SERVICES FIRST USE IN COMMERCE
MILES FROM TOMORROWLAND	Serial. No.: 86196986  Filing Date: February 18, 2014	Toys, games and playthings; gymnastic and sporting articles (except clothing); hand-held units for playing electronic games for use with or without an external display screen or monitor; Christmas stockings; Christmas tree ornaments and decorations; snow globes in Class 28
MILES FROM TOMORROWLAND	Serial. No.: 86196472  Filing Date: February 18, 2014	Clothing, footwear and headwear in Class 25
MILES FROM TOMORROWLAND	Serial. No.: 86196462  Filing Date: February 18, 2014	Textiles; fabric; bed linen; table linen; bath linen; household linens; textile articles not included in other classes; plastic table covers in Class 24
MILES FROM TOMORROWLAND	Serial. No.: 86196447  Filing Date: February 18, 2014	Paper and paper articles; cardboard and cardboard articles; printed matter; publications; books; photographs; portraits; paintings; stationery; office and school supplies; temporary tattoos; foam stamps; party bags; shopping bags; plastic party decorations in Class 16

**Applicant and its TOMORROWLAND Mark**

11. ID&Q Licenties B.V. besloten vennootschap (b.v.), the listed owner of Application Serial Nos. 86153999 and 85676620, is a Dutch limited liability company with an address of Rhôneweg 54, Amsterdam, Netherlands 1043.

12. On July 13, 2012, Applicant filed Application Serial No. 85676620 under Section 1(b), 15 U.S.C. § 1051(b), Section 44(d), 15 U.S.C. § 1126(d), and Section 44(e), 15 U.S.C. § 1126(e), to register the mark shown below:



in connection with “entertainment, namely, entertainment in the nature of organization of dance festivals and electronic music festivals for young adults (21+); producing, arranging and conducting of music and dance festivals for young adults (21+); entertainment provided via electronic channels, namely, live disc jockeys performances with audio/video recordings at dance festivals, and electronic music festivals; audiovisual productions, namely, production of audio and video recordings; providing of information in the field of electronic music festivals, such information provided via computer and communication networks, via electronic channels or otherwise” in Class 41 (collectively, “Applicant’s Services”). Application Serial No. 85676620 claims a priority date of June 8, 2012.

13. On September 16, 2014, Application Serial No. 85676620 was published for opposition in the *Trademark Official Gazette* (TMOG), and Opposer filed a timely extension of time to oppose on October 10, 2014.

14. On December 30, 2013, Applicant filed Application Serial No. 86153999 under Section 44 (e), 15 U.S.C. § 1126(e), to register the mark TOMORROWLAND (standard characters) for:

Apparatus for recording, transmission or reproduction of sound or images; pre-recorded magnetic data carriers featuring music and videos featuring dance events, music and artistic performances, concerts and festivals; downloadable electronic publications in the nature of newsletters and magazines in the fields of music, dance events, music and artistic performances, concerts and festivals; electronic publications, namely, newsletters and magazines in the fields of music, dance events, music and artistic performances, concerts and festivals recorded on data carriers; pre-recorded audio and video recording discs featuring photographs, images, videos, music, dance events, music and artistic performances, concerts and festivals; gramophone records featuring music, dance events, music and artistic performances, concerts and festivals; compact discs featuring photographs, images, music, dance events, music and artistic performances, concerts and festivals; DVD disks featuring photographs, images, videos, music, dance events, music and artistic performances, concerts and

festivals; computer game software; computer software programs for accessing information about music, musicians, performing artists, dance events, music and artistic performances, concerts and festivals; computer software programs for social networking at dance events, dance festivals, electronic music festivals, for sharing and viewing photographs, for accessing streaming music and for enabling festival participants to access special services and amenities; downloadable digital video and/or audio files featuring photographs, images, music, dance events, music and artistic performances, concerts and festivals in Class 9; and

Clothing, namely, t-shirts, tops, bottoms, pullovers, hooded pullovers, sweatshirts, hooded sweatshirts, shorts, pants, underwear, socks, tank tops, jackets and sweaters; headwear; caps; footwear; boots in Class 25.

15. Opposer's U.S. Trademark Application Serial No. 86196472 for MILES FROM TOMORROWLAND was preliminarily refused registration based on ID&Q Licenties' ("Applicant") Application Serial No. 86153999 for the mark TOMORROWLAND in Classes 9 and 25, among others.

**Likelihood of Confusion, 15 U.S.C. § 1052(d)**

16. Opposer repeats and realleges each and every allegation set forth above.

17. Opposer has priority based on its valid and subsisting U.S. Registration No. 0895722 for the mark TOMORROWLAND.

18. Opposer also has priority based on its prior use in commerce of its TOMORROWLAND mark in connection with Opposer's Goods and Services before the filing date of the Application, and any date of first use that may be alleged by Applicant.

19. Applicant's TOMORROWLAND Mark is highly similar in sound, appearance, and connotation to Opposer's TOMORROWLAND mark. Applicant's TOMORROWLAND Mark incorporates Opposer's TOMORROWLAND mark in its entirety. The word TOMORROWLAND is the dominant element of Applicant's TOMORROWLAND Mark as it is more than twice the size of the phrase "YESTERDAY IS HISTORY, TODAY IS A GIFT, TOMORROW IS MYSTERY." Thus, Applicant's

TOMORROWLAND Mark is substantially similar to Opposer's TOMORROWLAND mark in sound, appearance, connotation, and overall commercial impression.

20. Applicant's Services are closely related to Opposer's Goods and Services advertised, promoted, offered, and/or sold in connection with Opposer's TOMORROWLAND mark, and those covered by Opposer's pleaded registration.

21. Accordingly, Applicant's TOMORROWLAND Mark so resembles Opposer's TOMORROWLAND mark set forth above as to be likely, when registered and used in connection with Applicant's Services, to cause confusion, or to cause mistake, or to deceive under Section 2(d) of the Lanham Act, as amended, 15 U.S.C. § 1052(d).

WHEREFORE, Opposer believes that it is being damaged, and will be damaged, by the registration of the mark shown in Application Serial No. 85676620, and requests that the opposition be sustained and that registration to Applicant be refused.

The filing fee has been submitted electronically. Any deficiency in the fee should be charged to Deposit Account No. 506154.

Respectfully submitted,

Dated: December 29, 2014

By: /Linda K. McLeod/

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Facsimile: 202-354-5232

Attorneys for Opposer

**CERTIFICATE OF SERVICE**

I certify that a true and accurate copy of the foregoing NOTICE OF OPPOSITION was served by first class mail, postage prepaid, on December 29, 2014, upon Applicant's counsel at the following correspondence address of record:

Robyn S. Lederman  
Brooks Kushman P.C.  
1000 Town Ctr.  
Floor 22  
Southfield, Michigan 48075-1183

/Larry L. White/  
Larry L. White  
Litigation Case Manager

**Exhibit A**

Generated on: This page was generated by TSDR on 2014-12-29 14:13:42 EST

Mark: TOMORROWLAND

US Serial Number: 72349794  
US Registration Number: 895722  
Register: Principal  
Mark Type: Service Mark  
Status: The registration has been renewed.  
Status Date: Aug. 15, 2009

Application Filing Date: Jan. 28, 1970  
Registration Date: Jul. 28, 1970

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## Mark Information

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Mark Literal Elements: TOMORROWLAND  
Standard Character Claim: No  
Mark Drawing Type: 1 - TYPESET WORD(S) /LETTER(S) /NUMBER(S)

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## Goods and Services

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Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks "\*" identify additional (new) wording in the goods/services.

For: PROVIDING PARTICIPATION TYPE ENTERTAINMENT IN AMUSEMENT AND EDUCATIONAL PARK

International Class(es): 041  
Class Status: ACTIVE  
Basis: 1(a)  
First Use: Jul. 17, 1955

U.S Class(es): 107 - Primary Class  
Use in Commerce: Dec. 31, 1955

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## Basis Information (Case Level)

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Filed Use: Yes	Currently Use: Yes	Amended Use: No
Filed ITU: No	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

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## Current Owner(s) Information

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Owner Name: DISNEY ENTERPRISES, INC.  
Owner Address: 500 SOUTH BUENA VISTA STREET  
BURBANK, CALIFORNIA 91521  
UNITED STATES

Legal Entity Type: CORPORATION  
State or Country Where Organized: DELAWARE

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## Attorney/Correspondence Information

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Attorney of Record

Attorney Name: Barbara J. Quinn  
Attorney Primary Email: [trademarks@disney.com](mailto:trademarks@disney.com)  
Address:

Docket Number: Walt Disney  
Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: Barbara J. Quinn  
THE WALT DISNEY COMPANY  
500 SOUTH BUENA VISTA STREET  
CORPORATE LEGAL - TRADEMARK DEPARTMENT  
BURBANK, CALIFORNIA 91521  
UNITED STATES

Phone: (818) 560-3997

Fax: (818) 848-6424

Correspondent e-mail: [trademarks@disney.com](mailto:trademarks@disney.com)

Correspondent e-mail Yes  
Authorized:

Domestic Representative - Not Found

### Prosecution History

Date	Description	Proceeding Number
Aug. 15, 2009	REGISTERED AND RENEWED (THIRD RENEWAL - 10 YRS)	75461
Aug. 15, 2009	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	
Aug. 14, 2009	ASSIGNED TO PARALEGAL	75461
Aug. 12, 2009	TEAS SECTION 8 & 9 RECEIVED	
Nov. 17, 2008	CASE FILE IN TICRS	
May 09, 2001	REGISTERED AND RENEWED (SECOND RENEWAL - 10 YRS)	
May 09, 2001	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	
Apr. 13, 2001	RESPONSE RECEIVED TO POST REG. ACTION - SEC. 8 & 9	
Feb. 27, 2001	POST REGISTRATION ACTION MAILED - SEC. 8 & 9	
May 19, 2000	REGISTERED - COMBINED SECTION 8 (10-YR) & SEC. 9 FILED	
May 31, 1990	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	
May 17, 1990	RESPONSE RECEIVED TO POST REG. ACTION	
May 09, 1990	POST REGISTRATION ACTION MAILED - SEC. 9	
Feb. 20, 1990	REGISTERED - SEC. 9 FILED/CHECK RECORD FOR SEC. 8	

### Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 8 - Accepted

Affidavit of Incontestability: Section 15 - Accepted

Renewal Date: Jul. 28, 2010

### TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: POST REGISTRATION

Date in Location: Aug. 15, 2009

### Assignment Abstract Of Title Information

#### Summary

Total Assignments: 3

Registrant: WALT DISNEY PRODUCTIONS

#### Assignment 1 of 3

Conveyance: CHANGE OF NAME 19860211

Reel/Frame: 0543/0288

Pages: 4

Date Recorded: Nov. 04, 1986

Supporting Documents: No Supporting Documents Available

#### Assignor

Name: WALT DISNEY PRODUCTIONS

Execution Date: Feb. 11, 1986

Legal Entity Type: UNKNOWN

State or Country Where Organized: No Place Where Organized Found

#### Assignee

Name: WALT DISNEY COMPANY, THE

Legal Entity Type: UNKNOWN

State or Country Where Organized: No Place Where Organized Found

Address: No Assignee Address Found

Correspondent

Correspondent Name: THE WALT DISNEY COMPANY

Correspondent Address: 500 SOUTH BUENA VISTA ST.  
BURBANK, CA 91521

Domestic Representative - Not Found

**Assignment 2 of 3**

Conveyance: ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL

Reel/Frame: 0589/0128

Pages: 4

Date Recorded: Jan. 04, 1988

Supporting Documents: No Supporting Documents Available

Assignor

Name: WALT DISNEY COMPANY, THE

Execution Date: Dec. 08, 1987

Legal Entity Type: CORPORATION

State or Country Where Organized: CALIFORNIA

Assignee

Name: WALT DISNEY COMPANY, THE

Legal Entity Type: CORPORATION

State or Country Where Organized: DELAWARE

Address: 500 SOUTH BUENA VISTA STREET  
BURBANK, CALIFORNIA 91521

Correspondent

Correspondent Name: THE WALT DISNEY COMPANY

Correspondent Address: 500 SOUTH BUENA VISTA STREET  
BURBANK, CA 91521

Domestic Representative - Not Found

**Assignment 3 of 3**

Conveyance: CHANGE OF NAME

Reel/Frame: 1544/0172

Pages: 8

Date Recorded: Jan. 13, 1997

Supporting Documents: No Supporting Documents Available

Assignor

Name: WALT DISNEY COMPANY, THE

Execution Date: Dec. 04, 1996

Legal Entity Type: CORPORATION

State or Country Where Organized: DELAWARE

Assignee

Name: DISNEY ENTERPRISES, INC.

Legal Entity Type: CORPORATION

State or Country Where Organized: DELAWARE

Address: 500 SOUTH BUENA VISTA STREET  
BURBANK, CALIFORNIA 91521

Correspondent

Correspondent Name: LADAS & PARRY

Correspondent Address: FRANCIE R. GOROWITZ  
5670 WILSHIRE BOULEVARD  
SUITE 2100  
LOS ANGELES, CA 90036

Domestic Representative - Not Found

**Proceedings**

Summary

Number of Proceedings: 1

Type of Proceeding: Opposition

Proceeding Number: 91218377

Filing Date: Sep 12, 2014

Status: Pending

Status Date: Sep 12, 2014

Interlocutory Attorney: YONG OH (RICHARD) KIM

Defendant

Name: Tomorrowland Co., Ltd.

**Correspondent Address:** ELEANOR M LACKMAN  
COWAN DEBAETS ABRAHAMS & SHEPPARD LLP  
41 MADISON AVENUE, 34TH FLOOR  
NEW YORK NY , 10010  
UNITED STATES

**Correspondent e-mail:** [tm@cdas.com](mailto:tm@cdas.com)

**Associated marks**

Mark	Application Status	Serial Number	Registration Number
LAND OF TOMORROW	Opposition Pending	<u>79140899</u>	
TOMORROWLAND	Opposition Pending	<u>79144969</u>	

**Plaintiff(s)**

**Name:** Disney Enterprises, Inc.

**Correspondent Address:** LINDA K MCLEOD  
KELLY IP LLP  
1330 CONNECTICUT AVENUE NW, SUITE 300  
WASHINGTON DC , 20036  
UNITED STATES

**Correspondent e-mail:** [linda.mcleod@kelly-ip.com](mailto:linda.mcleod@kelly-ip.com) , [docketing@kelly-ip.com](mailto:docketing@kelly-ip.com) , [larry.white@kelly-ip.com](mailto:larry.white@kelly-ip.com)

**Associated marks**

Mark	Application Status	Serial Number	Registration Number
TOMORROWLAND	Renewed	<u>72349794</u>	<u>895722</u>

**Prosecution History**

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Sep 12, 2014	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Sep 17, 2014	Oct 27, 2014
3	PENDING, INSTITUTED	Sep 17, 2014	
4	ANSWER	Oct 24, 2014	
5	D MOT FOR EXT W/ CONSENT	Dec 05, 2014	
6	EXTENSION OF TIME GRANTED	Dec 08, 2014	