

ESTTA Tracking number: **ESTTA731519**

Filing date: **03/07/2016**

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	World Wrestling Entertainment, Inc.
Granted to Date of previous extension	03/09/2016
Address	1241 East Main Street Stamford, CT 06902 UNITED STATES

Attorney information	Christopher M. Verdini K&L Gates LLP 210 Sixth Avenue Pittsburgh, PA 15222 UNITED STATES USPTO.LitigationDocket@klgates.com, christopher.verdini@klgates.com, curtis.krasik@klgates.com Phone:412-355-6500
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Applicant Information

Application No	86668529	Publication date	11/10/2015
Opposition Filing Date	03/07/2016	Opposition Period Ends	03/09/2016
Applicant	PLAYAS PLAY, INC. 6114 LA SALLE AVENUE, SUITE 208 OAKLAND, CA 94611 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: DOWNLOADABLE SOFTWARE FOR USE ON SMART PHONES AND MOBILE DEVICES THAT ALLOWS COMPUTER GAME PLAYERS TO EXCHANGE TEXT MESSAGES WHILE PLAYING COMPUTER GAMES, ELECTRONIC GAMES, AND INTERACTIVE VIDEO GAMES

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution by blurring	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2625262	Application Date	11/29/2001
Registration Date	09/24/2002	Foreign Priority	NONE

		Date	
Word Mark	SMACKDOWN YOUR VOTE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 2000/09/00 First Use In Commerce: 2000/09/00 Promoting public awareness of the need to participate in the electoral process,namely, encouraging new voter registration and participation.		

U.S. Registration No.	2928460	Application Date	03/02/2001
Registration Date	03/01/2005	Foreign Priority Date	NONE
Word Mark	SMACKDOWN		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 2000/04/00 First Use In Commerce: 2000/04/00 Decorative refrigerator magnets; cinematographic and television films, namely, motion picture films concerning professional wrestling; pre-recorded records, compact discs and video tapes and video cassette tapes and audio cassettes, all featuring sports entertainment; coin-fed amusement gaming machines; interactive video game programs and computer game cartridges; digital cameras with CD ROM; mouse pads; disposable cameras; sunglasses;sunglass cases; sunglass cords; prescription glasses; and optical cases; video game cartridges and cassettes featuring wrestling; walkie talkies</p> <p>Class 016. First use: First Use: 1999/04/29 First Use In Commerce: 1999/04/29 Posters; photographs, collector albums for photographs; trading cards; labels, namely, printed address labels not of textile; folders; brochures about sports entertainment; packaging, namely, paper bags for packaging, [paper pouches for packaging, cardboard boxes for packaging,cardboard containers for packaging; plastic bags for general use;] paper tableware, namely, paper place mats, paper napkins, paper tablecloths; stickers; pens; pencils, pencil cases, pencil sharpeners; drawing rulers, drafting rulers; erasers; book covers, notebook paper, notebook dividers; coloring books; children'sactivity books, comic books, picture books, appointment books; address books; sticker albums; calendars; [chalk;] magazines in the field of sports entertainment; newspapers in the field of sports entertainment; postcards; greeting cards;temporary tattoo transfers; souvenir programs concerning sports entertainment; paper lunch bags; memo pads; [rubber stamps;] stamp pads; [collectible prepaid telephone cards not magnetically encoded; pre-paid collectible telephone calling cards, not magnetically encoded; postage stamps and collector stamps, namely,commemorative stamp sheets; custom printed personal bank checks; checkbook covers; return address labels;] bumper stickers; window decals; lithographs; paper party favors, paper party hats; confetti; stencils; gift wrapping paper, plasticgift wrap, metallic gift wrap; [paper cake decorations]</p> <p>Class 028. First use: First Use: 2000/04/00 First Use In Commerce: 2000/04/00 Toy action figures; toy action figure accessories; cases for action figures; bendable toys; toy vehicles; toy miniaturesdolls; board games; toy spinning tops; arcade games related to wrestling; coin-operated pinball games and pinball machines related to wrestling; hand-held units for playing electronic game; tabletop action skill games related to wrestling;jigsaw puzzles; kites; toy wrestling rings; dolls; puppets; stuffed toy animals; aerodynamic flying discs for use in playing catching games; card games; bean bag bears; [electronic toy guitars;] water guns; [vinyl pool products, namely,floating recreational pillow-back lounge</p>		

	<p>chairs; and one- and two-man floating recreational inflatable] boats; [rafts; inflatable inner tube with foot pump sold as a unit therewith for aquatic recreational use; toy rockets;] cases for toy vehicles; action figure clothing; collectible toy figures; costume masks; doll furniture; porcelain dolls; fantasy character toys; party favors in the nature of crackers and noisemakers; skateboards; bowling balls; windup toys; toy scooters; [bowling pins;] knee and elbow pads for athletic use; yo-yos with lights and sounds; toy remote control robots; children's hobby craft kits comprised of craft materials for use in face painting; toy model craft kits; [inflatable swimming pools;] bowling accessories, namely, wrist bands, [bowling gloves, ball cleaning kits,] wrist supports, [bowling ball bags and pool cues;] Christmas stockings; tin carrying cases for play accessories; [toys in the nature of stick gum dispensers; electronic dart games;] hand-held units for playing electronic games; playing cards</p> <p>Class 041. First use: First Use: 1999/04/29 First Use In Commerce: 1999/04/29 Entertainment services, namely, the production of professional wrestling events-rendered live and through the media of television</p>
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U.S. Registration No.	2941520	Application Date	03/05/2001
Registration Date	04/19/2005	Foreign Priority Date	NONE
Word Mark	SMACK DOWN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2002/05/01 First Use In Commerce: 2002/05/01 Full line of clothing, namely headwear and footwear		

U.S. Registration No.	3301799	Application Date	08/30/2005
Registration Date	10/02/2007	Foreign Priority Date	NONE
Word Mark	FRIDAY NIGHT SMACKDOWN		

Design Mark	FRIDAY NIGHT SMACKDOWN
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 2005/09/30 First Use In Commerce: 2005/09/30 Entertainment services, namely, the production and exhibition of professional wrestling events rendered live and through the media of television; providing wrestling news and information via a globalcomputer network

U.S. Registration No.	3909934	Application Date	12/11/2009
Registration Date	01/25/2011	Foreign Priority Date	NONE

Word Mark	SMACKDOWN VS. RAW
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Design Mark	SMACKDOWN VS. RAW
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Description of Mark	NONE
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Goods/Services	Class 009. First use: First Use: 2004/11/02 First Use In Commerce: 2004/11/02 Interactive multimedia computer games on all platforms comprised of computer hardware and computer game software; electronic game programs that involve interaction with a user interface to generate visual feedback on a video device
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U.S. Registration No.	4052024	Application Date	12/21/2010
Registration Date	11/08/2011	Foreign Priority Date	NONE

Word Mark	SMACKDOWN
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Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2002/05/01 First Use In Commerce: 2002/05/01 Clothing, namely, tops, jackets, bottoms, underwear, pajamas; footwear, namely, shoes, sneakers, slippers; headwear, namely, hats

U.S. Registration No.	4672593	Application Date	08/08/2013
Registration Date	01/13/2015	Foreign Priority Date	NONE

Word Mark	SMACKDOWN
Design Mark	
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 1999/04/29 First Use In Commerce: 1999/04/29 Entertainment services, namely, a television show about professional wrestling; entertainment services, namely, the production and exhibition of professional wrestling events rendered live and through broadcast media including television and radio, and via the internet or commercial online service; providing wrestling news and information via a global computer network; sports entertainment rendered live and through broadcast media including television and radio, and via the internet or commercial online service; providing information in the fields of sports, entertainment and related topics via an online community portal; providing a website in the field of sports entertainment; providing online newsletters in the fields of sports entertainment; online journals, namely, blogs, in the fields of sports entertainment; Entertainment services, namely, an ongoing television show about professional wrestlers; Entertainment services, namely, an animated series about professional wrestlers

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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	/Christopher M. Verdini/
Name	Christopher M. Verdini
Date	03/07/2016

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

Applicant: Playas Play LLC
Serial No.: 86/668,529
Mark: Smackchats
Class: 9
Filing Date: June 19, 2015
Publication Date: November 10, 2015

WORLD WRESTLING)
ENTERTAINMENT, INC.,)
)
Opposer,)
)
v.)
)
PLAYAS PLAY LLC,)
)
Applicant.)
_____)

Opposition No. _____

NOTICE OF OPPOSITION

World Wrestling Entertainment, Inc. (“Opposer” or “WWE”), a Delaware corporation with its principal place of business at 1241 East Main Street, Stamford, Connecticut 06902, believes that it will be damaged by registration of the mark “Smackchats,” which is the subject of Application Serial No. 86/668,529 filed by Playas Play LLC, an California limited liability company with its principal place of business at 152 Requa Road, Piedmont, California 94611 (“Applicant”). As such, WWE opposes registration of this mark and requests that registration to Applicant be refused.

As grounds in support of its opposition, Opposer asserts as follows:

I. Introduction

1. Opposer is and at all relevant times has been an integrated media company engaged in the development, production and promotion of television and online programming,

pay-per-view programming and live arena events featuring wrestling entertainment services, and the license and sale of branded consumer products.

2. WWE's unique product, for which it coined the term "sports entertainment," is perhaps best described as an action-adventure episodic drama that is akin to an ongoing, ever-developing soap opera based around WWE's distinctive and provocative characters.

3. WWE promotes hundreds of live shows each year in arenas and stadiums in cities around the world. WWE also produces weekly television programs on broadcast and cable television and the Internet that are distributed around the world and monthly pay-per-view programs available through cable and satellite pay-per-view distributors and online through WWE's "WWE Network." In addition, WWE licenses and sells myriad types of consumer products depicting its characters and other intellectual property.

II. Opposer's SMACKDOWN Marks

4. Opposer is the owner of numerous common law and registered trademarks used in connection with its wrestling entertainment services and related goods and services. In particular, Opposer's SMACKDOWN marks, alone or in combination with other terms, and various related designs and logos (collectively, the "SMACKDOWN Marks"), are one of Opposer's most recognized and valuable intellectual property assets.

5. Opposer owns common law rights and a number of registrations for its SMACKDOWN Marks, including but not limited to U.S. Registration Nos. 2,625,262, 2,928,460, 2,941,520, 3,301,799, 3,909,934, 4,052,024, and 4,672,593.

6. "SMACKDOWN" is one of the nationally and internationally recognized brands through which WWE promotes its wrestling entertainment services and related goods.

7. “SMACKDOWN” also is the title of one of WWE’s internationally-distributed weekly wrestling programs and is shown every Thursday night on the USA Network. Some of WWE’s most famous wrestling characters (known as “talent”) are affiliated with WWE’s SMACKDOWN mark and brand. These talent: (i) appear on the SMACKDOWN television program broadcast around the world; (ii) perform at SMACKDOWN live events in cities around the world; (iii) are featured on WWE’s wwe.com Internet website; and (iv) are depicted on SMACKDOWN branded merchandise.

8. In addition, consumers are able to access, download and use WWE’s smartphone app to access WWE Network and stream, among other WWE content, SMACKDOWN episodes.

9. The popularity, success, and recognition of the goods and services offered by Opposer under its SMACKDOWN Marks are the direct result of the substantial time and money invested by WWE in development, marketing and promotion of the marks. The SMACKDOWN Marks are uniquely and exclusively associated with WWE and have become indelibly linked in the public’s mind in exclusive association with and in exclusive sponsorship by WWE.

10. WWE has continually and exclusively used its SMACKDOWN Marks in connection with its wrestling entertainment services and related consumer products since at least April 29, 1999 —well prior to any date of first use upon which Applicant can rely.

11. By virtue of WWE’s use, marketing and promotion of its SMACKDOWN Marks, the SMACKDOWN Marks are famous and distinctive.

12. In addition to the foregoing, Opposer uses its SMACKDOWN Marks in connection with numerous other goods and services, including, but not limited to, DVDs, computer and video games, clothing, toys, posters and other various goods and services.

13. Despite WWE's long and widespread use and worldwide recognition of its SMACKDOWN Marks, Applicant has filed an application to register "Smackchats" in International Class 9 for "Downloadable software for use on smart phones and mobile devices that allows computer game players to exchange text messages while playing computer games, electronic games and interactive video games." Applicant filed the application on June 19, 2015 and the application was assigned Serial No. 86/668,529.

III. The Application Should Be Dismissed Because A Likelihood Of Confusion Exists

14. As described herein, Opposer's SMACKDOWN Marks are among its most recognized and valuable intellectual property assets.

15. Applicant's "Smackchats" mark is substantially similar to Opposer's SMACKDOWN Marks in sight, sound and commercial meaning and is likely, when used on or in connection with the goods set forth in Applicant's application, to cause confusion, or to cause mistake, or to deceive relative to WWE's SMACKDOWN marks within the meaning of Section 2(d) of the Lanham Act.

16. By applying for a mark that is substantially similar to Opposer's SMACKDOWN Marks in connection with goods that are related to those provided by Opposer and offered through the same channels of trade used by Opposer, Applicant's "Smackchats" mark is likely to cause confusion among consumers as to Opposer's affiliation and/or sponsorship of Applicant's business.

17. Accordingly, Opposer, as the owner of the SMACKDOWN Marks, will be damaged if Applicant's "Smackchats" mark is registered to Applicant.

IV. The Application Should Be Dismissed Because A Likelihood Of Dilution By Blurring Exists

18. As described herein, Opposer's SMACKDOWN Marks are famous and distinctive.

19. Opposer's SMACKDOWN Marks became distinctive prior to any use of Applicant's "Smackchats" mark upon which Applicant can rely.

20. Applicant's "Smackchats" mark is substantially similar to Opposer's SMACKDOWN Marks and is likely, when used in connection with the goods set forth in Applicant's application, to cause dilution by blurring of Opposer's SMACKDOWN Marks within the meaning of Section 43(c) of the Lanham Act.

21. Accordingly, Opposer, as the owner of the SMACKDOWN Marks, will be damaged if Applicant's "Smackchats" mark is registered to Applicant.

WHEREFORE, Opposer prays that the Notice of Opposition be sustained and that registration of U.S. Trademark Application Serial No. 86/668,529 be refused.

Respectfully submitted,

/s/ Christopher M. Verdini
Curtis B. Krasik, Esquire
Christopher M. Verdini, Esquire
K&L GATES LLP
K&L Gates Center
210 Sixth Avenue
Pittsburgh, PA 15222
(412) 355-6500 (Telephone)
(412) 355-6501 (Facsimile)

March 7, 2016

Attorneys for Opposer
World Wrestling Entertainment, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of March, 2016, a true and correct copy of the foregoing NOTICE OF OPPOSITION was served, via United States Mail, First Class, postage prepaid, upon the following counsel of record for Applicant:

Lawrence G. Townsend
Owen, Wickersham & Erickson, P.C.
455 Market Street, Suite 1910
San Francisco, California 94105

/s/ Christopher M. Verdini
Attorney for Opposer