

ESTTA Tracking number: **ESTTA276953**

Filing date: **04/08/2009**

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

Proceeding	92050200
Party	Defendant Vandous E. Stripling
Correspondence Address	Vandous E. Stripling 801 Sabona Drive Desoto, TX 75115 UNITED STATES game97@juno.com
Submission	Answer
Filer's Name	Vandous E Stripling
Filer's e-mail	game97@juno.com
Signature	/Vandous E Stripling/
Date	04/08/2009
Attachments	In the matter of trademark Registration No.pdf ( 3 pages )(140586 bytes )

In the matter of trademark Registration No.: **2720097**  
For the mark: **GAME**  
Registered: **May 27, 2003**

Game Sportswear, Ltd.,  
Petitioner

**v.**

Vandous E. Stripling,  
Registrant

### ANSWER TO CANCEL PETITION

Owner of registered mark in question is Vandous E. Stripling, 801 Sabona Dr., Desoto, TX 75115, and founder of Game Apparel Group, Inc.

1. Petitioner is now and has been for many years engaged in the sale of clothing, namely sports jackets, sweat suits, various athletic wear and sportswear.

**Answer:** Confirm by this notice.

2. Petitioner is now and has been using the mark G GAME SPORTSWEAR on such goods since at least as early as 1992.

**Answer:** Confirm by this notice

3. Petitioner is also the owner of U.S. Trademark Registrations number 2,374,092 and number 3,487,044 for the mark G GAME SPORTSWEAR in International Class 25.

**Answer:** Confirm by this notice.

4. By virtue of Petitioner's efforts, and the expenditure of considerable time and money for promotional activities, the public has come to recognize G GAME SPORTSWEAR as exclusively indicating Petitioner as a source of such goods.

**Answer:** Confirm and Deny. Petitioner has come to be known as G GAME SPORTSWEAR as a company not as a mark and not as mark GAME as the current Registrant. Registrant has also spent considerable expenditure of time and money for promotional activities to become recognize as said mark GAME.

5. In an effort to naturally expand Petitioner's brand recognition. Petitioner has filed application serial number 77126502 for GAME and Design, being the same design as the specimens submitted in Registrations number 2,374,092 and number 3,487,044 and has filed application serial number 77126522 which is similar to serial number 77126502.

**Answer:** Confirm by this notice.

6. The goods listed in the Registrant's registration are similar to and overlap with the goods sold by the Petitioner.

**Answer:** Confirm. As does all other marks containing the word GAME in IC 25.

7. Petitioner's applications serial number 77126502 and serial number 77126522 have been refused because of a likelihood of confusion with the mark in Registration No. 2,720,097.

**Answer:** Confirmed. Due to being informed by this notice of such refusal.

8. Petitioner's first use of the mark G GAME SPORTSWEAR predates Registrant's application date and Registrant's first use of the mark GAME.

**Answer:** Confirm, as Petitioner stated the use of the mark G GAME SPORTSWEAR predates the application date and registration of the mark GAME for which Registrant owns and uses and which Petitioner has never used.

9. On information and belief, Registrant has never used the word GAME as a trademark but only as ornamentation on a shirt.

**Answer:** Deny. Registrant is using the WORD GAME as its brand's Mark. Petitioner has never used the word GAME outside of G GAME SPORTSWEAR as a trademark. Registrant also owns the registered mark NO. 2757404

10. On information and belief, Registrant never used the word GAME as a trademark in commerce controlled by congress before the filing of the statement of use in application number 78074635.

**Answer:** Deny. Registrant did use before the filing of the statement of use in application number 78074635 and is currently still using the Word GAME as a trademark in commerce as controlled by congress. Registrant also owns the registered mark NO. 2757404

11. On information and belief, Registrant is not currently using the word GAME as a trademark in commerce controlled by congress.

**Answer:** Deny. Registrant is currently using the Word GAME as a trademark in commerce as controlled by congress. Registrant also owns the registered mark NO. 2757404

12. Based upon the foregoing, Registration No. 2720097 will cause injury and

damage to the Petitioner, and cancellation of the registration is requested.

**Answer:** Deny. Registration No. 2720097 will not and has not caused damage to Petitioner. Mark has been registered for more than 5 years now and has never been confused with Petitioner or Petitioner's mark of G GAME SPORTSWEAR. Petitioner has never used any other mark to identify its mark outside of G GAME SPORTSWEAR. Concurrently there are several hundred additional registered marks with the USPTO containing the word GAME in IC 25. Registrant also owns the registered mark NO. 2757404

/VES/

By: \_\_\_\_\_  
Vandous E. Stripling  
Owner of Mark  
President  
Game Apparel Group, Inc.  
801 Sabona Dr.  
DeSoto, TX 75115