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

Proceeding	92062034
Party	Plaintiff Edge Games Inc.
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Date	04/12/2016
Attachments	EGIResponseToFutureOppositionToDocket5.pdf(284712 bytes)

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

In the matter of Registration No. 3713604
Mark: EDGE

<p>EDGE Games, Inc.</p> <p style="text-align:center">Petitioner (Registrant),</p> <p style="text-align:center">v.</p> <p>Future Publishing Ltd,</p> <p style="text-align:center">Registrant.</p>	}	<p style="text-align:center">Cancellation No. 92062034</p>
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**PETITIONER EDGE GAMES INC'S RESPONSE TO FUTURE
PUBLISHING LTD'S OPPOSITION TO PETITIONER'S
MOTION AT DOCKET NO. 5**

Petitioner Edge Games Inc (now "Registrant" in regard to the instant mark -- Future is no longer "Registrant"), strenuously objects to the falsehoods and misleading statements made by Future Publishing Ltd in its Opposition to Petitioner's Motion at Docket No 5, appearing as Docket 10 dated April 12, 2016.

1. Per Board Rules, and per all appropriate US Trademark Office Rules, Edge Games is not required to ensure that any given document (here the motion at Docket No 5) is successfully delivered to the recipient. Petitioner Edge Games' responsibility stops at the obligation to ensure that the service copy is sent via an approved means (First Class post, postage prepaid in full), and addressed to the correct address for the other party. Edge Games

met all those conditions and requirements of the Board and of the USPTO, and thus service on Future Publishing via its counsel of record was perfected and was valid. Edge Games notes the valid Certificate of Service attached to its filed Motion at Docket No 5, which meets all requirements. There is no doubt whatsoever that the motion was timely mailed, and thus timely served, on Future Publishing.

2. It is thus not true that Future Publishing's first notice of the motion was by way of Reed Smith receiving an order from the Board in the related opposition proceeding number 91214673. Proper notice was given via valid service at the time the Motion was filed, and Edge Games met all requirements for valid service and thus proper notice at that time.

3. It is not for Edge Games to advise Future Publishing how to prosecute TTAB proceedings, but one would expect any reputable trademark law firm to make frequent checks of the TTAB database to inspect the record in case of documents going missing in the mail (as one presumes Future is claiming happened here).

4. Indeed, Future Publishing admit to filing documents in respect to the instant proceedings on April 7, 2016, and yet seem to be suggesting they were so incompetent that they did not think to check the state of the record as to any documents they may need to be aware of before making such filings. It thus seems that Future Publishing's attorneys are seeking to blame Petitioner Edge Games for their negligence and lack of usual expected vigilance as to the state of the record.

5. As to the representation that Future Publishing did not receive the discovery requests attached to the motion as Exhibits C and D, once again Edge Games notes that it is not Petitioner's obligation or position to ensure that documents are safely received: the only

obligation on Petitioner is to properly and validly serve the documents, which Petitioner did. As is evidenced by the Certificate of Service attached to the discovery requests in question, they were timely mailed at the time in question, and properly mailed to the correct address on record, via first class mail, postage fully prepaid. Thus Petitioner Edge Games met all conditions necessary for proper and valid service and cannot be held to blame if Reed Smith has issues with mail delivery or with losing documents once they arrive at their premises.

6. **Petitioner Edge Games has in its records proof of mailing stamped by the local post office showing the timely posting of the discovery requests, and is currently retrieving the proof of mailing from its archive -- Edge Games will thus supplement and amend this filing shortly to produce to the Board the USPS proof of mailing** that proves beyond all reasonable doubt that Future Publishing were served with the discovery requests on the date Edge Games has provide proof of service.

7. Future Publishing is substantially out of time to file an opposition to Petitioner's motion since *far* more than 20 days have passed since Future Publishing was validly served with said motion. Future being out of time to file an opposition, consequently their filing at Docket 12 being untimely should not be given any consideration.

8. Unfortunately for Future Publishing, it did consent to assign this mark to Edge Games by failing to respond in a timely manner to the Request for Admissions which called on Future to admit that the mark is assigned to Edge Games. Having failed to give a timely response to those discovery requests, and most notably the request for admission regarding the assignment to Edge Games, Future is deemed to have irreversibly admitted that assignment to Edge Games is proper and authorized. This authorization came into effect the

day that Future Publishing became late on their response to the Request for Admissions (February 8, 2016) and hence the assignment of the instant registration to Edge Games with an effective date of February 8, 2016 is entirely valid and must be affirmed by the Board.

9. Even now Future Publishing has made no attempt whatsoever to dispute that its admissions are admitted according to trademark rules and indeed does not dispute that it is lawfully deemed to have admitted all of those requests for admission. Future is substantially out of time to challenge this fact now, and hence all Petitioner's admission requests are irrefutably deemed to have been admitted by Future, including the admission that the instant registration is agreed by Future, and thus authorized by Future, to be assigned to Edge Games. Accordingly, the February 8, 2016 assignment is perfectly valid. Future Publishing is deemed to have consented to the assignment by virtue of the admissions which are now irrefutably admitted by Future due to their failure to respond.

10. Petitioner's motion is most certainly not moot since Future Publishing had no standing or right to file a "Registrant's Voluntary Surrender of Registration for Cancellation at Docket 7." At the time this document was filed Future Publishing was no longer the owner of the registration and thus had no standing or right to file to abandon it. Indeed, filing the abandonment went directly against what Future is irrefutably deemed to have admitted by failing to provide timely responses or objections to Petitioner's valid Request for Admissions.

Petitioner Edge Games will shortly file an amendment to this document to exhibit the Proof of Mailing to Reed Smith of the Discovery Requests.

Wherefore, even prior to the proof being filed, the Board should deem Petitioner's motion as valid and deem Future Publishing's attempt to file a Voluntary Surrender as invalid.

Accordingly, these proceedings should be terminated with Edge Games Inc being the owner of record of the registration and with the mark most certainly not being cancelled.

An Amendment to this filing follows once Petitioner has located its post office stamped Proof of Mailing to show that what Future Publishing alleges regarding service is clearly not true.

Respectfully submitted,

/Tim Langdell/
By: Dr. Tim Langdell
CEO, Edge Games, Inc.
Petitioner in *Pro Se*

12 April 2016

CERTIFICATE OF SERVICE

I hereby certify that pursuant to CFR 2.101(b), on April 12, 2016, a true and correct copy of the foregoing PETITIONER EDGE GAMES INC'S RESPONSE TO FUTURE PUBLISHING LTD'S OPPOSITION TO PETITIONER'S MOTION AT DOCKET NO. 5 was served via U.S. Mail on Registrant's counsel:

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/Tim Langdell/
Dr. Tim Langdell

12 April 2016