

Law Office 113
Examining Attorney: Regan, J. Brendan
Serial No. 76/421020
Mark: WINTAINER

Attorney Docket No. 89477

CERTIFICATE OF DEPOSIT

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Trademarks, Box RESPONSES NO FEE, 2900 Crystal Drive, Arlington, VA 22202-3513, on December 23, 2003.

TOWNSEND AND TOWNSEND AND CREW LLP

By: _____

Jessie Miller

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Promptec Produkt Management GmbH

Application No. 76/421,020

Filed: June 13, 2002

For: WINTAINER

TM Attorney: J. Brendan Regan

Law Office: 113

AMENDMENT

12-29-2003 11:00 AM

San Francisco, CA 94111
December 23, 2003

Assistant Commissioner for Trademarks
Box RESPONSES NO FEE
2900 Crystal Drive
Arlington, VA 22202-3513

Sir:

In response to the Final Rejection dated July 1, 2003, please amend the identifications of the goods and services so that they read as follows:

--Networked mechatronic devices, apparatus and systems, namely apparatus for electronically issuing cards and tickets; gaming machines, namely machines for playing games



12-29-2003

of chance in response to the purchase of goods at sales outlets and/or in response to payments, machines for issuing lottery tickets, and displays for advertising and other displays, namely machines incorporating displays such as light-emitting diode or LCD displays for advertising and electronic displays for reproduction of images and/or sound; coin-operated gambling machines; and combination apparatus for issuing cards and tickets with promotional games of chance, in Class 9;

Display boards for advertising; and cardboard floor display units for merchandizing products, in Class 16;

Display racks; furniture, namely sales and display counters; metal display stands; and point-of-purchase displays, in Class 20;

Preparing and placing advertising for others; promoting of sales of goods and/or services of others by creating well-being by means of mood stimulation by audio-visual media, namely promoting the goods and services of others by arranging for sponsors to affiliate their goods and services with the sale of lottery tickets at sales outlets including supermarkets, promoting the goods and services of others through infomercials played on customer point-of-purchase television monitors in retail stores, promoting the goods and services of others by means of a preferred customer program featuring the sale of lottery tickets and participation in games of chance at sales outlets including supermarkets, in Class 35; and

Entertainment in the nature of conducting competitions in the field of sales of goods and services, namely in the area of supermarkets and casinos, with reproduction of images and/or sound and using audio-visual presentations to stimulate people, exciting their attention, and conducting competitions for others, also on the internet including those with prize-winning possibilities, in the area of supermarkets and casinos, in Class 41--.

REMARKS

Applicant notes with appreciation that the mark is substantively registrable.

Applicant has rewritten the identifications of the goods and services covered by this application along the lines suggested in the Office Action, subject to the further comments and arguments set forth below. It is submitted that the new identifications are definite and appropriately limited, and their acceptance is requested.

In respect to the Class 9 ID, the Office Action suggests to delete "gaming machines, namely machines for playing games of chance in response to the purchase of goods at

sales outlets and/or in response to payments, machines for issuing lottery tickets” because these goods were viewed as not supported by the Austrian registration which forms the basis for this application.

The Austrian registration covers amongst others “mechatronic apparatus”, that is, apparatus with combined mechanical and electronic parts. A typical example of such a mechatronic apparatus is a gambling or gaming machine such as a slot machine. Casino slot machines are nowadays electronically interfaced to the casino computer network, and as such they constitute “networked mechatronic devices, apparatus and systems”, as is currently recited in the Class 9 ID.

Gambling machines can but need not necessarily be networked. Thus, the list of goods in the Austrian registration include networked mechatronic devices and not networked gaming machines. The networked gaming machines, referred to as mechatronic devices, apparatus and systems in the product ID of the Austrian registration, support the recitation of “gaming machines” in this application, particularly since the term is used in conjunction with other gaming-related products in the Class 9 product list of the Austrian registration.

The Austrian registration also includes in Class 9 “combination apparatus for issuing cards and tickets with promotional games of chance”. This covers gaming machines and machines which issue lottery tickets, and the reference to “promotional” links these machines to the sale of goods. Accordingly, applicant submits that the recitation “machines for playing games of chance in response to the purchase of goods at sales outlets and/or in response to payments” is supported by the recitation in the Austrian registration of apparatus for issuing cards and tickets with promotional games of chance.

The recitation in the Austrian registration of “combination of apparatus for issuing cards and tickets with promotional games of chance” also covers and supports the recitation in the current Class 9 ID of “machines for issuing lottery tickets” because a machine which issues lottery tickets is an “apparatus for issuing ... tickets with promotional games of chance”, e.g. lottery games.

Applicant acknowledges with appreciation the acceptance of the Classes 16 and 20 IDs.

The Class 35 ID has been rewritten as suggested in the Office Action by appropriately completing it. Applicant submits that the Class 35 ID is both definite and supported by the Austrian registration.

Finally, applicant has rewritten the Class 41 ID as proposed in the Office Action.

In view of the foregoing, applicant submits that the IDs for all goods and services are definite and supported by the Austrian registration. Their acceptance is therefore requested.


Accordingly, this application is now in condition to publish the mark for opposition, and a corresponding notification at an early date is requested.

If it is felt for any reason that a personal communication would expedite the prosecution of this application, the Examiner is invited to contact the undersigned at the telephone number below.

Respectfully submitted,

TOWNSEND and TOWNSEND and CREW LLP

By: _____


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