

TTAB

Ex. Mail No. EL984673167US

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

Prairie Island Indian Community,
a federally recognized Indian Tribe,

Plaintiff,

v.

Treasure Island Corp.,

Defendant.

Opposition Nos. 91115866
and 91157981

Cancellation Nos. 92028126;
92028127; 92028130; 92028133;
92028145; 92028155; 92028171;
92028174; 92028199; 92028248;
92028280; 92028294; 92028314;
92028319; 92028325; 92028342;
and 92028379 (as consolidated)

*Note: the enclosed materials are to be filed in the parent case relevant to these proceedings,
namely Opposition No. 91115866*

LETTER

TRADEMARK TRIAL AND APPEAL BOARD
COMMISSIONER FOR TRADEMARKS
P.O. BOX 1451
ALEXANDRIA VA 22313-1451

Dear Trademark Trial and Appeal Board:

Enclosed herewith are the following documents:

1. PETITIONER'S/OPPOSER'S COMMUNICATION TO TTAB RE:
PETITIONER'S/OPPOSER'S MOTION FOR SUMMARY JUDGMENT;
2. EXHIBIT K(1) RELVANT TO THIS MOTION;
3. CERTIFICATE OF SERVICE ON RICHARD COSTELLO; and
4. EXPRESS MAIL CERTIFICATE UNDER NO. EL-984673167US.



04-07-2005

Trademark Trial and Appeal Board
April 7, 2005
Page 2

Ex. Mail No. EL984673167US

PLEASE NOTE THAT THIS DOCUMENT SHOULD BE FILED IN THE PARENT CASE RELEVANT TO THESE CONSOLIDATED PROCEEDINGS, NAMELY OPPOSITION NO. 91115866.


The Commissioner is authorized to charge any additional fees or refund any overpayment which may be required by this paper to Deposit Account No. 50-0789.

Of course, contact the undersigned with any questions you may have regarding the above.

Respectfully submitted,

HAUGEN LAW FIRM PLLP

Date: April 7, 2005


Eric O. Haugen
HAUGEN LAW FIRM PLLP
121 S. Eighth Street
1130 TCF Tower
Minneapolis, MN 55402
Telephone: (612) 339-8300

Joseph F. Halloran
JACOBSON, BUFFALO, SCHOESSLER
& MAGNUSON LTD.
1360 Energy Park Drive
Suite 210
St. Paul, MN 55108
(651)644-4710

Attorney(s) for Petitioner/Opposer
Prairie Island Indian Community,
a Federally Recognized Indian Tribe

Express Mail Label EL-984673167US

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

Prairie Island Indian Community,
a federally recognized Indian Tribe,

Opposition Nos. 91115866
and 91157981

Plaintiff,

v.

Treasure Island Corp.,

Defendant.

Cancellation Nos. 92028126;
92028127; 92028130; 92028133;
92028145; 92028155; 92028171;
92028174; 92028199; 92028248;
92028280; 92028294; 92028314;
92028319; 92028325; 92028342;
and 92028379 (as consolidated)

TRADEMARK TRIAL AND APPEAL BOARD
COMMISSIONER FOR TRADEMARKS
P.O. BOX 1451
ALEXANDRIA VA 22313-1451

*Note: The enclosed
communication is to be
filed in the parent case
relevant to these
proceedings, namely
Opposition No. 91115866*

**PETITIONER'S/OPPOSER'S COMMUNICATION TO TTAB RE:
PETITIONER'S/OPPOSER'S MOTION FOR SUMMARY JUDGMENT**


Petitioner/Opposer, Prairie Island Indian Community (Plaintiff) hereby submits to this Board a document designated "Plaintiff Exhibit K(1)". Plaintiff refers to this item on page 12 of its Motion for Summary Judgment filed with the Board on March 11, 2005. Plaintiff inadvertently refers to two Exhibit Ks in its Motion papers. The enclosed item is the document being referred to at page 12 wherein it is stated "Exhibit K is an interrogatory response proffered by Plaintiff explaining in detail the various methods employed by Plaintiff in connection with publicly displaying its mark". Please consider this sentence to be referring to the enclosed "Exhibit K(1)" document.

The reference to Exhibit K contained on page 13 of the Motion for Summary Judgment concerns a document which was properly submitted with Plaintiff's Motion, meaning that this reference to this Exhibit K is proper.

By all means, contact the undersigned with any questions you may have regarding the above. The undersigned sincerely apologizes for any inconvenience that the instant situation has caused.

Respectfully submitted

Dated: April 7, 2005


Eric O. Haugen
HAUGEN LAW FIRM PLLP
121 S. Eighth Street
1130 TCF Tower
Minneapolis, MN 55402
Telephone: (612) 339-8300

Joseph F. Halloran
JACOBSON, BUFFALO, SCHOESSLER
& MAGNUSON LTD.
1360 Energy Park Drive
Suite 210
St. Paul, MN 55108
(651) 644-4710

Attorney(s) for Petitioner/Opposer
Prairie Island Indian Community,
a Federally Recognized Indian Tribe

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

Prairie Island Indian Community,
a federally recognized Indian Tribe,

Petitioner

PETITIONER'S ANSWERS AND
OBJECTIONS TO RESPONDENT'S
FIRST SET OF INTERROGATORIES
Registration No. 1,949,380
Cancellation No. 28,126
Mark: TREASURE ISLAND AT THE
MIRAGE

vs.

Treasure Island Corporation,

FILE COPY

Respondent.

To: Treasure Island Corporation and its counsel of record, Mark G. Tratos and W. David Shenk, Quirk & Tratos, 3773 Howard Hughes Parkway, Suite 500 North, Las Vegas, Nevada 89109.

COMES NOW the Petitioner Prairie Island Indian Community and, pursuant to Rules 26 and 31 of the Federal Rules of Civil Procedure and Rule 407 of the Trademark Trial and Appeal Board Manual of Procedure, provides its responses and objections to the Respondent's undated First Request For Production of Documents and Things.

PLAINTIFF
EXHIBIT

K(1)

**I. PRELIMINARY STATEMENT, RESERVATION OF RIGHTS
AND CONTINUING GENERAL OBJECTIONS**

1. The Community objects to the definition of "identify" with respect to a person as overly broad and unduly burdensome. The Community will provide certain identifying information within its possession for persons in the first interrogatory in which a person is

Answer: With respect to Interrogatory 4, subpart (a), see Exhibit 4 attached to the Petitioner's Responses and Objections to Respondent's First Request for Production of Documents and Things. The Petitioner objects to Interrogatory 4, subpart (b), because it seeks information that is not likely to lead to the discovery of admissible evidence and because it seeks confidential, proprietary and sensitive business information.

Interrogatory No. 5: Identify all persons who participated in your selection of the mark **TREASURE ISLAND** and/or in the creation of any logo used by you with the mark **TREASURE ISLAND**.

Answer: The mark **TREASURE ISLAND** was selected by the Petitioner in late 1989. The persons who participated in the selection of the mark were the Petitioner through its governing body and the Petitioner's management company, Lucky Seven Corporation.

Interrogatory No. 6: For each advertisement or promotional piece produced by you in response to Request No. 5 of Registrant's First Request for Production of Documents and Things, state with particularity where and when it appeared.

Answer: See the objection asserted in Response to Request No. 5 of the Respondent's First Request for Production of Documents and Things. Subject to and without waiving that objection, the dates on which the advertising appeared are noted on the representative advertisements and promotional materials.

Interrogatory No. 7: State your annual advertising and promotional expenditure for goods and services bearing and/or offered under the mark **TREASURE ISLAND** since the date of first sale in commerce of such goods and services.

Answer: See Answer to Interrogatory 4, subpart (b) and Response to Request No. 6 of the Respondent's First Request for Production of Documents and Things.

Interrogatory No. 8: Identify each publication or broadcast of advertising that contains your marks and the place of publication or broadcast since the date of first sale in commerce of such goods and services.

Answer: The Petitioner objects to this Interrogatory because it is overly broad and unduly burdensome. Subject to and without waiving this objection, see Answer to Interrogatory No. 6, above and Response to Request No. 5 of the Respondent's First Request for Production of Documents and Things. In addition --

- a. The Petitioner's mark has been broadcast on the following radio stations:

WCCO, KSTP-FM, KEEY, KFAN, KQRS, KQQL, KSTP-AM, KTCZ, WLTE, WDGY, K102, KDWB, KOLM, KLBB, WQCC, WCOW, KOEC, WAXX, WKBH, WLXR, WQRB, WMEQ, WECL, WIAL, KRCH, KROC/KYBA, KWNO, KNXR, KWWK, KLSS, KWNG, KFIL, KMXX, KQEG, KMFY, WIZM, KSUM, KFMC, WKTY, WLXR, WRPX, WAYY, Midwest Radio Network, Illinois News Network, Wisconsin News Network;

- b. The Petitioner's mark has been broadcast on the following television stations:

KSTP, KMSP, WCCO, KARE, WFTC, KTCA, WEAU, WKBT, WKOW, WXOW, WQOW, WLAX, KIMT, KAAL, KTTC, KIXT, KTMA, KITN, MSC, Continental Cablevision and other cable providers in Minnesota and Wisconsin;

The Petitioner's mark also has been broadcast on national network broadcasts by virtue of its indoor image advertising (see subpart h, below);

- c. The Petitioner's mark has been published in the following newspapers:

Law Vegas Review-Journal and Sun (P.O. Box 70, Las Vegas Nevada); Minneapolis Star Tribune (425 Portland Avenue South, Minneapolis, Minnesota); Saint Paul Pioneer Press (345 Cedar Street, Saint Paul, Minnesota); City Pages (401 North 3d Street, Minneapolis, Minnesota); Red Wing Republican Eagle (Red Wing, Minnesota); Bingo Bugle; Hiawatha Valley Shopper; Riverview Times; Southwest Journal (4948 Washburn Avenue South, Minneapolis, Minnesota); Southside Pride (3200 Chicago Avenue, Suite 204, Minneapolis, Minnesota); Northeaster (2304 Central Avenue, Minneapolis, Minnesota); Midway/Como Monitor (Saint Paul, Minnesota), Cochran/Fountain City (Fountain City, Minnesota); Hastings Star Gazette (Hastings, Minnesota); City Business (Minneapolis, Minnesota); Northfield News (Northfield, Minnesota); Midwest Players; Fargo Forum (Fargo, North Dakota); Scuttlebutt; LaCrosse Tribune (LaCrosse, Wisconsin); Eau Claire Telegram (Eau Claire, Wisconsin); Winona Daily News (Winona, Minnesota); Rochester Post Bulletin (Rochester, Minnesota); Des Moines Register (Des Moines, Iowa); Des Moines Skywalker (Des Moines, Iowa); Greater Iowa Lafayette Shopping News; Eastern Iowa Shopper; Mason City News (Mason City, Iowa); Southern Country News (Clear Lake, Iowa); Fillmore County News (Preston, Minnesota); Daily Fort Gateway Guide (Waynesville, Missouri); Fort Leonard Constitution; Duluth News Tribune (Duluth, Minnesota); Anoka County Union & Shopper (Anoka, Minnesota);

- d. The Petitioner's mark has been published in the following magazines, periodicals and other miscellaneous publications:

Woodall's Campground Guide; Trailer Life Directory; Rochester Visitor; Minneapolis/St. Paul Magazine; Reunions Magazine; Explore Minnesota Travel Guide; Red Wing Community Guide; Hastings Community Guide; Hotel & Travel Index; Great Lakes Group Tour Marketer; Minnesota Group Tour Planner; National Tour Association Membership Directory; Minnesota Meetings & Retreats; Greater Minnesota Convention and Visitors Association Directory; Saint Paul Convention and Visitors Bureau; Minnesota Gaming Directory; Midwest Gaming & Travel; Blackjack Confidential; Explore Minnesota Golf; AAA Tour Book; Home & Away; Midwest Living; Letterheads; Minnesota Monthly; Courier; Destinations; Byways; Bus Tours; Midwest Meetings; Corporate Report; Twin Cities Business Monthly; Meeting Planners International Directory; Minnesota Society of Association Executives; Where Magazine; Guest Informant; Meeting News; Rochester Convention and Visitors Bureau; Gaming Central; Chance; Northern Breezes; Anchors N Time; Stemwinder;

- e. The Petitioner's mark has been published in the following Yellow Pages: U.S. West; Ameritech; GTE; and Sprint and in the AT&T Toll-Free Directory;
- f. The Petitioner's mark has been published by use of direct mail using Metro Marketing Direct Mail;
- g. The Petitioner's mark has been broadcast by using indoor and outdoor advertising at Treasure Island, and by leasing off-site outdoor advertising through the in-house Marketing Department and by using the following outdoor advertising companies:

Eller Media (3225 Spring St., NE, Minneapolis, Minnesota); Tri-State (Rochester, Minnesota); Lamar (Eau Claire, Wisconsin); Supreme (Minneapolis, Minnesota); Collins Outdoor Advertising (325 North 3d. Street, LaCrosse, Wisconsin); Naegle Outdoor Advertising (1700 West 78th Street, Minneapolis, Minnesota); Sign (4700 Lyndale Avenue North, Minneapolis, Minnesota); Vogel Outdoor Advertising (527 17th Avenue Northwest, Rochester, Minnesota); The Signery (2125 West Hwy. 13, #106, Burnsville, Minnesota); Hospitality; Adams Outdoor Advertising (4300 Baker Rd., Minnetonka, Minnesota); Fairway Outdoor Advertising (1818 Wooddale Dr., Woodbury, Minnesota); DeLite Outdoor Advertising (3435 Washington Dr., Eagan, Minnesota); Shafer Signs (St. Paul Park, Minnesota); Interspace and AJ Indoor Advertising Inc. (3940 Quebec Avenue North, Suite 203, Minneapolis, Minnesota);

- h. The Petitioner's mark also has been placed in the following indoor and outdoor sport and entertainment venues:

The Target Center (Minneapolis, Minnesota); The Hubert H. Humphrey Metrodome (Minneapolis, Minnesota); River Center (Saint Paul, Minnesota); and Midway Stadium (Saint Paul, Minnesota);
- i. The Petitioner's mark also has been placed on vehicles, including Treasure Island-owned vehicles, a "funny car" race car, a parade float, and on motorcoaches serving the casino;
- j. The Petitioner's mark also has been published or broadcast on Treasure Island's booth that appears at innumerable conventions and trade/travel shows;
- k. The Petitioner's mark also has been published or broadcast via its sponsorship of various local activities, including, among others, a local hockey booster club, a local bowling team, a local high school yearbook, and a local baseball club;
- l. The Petitioner's mark also has been published in its news letter which is mailed to casino patrons, and on numerous brochures that are placed in local and Twin Cities metropolitan area hotels and motels and other tourist and entertainment venues;
- m. The Petitioner's mark also is broadcast on the Petitioner's website: www.treasureislandcasino.com.

Interrogatory No. 9: Identify all persons who "consider the goods and services of the Respondent sold and promoted under the mark TREASURE ISLAND AT THE MIRAGE as emanating from Petitioner," as alleged in paragraph 5 of the Petition for Cancellation, and identify each such incident of confusion.

Answer: The Petitioner objects to this Interrogatory because it misrepresents the allegation made in paragraph 5 of the Petition for Cancellation. Subject to and without waiving this objection, see the Petitioner's Answer to Interrogatory No. 12, below, and the Petitioner's Response to Request No. 10 of the Respondent's First Request for Production of Documents and Things.

Interrogatory No. 10: Identify all persons who have "purchase[d] or otherwise use[d] Respondent's goods and services as those of the Petitioner," as alleged in paragraph 5 of the Petition for Cancellation, and identify each such incident of mistaken purchase or use.

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

Prairie Island Indian Community,
a federally recognized Indian Tribe,

Plaintiff,

v.

Treasure Island Corp.,

Defendant.

Opposition Nos. 9115866
and 91157981


Cancellation Nos. 92028126;
92028127; 92028130; 92028133;
92028145; 92028155; 92028171;
92028174; 92028199; 92028248;
92028280; 92028294; 92028314;
92028319; 92028325; 92028342;
and 92028379 (as consolidated)

CERTIFICATE OF SERVICE

TRADEMARK TRIAL AND APPEAL BOARD
COMMISSIONER FOR TRADEMARKS
P.O. BOX 1451
ALEXANDRIA VA 22313-1451

I hereby certify that a true copy of the foregoing PETITIONER'S/OPPOSER'S COMMUNICATION TO TTAB RE: PETITIONER'S/OPPOSER'S MOTION FOR SUMMARY JUDGMENT, and EXHIBIT K(1) Relevant thereto were served on Treasure Island Corp., c/o R. Richard Costello, of Quirk & Tratos, 3773 Howard Hughes Parkway, Suite 500 North, Las Vegas, NV 89109, Attorney for Applicant, by first class mail, postage prepaid, on April 7, 2005.

Dated: April 7, 2005


Eric O. Haugen
HAUGEN LAW FIRM PLLP
121 S. Eighth Street
1130 TCF Tower
Minneapolis, MN 55402
Telephone: (612) 339-8300

Attorney for Petitioner/Opposer
Prairie Island Indian Community,
a Federally Recognized Indian Tribe

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

Prairie Island Indian Community,
a federally recognized Indian Tribe,

Opposition Nos. 91115866
and 91157981

Plaintiff,

v.

Treasure Island Corp.,

Defendant.

Cancellation Nos. 92028126;
92028127; 92028130; 92028133;
92028145; 92028155; 92028171;
92028174; 92028199; 92028248;
92028280; 92028294; 92028314;
92028319; 92028325; 92028342;
and 92028379 (as consolidated)

CERTIFICATE OF MAILING VIA EXPRESS MAIL

*Note: the enclosed materials are to be filed in the parent case relevant to these proceedings,
namely Opposition No. 91115866*

TRADEMARK TRIAL AND APPEAL BOARD
COMMISSIONER FOR TRADEMARKS
P.O. BOX 1451
ALEXANDRIA VA 22313-1451

Sir:

I hereby certify that the attached PETITIONER'S/OPPOSER'S CORRESPONDENCE TO TTAB RE: PETITIONER'S/OPPOSER'S MOTION FOR SUMMARY JUDGMENT and EXHIBIT K(1) RELEVANT TO THE MOTION and CERTIFICATE OF MAILING in connection with the above-identified matter is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to BOX TTAB, Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451, under Express Mail Label No. EL-984673167US on April 7, 2005.

Date: April 7, 2005



Dianne R. Kammerlander
On Behalf of Eric O. Haugen
HAUGEN LAW FIRM PLLP
121 S. Eighth Street, #1130
Minneapolis, MN 55402

Attorney for Petitioner/Opposer
Prairie Island Indian Community,
a Federally Recognized Indian Tribe