

ESTTA Tracking number: **ESTTA69182**

Filing date: **03/03/2006**

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	Microgaming Systems Anstalt
Granted to Date of previous extension	03/05/2006
Address	Aeulestrasse 38P.O. Box 583 Vaduz, 9490 LIECHTENSTEIN
Attorney information	James M. McCarthy McDonnell Boehnen Hulbert & Berghoff LLP 300 South Wacker Drive Chicago, IL 60606 UNITED STATES mccarthy@mbhb.com Phone:312-913-0001

Applicant Information

Application No	78489320	Publication date	09/06/2005
Opposition Filing Date	03/03/2006	Opposition Period Ends	03/05/2006
Applicant	WMS GAMING INC. 800 SOUTH NORTHPOINT BOULEVARD WAUKEGAN, IL 60085 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. All goods and sevicees in the class are opposed, namely: GAMING MACHINES
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Attachments	Microgaming Notice of Opposition Filed 3.3.06.pdf (3 pages)
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Signature	/James M. McCarthy/
Name	James M. McCarthy
Date	03/03/2006

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

In the Matter of Application Serial No. 78/489,320
Filed September 24, 2004
For the Mark THUNDER STRUCK
Published in the Official Gazette (Trademarks) on September 6, 2005

MICROGAMING SYSTEMS ANSTALT,)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
WMS GAMING INC.,)	
)	
Applicant.)	
)	

Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

MICROGAMING SYSTEMS ANSTALT, a corporation of Liechtenstein, in connection with its subsidiaries and licensees (collectively "MSA"), believes that it will be damaged by registration of the THUNDER STRUCK trademark Application No. 78/489,320 and hereby opposes the same on the following grounds:

1. Since at least as early as October 6, 2003, MSA has been continuously and exclusively using the mark THUNDERSTRUCK throughout the United States in connection with casino games available on the internet.
2. MSA has prominently advertised and promoted its casino games, and its THUNDERSTRUCK game has generated substantial revenues in the United States and throughout the world.

3. By virtue of MSA's development efforts, considerable promotional expenditures, and high quality of its products, the purchasing public has come to and does recognize the THUNDERSTRUCK trademark as being used by MSA or by a single source, and to associate and identify the THUNDERSTRUCK mark with MSA, or a single source, such that MSA derives substantial goodwill and value from identification by the consuming public and trade.

4. Subsequent to MSA's establishment of its trademark rights, WMS Gaming Inc. ("Applicant") filed Application Serial No. 78/489,320 and sought to obtain registration on the Principal Register for the mark THUNDER STRUCK for use on gaming machines.

5. On information and belief, Applicant is currently using the THUNDER STRUCK mark in the United States and the earliest priority date upon which Applicant can rely is September 24, 2004, the filing date of Application Serial No. 78/489,320.

6. On information and belief, Applicant sought to register the THUNDER STRUCK mark with full knowledge of MSA's THUNDERSTRUCK mark, without the consent of MSA, and with the intent to trade and capitalize on the goodwill generated by MSA's extensive and exclusive use of its THUNDERSTRUCK mark.

7. Applicant's THUNDER STRUCK mark is identical in sight, sound, and commercial impression to MSA's THUNDERSTRUCK mark.

8. The goods identified in Applicant's THUNDER STRUCK application, "gaming machines," are related to and substantially identical to the goods offered by WMS, "internet casino games."

GROUND I – LIKELIHOOD OF CONFUSION

9. MSA incorporates by reference the allegations of Paragraphs 1 through 8 as if fully set forth herein.

10. Through actual use in commerce, MSA has established prior use of the THUNDERSTRUCK mark well before Applicant's application to register the mark THUNDER STRUCK.

11. MSA's nationwide use of the THUNDERSTRUCK mark in connection with internet casino games has generated extensive good will and consumer recognition.

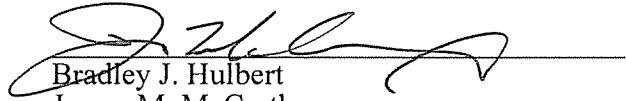
12. Applicant's THUNDER STRUCK mark so closely resembles MSA's THUNDERSTRUCK mark that, if used in connection with the applied-for goods, it would be likely to cause confusion, mistake or deception of the relevant trade and public.

13. By reason of the foregoing, MSA believes that it will be damaged by registration of Applicant's THUNDER STRUCK mark.

WHEREFORE, MSA prays that this Opposition be sustained and that Application Serial No. 78/489,320 be refused registration.

Respectfully submitted,

Dated: March 3, 2006


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