

ESTTA Tracking number: **ESTTA310131**

Filing date: **10/07/2009**

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

Proceeding	91186308
Party	Defendant Angel Co., Ltd.
Correspondence Address	NEIL M. ZIPKIN AMSTER, ROTHSTEIN & EBENSTEIN LLP 90 PARK AVE NEW YORK, NY 10016-1301 UNITED STATES nzipkin@arelaw.com, hpekowsky@arelaw.com
Submission	Answer
Filer's Name	Holly Pekowsky
Filer's e-mail	ptodocket@arelaw.com
Signature	/Holly Pekowsky/
Date	10/07/2009
Attachments	Answer and Affirmative Defenses to Amended Notice of Opp - USPCC v Angel.pdf (8 pages)(778236 bytes)

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

----- -x

THE UNITED STATES PLAYING CARD COMPANY,	:	Opposition No.: 91186308
	:	
Opposer,	:	Application Serial No.: 77/398,049
	:	Filing Date: February 15, 2008
v.	:	Publication Date: May 13, 2008
	:	Trademark: Design
ANGEL PLAYING CARDS CO., LTD., formerly known as ANGEL CO., LTD.,	:	
	:	
Applicant.	:	

----- -x

**ANSWER AND AFFIRMATIVE DEFENSES TO
AMENDED NOTICE OF OPPOSITION**

Applicant Angel Playing Cards Co., Ltd., formerly known as Angel Co., Ltd. (“Angel”), through its attorneys Amster, Rothstein & Ebenstein LLP, answers the Amended Notice of Opposition filed by Opposer The United States Playing Card Company (“PCC”), as follows:

1. Angel admits the truth of the allegations contained in Paragraph 1 of the Amended Notice of Opposition.
2. Angel lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 of the Amended Notice of Opposition, and, accordingly, denies the same.
3. Angel lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 3 of the Amended Notice of Opposition, and, accordingly, denies the same.

4. Angel lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 of the Amended Notice of Opposition, and, accordingly, denies the same, although Applicant notes that according to the Trademark Office's online website, an office action issued on April 29, 2009 initially rejecting Opposer's Statement of Use for the identified application.

5. Angel lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 of the Amended Notice of Opposition, and, accordingly, denies the same.

6. Angel denies the allegations contained in Paragraph 6 of the Amended Notice of Opposition, except admits that the registration sought by Angel will be prima facie evidence of the validity of the registration, Angel's ownership of the mark as shown by the drawing submitted in Application Serial No. 77/398,049 and Angel's exclusive right to use the mark as shown by the drawing submitted in Application Serial No. 77/398,049.

7. Angel denies the allegations contained in Paragraph 7 of the Amended Notice of Opposition.

8. Angel denies the allegations contained in Paragraph 8 of the Amended Notice of Opposition.

AFFIRMATIVE DEFENSES

1. There is no likelihood of confusion between Angel's mark of Serial No. 77/398,049 ("Angel's Mark") and the mark asserted by PCC in the Opposition ("PCC's Mark") since the marks are sufficiently distinguishable to avoid confusion.

2. There is no likelihood of confusion between Angel's Mark and PCC's Mark since PCC's Mark is weak, as evidenced by third party use of similar designs on playing cards, including, without limitation, Gemaco Playing Card Co. (see attached Exhibit A), and a not-yet-identified third party whose cards were found at a casino in the U.S. (see attached Exhibit B).

3. There is no likelihood of confusion between Angel's Mark and PCC's Mark since PCC's Mark is decorative or ornamental in nature; does not function as a trademark to identify or distinguish PCC's goods from those of others or to indicate the source of PCC's goods.

WHEREFORE, Angel requests that this Opposition be denied and that registration be granted.

Respectfully submitted,

AMSTER, ROTHSTEIN & EBENSTEIN LLP
Attorneys for Angel Playing Cards Co., Ltd.
formerly known as Angel Co., Ltd.
90 Park Avenue
New York, New York 10016
(212) 336-8000

Dated: New York, New York
October 7, 2009

By: 
Neil M. Zipkin
Holly Pekowsky

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is one of the attorneys for Applicant, Angel Co., Ltd., in the above-captioned opposition proceeding and that on the date which appears below, she caused a copy of the foregoing ANSWER AND AFFIRMATIVE DEFENSES TO AMENDED NOTICE OF OPPOSITION to be served on the attorneys for Opposer, The United States Playing Card Company, by first class mail by causing a copy thereof to be placed in a depository under the care and custody of the United States Postal Service, in the State of New York, postage pre-paid, in a wrapper addressed as follows:

Cindy L. Caditz, Esq.
Christensen O'Connor Johnson Kindness
1420 5th Ave., Suite 2800
Seattle, WA 98101



Holly Pekowsky

Dated: New York, New York
October 1, 2009

EXHIBIT A

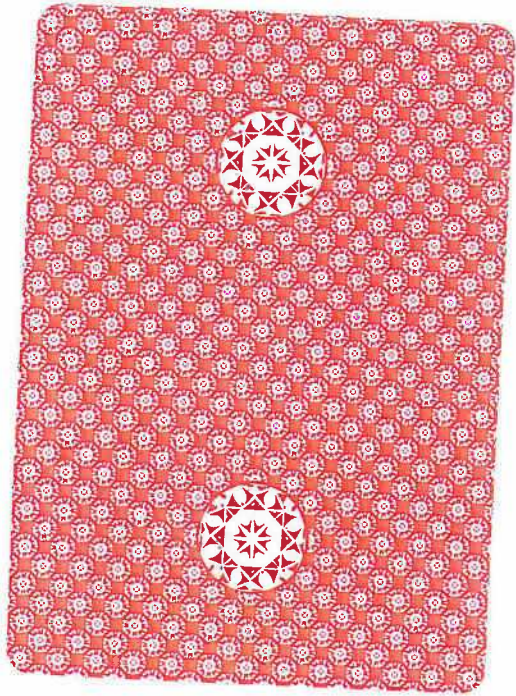


EXHIBIT B

