

ESTTA Tracking number: **ESTTA351478**

Filing date: **06/07/2010**

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	The United States Playing Card Company
Granted to Date of previous extension	08/04/2010
Address	300 Gap Way Erlanger, KY 41018 UNITED STATES

Attorney information	Stuart R. Dunwoody Davis Wright Tremaine LLP 1201 Third Avenue, Suite 2200 Seattle, WA 98101 UNITED STATES stuardunwoody@dwt.com Phone:(206) 757-8034
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Applicant Information

Application No	77860456	Publication date	04/06/2010
Opposition Filing Date	06/07/2010	Opposition Period Ends	08/04/2010
Applicant	Angel Playing Cards Co., Ltd. Chuo-ku, Osaka-shi 10-1 Kawarayamachi, 2-chome Osaka, 542-0006 JAPAN		

Goods/Services Affected by Opposition

Class 028. All goods and services in the class are opposed, namely: Playing cards
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Applicant Information

Application No	77860480	Publication date	04/06/2010
Opposition Filing Date	06/07/2010	Opposition Period Ends	
Applicant	Angel Playing Cards Co., Ltd. Chuo-ku, Osaka-shi 10-1 Kawarayamachi, 2-chome Osaka, 542-0006 JAPAN		

Goods/Services Affected by Opposition

Class 028. All goods and services in the class are opposed, namely: Playing cards
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Applicant Information

Application No	77860501	Publication date	04/06/2010
Opposition Filing Date	06/07/2010	Opposition Period Ends	
Applicant	Angel Playing Cards Co., Ltd. Chuo-ku, Osaka-shi 10-1 Kawarayamachi, 2-chome Osaka, 542-0006 JAPAN		

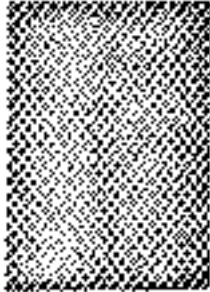
Goods/Services Affected by Opposition

Class 028. All goods and services in the class are opposed, namely: Playing cards
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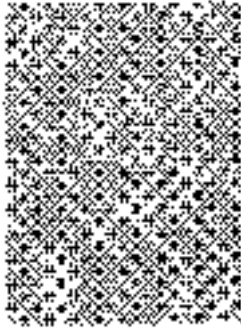
Grounds for Opposition


False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition


U.S. Registration No.	48763	Application Date	06/27/1905
Registration Date	01/09/1906	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	THE TRADE-MARK CONSISTS OF A DESIGN MANY TIMES REPEATED UPON A PANEL OR PARALLELOGRAM TO GIVE THE EFFECT OF MANY PARALLEL DIAGONAL LINES CROSSING EACH OTHER AND INCLOSING DARK DIAMOND-SHAPED FIGURES. THE APPEARANCE OF THE LIGHT LINES IS GAINED BY FOUR LIGHT PARALLEL STROKES OR LINES AT EACH SIDE OF THE DARK DIAMOND, AND AT EACH CORNER OF EACH DARK DIAMOND A SMALLER LIGHT DIAMOND SPACE APPEARS THE EFFECT RESEMBLING A PLAID DESIGN.		
Goods/Services	Class U037 (International Class 028). First use: First Use: 1885/00/00 First Use In Commerce: 1885/00/00 PLAYING-CARDS		

U.S. Registration No.	153892	Application Date	07/29/1921
Registration Date	03/28/1922	Foreign Priority	NONE

		Date	
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U022 (International Class 016). First use: First Use: 1888/00/00 First Use In Commerce: 1888/00/00 Playing Cards		

U.S. Registration No.	2694791	Application Date	05/22/2001
Registration Date	03/11/2003	Foreign Priority Date	NONE
Word Mark	BEE STINGER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 2000/10/01 First Use In Commerce: 2000/10/01 Playing cards		

U.S. Registration No.	3049851	Application Date	11/19/2004
Registration Date	01/24/2006	Foreign Priority Date	NONE
Word Mark	CLUB CASINO		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 028. First use: First Use: 2004/10/01 First Use In Commerce: 2004/10/01 Playing cards

Related Proceedings	91190319, 91192759, 91193028, 91193297, 91193298, and 91195010.
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Attachments	71009226#TMSN.gif (1 page)(bytes) 71151120#TMSN.gif (1 page)(bytes) 76261207#TMSN.gif (1 page)(bytes) 78519837#TMSN.jpeg (1 page)(bytes) Notice of Opposition.pdf (6 pages)(21234 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Stuart R. Dunwoody/
Name	Stuart R. Dunwoody
Date	06/07/2010

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

3 THE UNITED STATES PLAYING CARD)
4 COMPANY, a Delaware corporation,)
5) Opposition No.
6)
7) NOTICE OF OPPOSITION
8)
9 v.)
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23)
Applicant.)

Seattle, Washington 98101
June 7, 2010

TO THE COMMISSIONER FOR TRADEMARKS
TRADEMARK TRIAL AND APPEAL BOARD

11 The United States Playing Card Company, a Delaware corporation, having a place of
12 business at 300 Gap Way, Erlanger, Kentucky 41018 (hereinafter "Opposer"), believes that it
13 will be damaged by registration of the marks as claimed by Applications Serial
14 Nos. 77/860,456, 77/860,480, and 77/860,501 all filed October 29, 2009, in International
15 Class 28 and hereby opposes the same.

16 As grounds for the opposition, Opposer alleges as follows:

17 1. On information and belief, Angel Playing Cards Co., Ltd. is a corporation
18 created pursuant to the laws of Japan, having a place of business at 10-1 Kawarayamachi 2-
19 Chome, Chuo-ku, Osaka, Japan (hereinafter "Applicant"). Applicant has as its Attorney of
20 Record Neil M. Zipkin, Amster Rothstein & Ebenstein LLP, 90 Park Ave Floor 21, New York,
21 NY 10016.

22 2. Continuously, since long prior to any date upon which Applicant can rely,
23 Opposer has used trademarks comprising repeated parallelogram and rectangular designs and
diagonal lines in association with playing cards and related goods.

1 3. Continuously, since long prior to any date upon which Applicant can rely,
2 Opposer has used trademarks comprising repetitive designs in association with playing cards
3 and related goods.

4 4. Opposer is the owner of U.S. Trademark Registration No. 48,763 for a design
5 mark described as follows: “the trade-mark consists of a design many times repeated upon a
6 panel or parallelogram to give the effect of many parallel diagonal lines crossing each
7 other and inclosing dark diamond-shaped figures. The appearance of the light lines is
8 gained by four light parallel strokes or lines at each side of the dark diamond, and at each
9 corner of each dark diamond a smaller light diamond space appears the effect resembling a
10 plaid design.” The registration claims playing cards in International Class 28, issued
11 January 9, 1906, sets forth a date of first use of 1885, and is currently valid, subsisting and
12 incontestable.

13 5. Opposer is the owner of U.S. Trademark Registration No. 153,892 for the
14 design mark shown by the drawing submitted in that registration. The registration claims
15 playing cards in International Class 16, issued March 28, 1922, sets forth a date of first use of
16 1888, and is currently valid, subsisting and incontestable.

17 6. Opposer is the owner of U.S. Trademark Registration No. 2,694,791 for the
18 design mark shown by the drawing submitted in that registration. The registration claims
19 playing cards in International Class 16, issued March 11, 2003, sets forth a date of first use of
20 October 1, 2000, and is currently valid and subsisting.

21 7. Opposer is the owner of U.S. Trademark Registration No. 3,049,851 for the
22 design mark shown by the drawing submitted in that registration. The registration claims
23 playing cards in International Class 28, issued January 24, 2006, sets forth a date of first use of
 October 1, 2004, and is currently valid and subsisting.

1 8. Opposer will be damaged by the registrations sought by Applicant insofar as
2 the registrations will be *prima facie* evidence of the validity of the registrations, Applicant's
3 ownership of the marks as claimed by Applications Serial Nos. 77/860,456, 77/860,480, and
4 77/860,501, and Applicant's exclusive right to use the marks as claimed by Applications Serial
5 Nos. 77/860,456, 77/860,480, and 77/860,501 when, in fact, Applicant is not entitled to such
6 rights by virtue of Opposer's prior and continuous use of the marks described by Paragraphs 2-
7 3 and shown by the registrations identified by Paragraphs 4-7 herein in association with the
8 sale of playing cards.

9 9. The marks claimed by Applications Serial Nos. 77/860,456, 77/860,480, and
10 77/860,501 when used in association with playing cards by Applicant, so resemble Opposer's
11 Marks described by Paragraphs 2-3 and shown by the registrations identified by Paragraphs 4-
12 7 herein as to be likely to cause confusion, or to cause mistake, or to deceive within the
13 meaning of Section 2(d) of the Lanham Act 15 U.S.C. § 1052(d).

14 10. As a result of Opposer's long-term, substantial and widespread use of the
15 marks shown by the registrations identified by Paragraphs 4-7 herein, the marks have become
16 famous, and are thus valuable symbols that serve to identify Opposer as the source of all
17 playing cards and related goods and services identified by or promoted with the marks.

18 11. On information and belief the marks shown by the registrations identified by
19 Paragraphs 4-7 herein were previously used by Opposer and became famous prior to any date
20 upon which Applicant can show use of any of the marks claimed by Applications Serial
21 Nos. 77/860,456, 77/860,480, and 77/860,501.

22 12. Each of Applicant's marks claimed by Applications Serial Nos. 77/860,456,
23 77/860,480, and 77/860,501 creates a commercial impression that is so similar to the
commercial impressions created by Opposer's marks shown by the registrations identified by

1 Paragraphs 4-7 herein as to be likely to cause dilution of the distinctiveness of Opposer's
2 marks shown by those registrations.

3 13. The marks claimed by Applications Serial Nos. 77/860,456, 77/860,480, and
4 77/860,501 so resemble Opposer's marks described by Paragraphs 2-3 herein and shown by
5 the registrations identified by Paragraphs 4-7 herein as to cause dilution of the distinctive
6 quality of Opposer's marks in violation of 15 U.S.C. § 1125(c).

7 14. The marks claimed by Applications Serial Nos. 77/860,456, 77/860,480, and
8 77/860,501 so resemble Opposer's famous marks shown by the registrations identified by
9 Paragraphs 4-7 herein, which on information and belief have all been previously used and
10 registered by Opposer, as to be likely to falsely suggest a connection between Opposer and
11 Applicant in violation of Section 2(a) of the Lanham Act, 15 U.S.C. § 1052(a).

12 15. Based upon the foregoing, registration of the marks claimed by Applications
13 Serial Nos. 77/860,456, 77/860,480, and 77/860,501, filed October 29, 2009, is likely to cause
14 injury and damage to Opposer.

15 WHEREFORE, Opposer respectfully requests that the registration of the mark claimed
16 by Applications Serial Nos. 77/860,456, 77/860,480, and 77/860,501 be denied pursuant to
17 Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), Section 2(a) of the Lanham Act, 15
18 U.S.C. § 1052(a) and 15 U.S.C. § 1125(c), and that this opposition be sustained.

19 Opposer submits herewith the required fee in the amount of \$900 and requests that
20 any additional fees be charged to Deposit Account No. 04-0258 or any overpayment be
21 issued as a credit to Deposit Account No. 04-0258.
22
23

1 **CERTIFICATE OF FILING**

2 I hereby certify that this NOTICE OF OPPOSITION to U.S. Trademark
3 Applications Serial Nos. 77/860,456, 77/860,480, and 77/860,501 for the marks shown by
4 the drawings submitted in Applications Serial Nos. 77/860,456, 77/860,480, and
77/860,501 is being filed with the Trademark Trial and Appeal Board using the ESTTA
filing system of the U.S. Patent and Trademark Office on the below date.

5 Date: June 7, 2010 /s/ Stuart R. Dunwoody

6 **CERTIFICATE OF SERVICE**

7 I hereby certify that this NOTICE OF OPPOSITION to U.S. Trademark
8 Applications Serial Nos. 77/860,456, 77/860,480, and 77/860,501 for the marks shown by
9 the drawings submitted in Applications Serial Nos. 77/860,456, 77/860,480, and
77/860,501 is being duly served upon the Applicant and Applicant's Attorney of Record
10 by mailing a copy thereof via the U.S. Postal Service in a sealed envelope as first-class
mail with postage thereupon fully prepaid and addressed to:

11 Angel Playing Cards Co., Ltd.
12 10-1 Kawarayamachi 2-Chome
Chuo-ku, Osaka
JAPAN

13 And to:

14 Neil M. Zipkin
15 Amster Rothstein & Ebenstein LLP
90 Park Ave Floor 21
New York, NY 10016

16 Date: June 7, 2010 /s/ Stuart R. Dunwoody