

ESTTA Tracking number: **ESTTA393750**

Filing date: **02/16/2011**

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	TABLEBRAIN CORP.
Granted to Date of previous extension	02/16/2011
Address	925 Westchester Avenue Suite 304 White Plains, NY 10604 UNITED STATES
Attorney information	Mitchell P. Novick, Esq. Law Offices Of Mitchell P. Novick 623 Eagle Rock Avenue Suite 407 West Orange, NJ 07052 UNITED STATES mnovick@mitchellnovick.com, nhyman@mitchellnovick.com Phone: 973-744-5150

Applicant Information

Application No	77802508	Publication date	10/19/2010
Opposition Filing Date	02/16/2011	Opposition Period Ends	02/16/2011
Applicants	Behrendsen, Mark C. 4306 S. Carson St. Carson City, NV 89701 UNITED STATES Behrendsen, Rita R. 4306 S. Carson St. Carson City, NV 89701 UNITED STATES		

Goods/Services Affected by Opposition


Class 028. All goods and services in the class are opposed, namely: Card games; Game tables; Gaming tables; Mats for poker tables; Parlor games; Parlour games; Playing card game accessories, namely, playing card cases, playing card holders, mats for use in connection with playing card games; Playing cards; Playing cards and card games; Tabletop games


Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
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)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3898715	Application Date	11/11/2009
Registration Date	01/04/2011	Foreign Priority Date	NONE
Word Mark	DOUBLE TEXAS HOLD'EM		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2006/11/00 First Use In Commerce: 2006/11/00 Entertainment in the nature of providing online card games		

U.S. Application No.	77900942	Application Date	12/24/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	DOUBLE HOLD'EM		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2006/11/00 First Use In Commerce: 2006/11/00 Entertainment in the nature of providing online card games		

Attachments	77870765#TMSN.jpeg (1 page)(bytes) 77900942#TMSN.jpeg (1 page)(bytes) 1594oppo.not.tmk.pdf (7 pages)(59115 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 Facsimile or email (by agreement only) on this date.

Signature	/mitchell p. novick/
Name	Mitchell P. Novick, Esq.
Date	02/16/2011

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

<p>In the Matter of Application Serial No. 77/802,508 Published: October 19, 2010</p> <p>TABLEBRAIN CORP.,</p> <p style="text-align: center;">Opposer,</p> <p style="text-align: center;">v.</p> <p>BEHRENDSEN, RITA R. and BEHRENDSEN, MARK C.,</p> <p style="text-align: center;">Applicants.</p>	<p style="text-align: right;">Opposition No. _____</p>
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NOTICE OF OPPOSITION

Opposer, TABLEBRAIN CORP., a New York corporation with a mailing address of 925 Westchester Avenue, Suite 304, White Plains, New York 10604 ("Opposer"), believes it will be damaged by registration of the trademark "DOUBLE D HOLD'EM" for:

Card games; Game tables; Gaming tables; Mats for poker tables; Parlor games; Parlour games; Playing card game accessories, namely, playing card cases, playing card holders, mats for use in connection with playing card games; Playing cards; Playing cards and card games; Tabletop games in Class 28,

as shown in Application Serial No. 77/802,508 ("Applicants' Application") and hereby opposes same.

As grounds for opposition, Opposer, through its counsel, alleges

as follows:

APPLICANTS' MARK - "DOUBLE D HOLD'EM"

1. Rita R. Behrendsen and Mark C. Behrendsen ("Applicants") filed Applicants' Application with the United States Patent And Trademark Office ("USPTO") on August 12, 2009.
2. Applicants' Application was filed based upon an intent to use.
3. To date, Applicants have not provided the USPTO with a date of first use or a date of first use in commerce.
4. Upon information and belief, Applicants have not made any use in commerce of the mark "DOUBLE D HOLD'EM" prior to or during November 2006.
5. Upon information and belief, Applicants have not made any use in commerce of the mark "DOUBLE D HOLD'EM" to date.

OPPOSER'S MARK - "DOUBLE TEXAS HOLD'EM"

6. Opposer is the owner of United States Trademark Registration No. 3,898,715, registered on January 4, 2011 for the mark "DOUBLE TEXAS HOLD'EM" for use with entertainment in the nature of providing online card games (Class 41). "DOUBLE TEXAS HOLD'EM" was first used in commerce at least as early as November 2006.
7. Since at least November 2006, Opposer's "DOUBLE TEXAS HOLD'EM" goods and services have been, and are, advertised and available to consumers throughout the United States and in various other countries via the internet, including without limitation,

Opposer's website WWW.TABLEBRAIN.COM and websites of third parties.

8. Since at least November 2006, Opposer has continually and continues to extensively advertise "DOUBLE TEXAS HOLD'EM" goods and services throughout the United States and in various other countries via the internet, including without limitation, Opposer's website WWW.TABLEBRAIN.COM; websites of third parties; print media; and press releases.
9. Upon information and belief, there are currently no other goods or services sold under the mark "DOUBLE TEXAS HOLD'EM" other than those items authorized by Opposer.
10. As a result of the activities described in the previous three paragraphs, "DOUBLE TEXAS HOLD'EM" is a famous mark which indicates goods and services that are sourced from, sponsored by, or associated with Opposer.

OPPOSER'S MARK - "DOUBLE HOLD'EM"

11. At least as early as November 2006, Opposer adopted the mark "DOUBLE HOLD'EM" for use with card games and card game rules.
12. "DOUBLE HOLD'EM" was first used at least as early as November 2006 and first used in commerce at least as early as November 2006.
13. On December 24, 2009, Opposer filed an application with the United States Patent And Trademark Office ("USPTO") for registration of its mark "DOUBLE HOLD'EM" ("Opposer's

Application"). Opposer's Application was assigned Serial No. 77/900,942.

14. On September 8, 2010, Opposer's Application was suspended pending the disposition of co-pending application Serial No. 77/802,508 for the mark "DOUBLE D HOLD'EM" (Applicants' Application").

15. As of time of its suspension, the identification of goods/services in Opposer's Application is:

"entertainment in the nature of providing
online card games in Class 41"

16. Since at least November 2006, Opposer's "DOUBLE HOLD'EM" goods and services have been, and are, advertised and available to consumers throughout the United States and in various other countries via the internet, including without limitation, Opposer's website WWW.TABLEBRAIN.COM and websites of third parties.

17. Since at least November 2006, Opposer has continually and continues to extensively advertise "DOUBLE HOLD'EM" goods and services throughout the United States and in various other countries via the internet, including without limitation, Opposer's website WWW.TABLEBRAIN.COM; websites of third parties; print media; and press releases.

18. Upon information and belief, there are currently no other goods or services sold under the mark "DOUBLE HOLD'EM" other than those items authorized by Opposer.

19. As a result of the activities described in the previous three

paragraphs, "DOUBLE HOLD'EM" is a famous mark which indicates goods and services that are sourced from, sponsored by, or associated with Opposer.

CAUSES OF ACTION

20. Opposer believes it will be damaged by registration of Applicants' "DOUBLE D HOLD'EM" mark under Section 13 of the Lanham Act, 15 U.S.C. 1063, because consumers, familiar with Opposer's famous "DOUBLE TEXAS HOLD'EM" mark are likely to believe, mistakenly, that Applicants or their products emanate from, are sponsored or authorized by, or are otherwise associated or affiliated with Opposer, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. 1052(d).
21. Opposer believes it will be damaged by registration of Applicants' "DOUBLE D HOLD'EM" mark under Section 13 of the Lanham Act, 15 U.S.C. 1063 because Applicants' use of the mark "DOUBLE D HOLD'EM" is likely to dilute the distinctive quality of Opposer's famous "DOUBLE TEXAS HOLD'EM" trademark by lessening the capacity for the trademark to identify and distinguish Opposer exclusively as the source of goods and services provided under the "DOUBLE TEXAS HOLD'EM" trademark, in violation of Section 43(c) of the Lanham Act, 15 U.S.C. 1125(c).
22. Opposer believes it will be damaged by registration of Applicants' "DOUBLE D HOLD'EM" mark under Section 13 of the Lanham Act, 15 U.S.C. 1063, because consumers, familiar with Opposer's famous "DOUBLE HOLD'EM" mark are likely to believe,

mistakenly, that Applicants or their products emanate from, are sponsored or authorized by, or are otherwise associated or affiliated with Opposer, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. 1052(d).

23. Opposer believes it will be damaged by registration of Applicants' "DOUBLE D HOLD'EM" mark under Section 13 of the Lanham Act, 15 U.S.C. 1063 because Applicants' use of the mark "DOUBLE D HOLD'EM" is likely to dilute the distinctive quality of Opposer's famous "DOUBLE HOLD'EM" trademark by lessening the capacity for the trademark to identify and distinguish Opposer exclusively as the source of goods and services provided under the "DOUBLE HOLD'EM" trademark, in violation of Section 43(c) of the Lanham Act, 15 U.S.C. 1125(c).

24. Opposer believes it will be damaged by registration of Applicants' "DOUBLE D HOLD'EM" mark because Applicants' use of the mark "DOUBLE D HOLD'EM" and any registration of mark to Applicants is a misappropriation of the property and rights of Opposer.

25. By reason of the foregoing, Opposer will be damaged by registration of the mark shown in Application Serial No. 77/802,508 and Applicants are therefore not entitled to a registration for said mark.

WHEREFORE, Opposer respectfully requests that this Opposition be sustained and that registration of the mark shown in

application Serial No. 77/802,508 be in all respects refused and denied.

Dated: February 16, 2011

Respectfully submitted,

LAW OFFICES OF MITCHELL P. NOVICK

By: /mitchell p. novick/
MITCHELL P. NOVICK, ESQ.

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