

ESTTA Tracking number: **ESTTA440325**

Filing date: **11/09/2011**

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	Rocket Gaming Systems, LLC
Granted to Date of previous extension	11/09/2011
Address	66201 East 290 Road Grove, OK 74344 UNITED STATES

Attorney information	Ryan Gile Weide & Miller, Ltd. 7251 W. Lake Mead Blvd., Ste. 530 Las Vegas, NV 89128 UNITED STATES RGile@WeideMiller.com Phone:702-382-4804
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**Applicant Information**

Application No	85148186	Publication date	07/12/2011
Opposition Filing Date	11/09/2011	Opposition Period Ends	11/09/2011
Applicant	Rocket Frog Games, LLC 3665 Procyon Street Las Vegas, NV 89103 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 035. All goods and services in the class are opposed, namely: Advertising, promotion, and marketing services, namely, promoting the goods and services of others via the Internet through online computer games and online social gaming
Class 041. All goods and services in the class are opposed, namely: Entertainment services, namely, providing online computer games and online social gaming; Entertainment services, namely, providing an interactive entertainment website featuring single-player online games, multiplayer online games, online gaming tournaments, music samples, and movie clips and trailers

**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
Other	lack of bona fide intent under Trademark Act section 1(b)

**Mark Cited by Opposer as Basis for Opposition**

U.S. Registration No.	2845613	Application Date	01/07/2002
Registration Date	05/25/2004	Foreign Priority Date	NONE
Word Mark	ROCKET GAMES		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2000/09/01 First Use In Commerce: 2000/09/01 Gaming machines and operating software that runs thereon		

Attachments	76358322#TMSN.gif ( 1 page )( bytes ) RRG-w-2280 - ROCKET.221G - ROCKETFROG Opposition (85-148,186).pdf ( 17 pages )(360588 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	/ryan gile/
Name	Ryan Gile
Date	11/09/2011

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

**In the Matter of Trademark Application No.: 85/148,186**  
**Mark: ROCKETFROG**  
**Filed on: October 8, 2010**  
**Published for Opposition: July 12, 2011**

Rocket Gaming Systems, LLC,	)	
	)	
Opposer,	)	
	)	<b>Opposition No.</b>
vs.	)	
	)	
Rocket Frog Games, LLC	)	
	)	
Applicant.	)	
_____	)	

**NOTICE OF OPPOSITION**

Opposer Rocket Gaming Systems, LLC (“Opposer”), a limited liability company duly organized and existing under the laws of the State of Delaware, with its principal place of business at 66201 East 290 Road, Grove, Oklahoma 74344, believes that it will be damaged by, and therefore opposes registration of, the mark ROCKETFROG (“Applicant’s Mark” or the “Mark”) for the services identified in U.S. Trademark Application Serial No. 85/148,186 (the “Application”), namely “Entertainment services, namely, providing online computer games and online social gaming; Entertainment services, namely, providing an interactive entertainment website featuring single-player online games, multiplayer online games, online gaming tournaments, music samples, and movie clips and trailers; Advertising, promotion, and marketing services, namely, promoting the goods and services of others through online computer games and online social gaming.” in International Class 041 and “Advertising, promotion, and marketing services, namely, promoting the goods and services of others via the Internet through

online computer games and online social gaming.” In International Class 035 (together, the “Listed Services”), which Application was filed by applicant Rocket Frog Games, LLC (“Applicant”), which the records of the U.S. Patent and Trademark Office (“USPTO”) indicate has its address at 3665 Procyon Street, Las Vegas, Nevada 89103.

The grounds for this opposition are as follows:

1. On October 8, 2010, Applicant filed the Application to register the mark ROCKET FROG GAMES in connection with the Listed Services on the basis of *bona fide* intent-to-use under Section 1(b) of the Trademark Act. On February 22, 2011, Applicant submitted an amended drawing changing the applied-for mark to Applicant’s mark. A current printout of information from the electronic database records of the USPTO showing the current status of the Application is attached hereto as Exhibit 1.

2. Opposer is the owner of United States Trademark Registration No. 2,845,613, for ROCKET GAMES for “Gaming machines, namely, bingo-related games and slot machines in Class 009” (“Opposer’s Mark”). A current printout of information from the electronic database records of the USPTO showing the current status and title of Opposer’s Mark is attached hereto as Exhibit 2. A printout of the USPTO’s Trademark Assignment Abstract of Title reflecting the assignment of the ROCKET GAMES Mark to Opposer is attached hereto as Exhibit 3.

3. Opposer’s Mark was registered by the USPTO on the Principal Register on May 25, 2004, and has not been abandoned.

4. The filing date of the Application for Applicant’s Mark is well after Opposer’s registration date for Opposer’s Mark, and accordingly, Opposer’s Mark has priority over Applicant’s Mark.

5. Due to the similarity between Opposer’s Mark and Applicant’s Mark, and the

related nature of the goods and services of the respective parties, customers and potential customers are likely to believe that Applicant's services originate from Opposer, or are otherwise endorsed, sponsored, or approved by Opposer, resulting in a likelihood of confusion in the marketplace and damage to Opposer.

6. The use and registration by Applicant of Applicant's Mark for the Listed Services is likely to cause confusion, or to cause mistake or deception in the marketplace among actual and potential customers with Opposer's Mark resulting in damage to Opposer.

7. Opposer will be damaged by the registration of Applicant's Mark, within the meaning of 15 U.S.C. § 1064, because Applicant's Mark is similar to Opposer's Mark and is to be used in connection with identical and/or closely related goods and services, causing a likelihood of confusion, deception, or mistake, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

8. Opposer requests that Applicant's Mark be refused registration under Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d), on the ground that Applicant's Mark so resembles Opposer's Marks as to be likely to cause confusion, or to cause mistake, or to deceive.

9. Upon information and belief, Applicant did not have a *bona fide* intent to use Applicant's Mark in commerce for the Listed Services when Applicant filed the Application.

10. Applicant's application as applied sought registration of the mark ROCKET FROG GAMES in connection with the Listed Services, and not Applicant's Mark.

11. Applicant amended the drawing of the Application to reflect Applicant's Mark after the filing date of the Application. Applicant's amendment was a material alteration of the drawing submitted by Applicant with the Application.

12. Upon information and belief, Applicant does not have any documents or evidence

establishing a bona fide intention to use Applicant's Mark in commerce in connection with the Listed Services as of the filing date of the Application.

13. Opposer requests that Applicant's Mark be refused registration under Section 1(b) of the Lanham Act, 15 U.S.C. §§1051(b), on the ground that the Application is void ab initio for lack of a *bona fide* intent to use Applicant's Mark on the part of the Applicant.

WHEREFORE, Opposer respectfully requests that this opposition to Applicant's Application be sustained in favor of Opposer, that the Application be rejected, that Applicant's Mark be refused registration, and for all other relief to which Opposer is entitled.

Respectfully submitted,

Dated: November 9, 2011

By: /s/Ryan Gile  
Ryan Gile, Esq.  
Kendele L. Works, Esq.  
Weide & Miller, Ltd.  
7251 W. Lake Mead Blvd., Ste. 530  
Las Vegas, NV 89128  
Tel: (702) 382-4804  
Fax: (702) 382-4805

Attorney for Opposer

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing **NOTICE OF OPPOSITION** has been served on **Rocket Frog Games, LLC**, by mailing said copy on November 9, 2011, via First Class Mail, postage prepaid, to:

Mr. Brett Calapp  
Chief Executive Officer  
Rocket Frog Games, LLC  
3665 Procyon Street  
Las Vegas, NV 89103

Jeffrey M. Smith, Esq.  
Greenberg Traurig LLP  
3290 Northside Parkway NW, Ste. 400  
Atlanta, GA 30327-2268

*/s/Ryan Gile* \_\_\_\_\_  
Ryan Gile

# **EXHIBIT 1**

# **EXHIBIT 1**



Thank you for your request. Here are the latest results from the [TARR web server](#).

This page was generated by the TARR system on 2011-11-09 11:34:17 ET

Serial Number: [85148186 Assignment Information](#)      [Trademark Document Retrieval](#)

Registration Number:(NOT AVAILABLE)

Mark

# ROCKETFROG

(words only): [ROCKETFROG](#)

Standard Character claim: [Yes](#)

Current Status: [A request for an extension of time to file an opposition has been filed with the Trademark Trial and Appeal Board. For further information, see TTABVUE on the Trademark Trial and Appeal Board web page.](#)

Date of Status: [2011-08-11](#)

Filing Date: [2010-10-08](#)

Transformed into a National Application: [No](#)

Registration Date: (DATE NOT AVAILABLE)

Register: [Principal](#)

Law Office Assigned: [LAW OFFICE 107](#)

Attorney Assigned:  
[VANSTON KATHLEEN MARY](#)

Current Location: [650 -Publication And Issue Section](#)

Date In Location: [2011-06-08](#)

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LAST APPLICANT(S)/OWNER(S) OF RECORD

---

1. [Rocket Frog Games, LLC](#)**Address:**

[Rocket Frog Games, LLC](#)  
[3665 Procyon Street](#)  
[Las Vegas, NV 89103](#)  
[United States](#)

**Legal Entity Type:** [Limited Liability Company](#)

**State or Country Where Organized:** [Nevada](#)

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**GOODS AND/OR SERVICES**

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**International Class:** [035](#)

**Class Status:** [Active](#)

[Advertising, promotion, and marketing services, namely, promoting the goods and services of others via the Internet through online computer games and online social gaming](#)

**Basis:** [1\(b\)](#)

**First Use Date:** [\(DATE NOT AVAILABLE\)](#)

**First Use in Commerce Date:** [\(DATE NOT AVAILABLE\)](#)

**International Class:** [041](#)

**Class Status:** [Active](#)

[Entertainment services, namely, providing online computer games and online social gaming;](#)  
[Entertainment services, namely, providing an interactive entertainment website featuring single-player online games, multiplayer online games, online gaming tournaments, music samples, and movie clips and trailers](#)

**Basis:** [1\(b\)](#)

**First Use Date:** [\(DATE NOT AVAILABLE\)](#)

**First Use in Commerce Date:** [\(DATE NOT AVAILABLE\)](#)

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**ADDITIONAL INFORMATION**

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[\(NOT AVAILABLE\)](#)

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**MADRID PROTOCOL INFORMATION**

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[\(NOT AVAILABLE\)](#)

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**PROSECUTION HISTORY**

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**NOTE:** To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

[2011-08-11 - Extension Of Time To Oppose Received](#)

2011-07-12 - Notice Of Actual Publication E-Mailed  
2011-07-12 - Published for opposition  
2011-06-08 - Law Office Publication Review Completed  
2011-06-08 - Assigned To LIE  
2011-05-23 - Approved For Pub - Principal Register  
2011-05-12 - Teas/Email Correspondence Entered  
2011-05-11 - Communication received from applicant  
2011-05-11 - TEAS Response to Office Action Received  
2011-03-04 - Notification Of Notice Of Unresponsive Amendment - E-Mailed  
2011-03-04 - Notice of unresponsive amendment e-mailed  
2011-03-04 - Report Unresponsive Amendment - Completed  
2011-02-22 - Applicant amendment prior to exam entered  
2011-02-22 - TEAS Voluntary Amendment Received  
2011-01-26 - Notification Of Non-Final Action E-Mailed  
2011-01-26 - Non-final action e-mailed  
2011-01-26 - Non-Final Action Written  
2011-01-19 - Assigned To Examiner  
2010-10-13 - New Application Office Supplied Data Entered In Tram  
2010-10-12 - New Application Entered In Tram

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**ATTORNEY/CORRESPONDENT INFORMATION**

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**Attorney of Record**

Jeffrey M. Smith, Esq., Kristen L. Fancher, Esq.

**Correspondent**

JEFFREY M. SMITH, ESQ., KRISTEN L. FANCHER  
GREENBERG TRAIRIG, LLP  
3290 NORTHSIDE PKWY NW STE 400  
ATLANTA, GA 30327-2268

Phone Number: 678-553-2100

Fax Number: 678-553-2212

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# **EXHIBIT 2**

# **EXHIBIT 2**

Thank you for your request. Here are the latest results from the [TARR web server](#).

This page was generated by the TARR system on 2011-11-09 11:36:15 ET

Serial Number: 76358322 [Assignment Information](#)      [Trademark Document Retrieval](#)

Registration Number: 2845613

Mark(words only): ROCKET GAMES

Standard Character claim: No

Current Status: A Section 8 declaration has been accepted.

Date of Status: 2010-06-04

Filing Date: 2002-01-07

Transformed into a National Application: No

Registration Date: 2004-05-25

Register: Principal

Law Office Assigned: LAW OFFICE 103

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov)

Current Location: L30 -TMEG Law Office 103

Date In Location: 2010-06-04

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**LAST APPLICANT(S)/OWNER(S) OF RECORD**

---

1. [Rocket Gaming Systems, LLC](#)

**Address:**

[Rocket Gaming Systems, LLC](#)

[66201 East 290 Road](#)

[Grove, OK 74344](#)

[United States](#)

**Legal Entity Type:** [Limited Liability Company](#)

**State or Country Where Organized:** [Delaware](#)

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**GOODS AND/OR SERVICES**

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**International Class:** 009

**Class Status:** Active

Gaming machines and operating software that runs thereon

**Basis:** 1(a)

**First Use Date:** 2000-09-01

**First Use in Commerce Date:** 2000-09-01

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**ADDITIONAL INFORMATION**

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**Disclaimer:** "GAMES"

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**MADRID PROTOCOL INFORMATION**

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(NOT AVAILABLE)

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**PROSECUTION HISTORY**

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**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

2010-06-04 - Section 8 (6-year) accepted

2010-06-03 - Case Assigned To Post Registration Paralegal

2010-05-24 - TEAS Section 8 Received

2007-02-28 - Assignment Of Ownership Not Updated Automatically

2007-02-21 - Assignment Of Ownership Not Updated Automatically

2004-05-25 - Registered - Principal Register

2004-03-16 - Allowed for Registration - Principal Register (SOU accepted)

2004-03-11 - Assigned To Examiner

2004-03-02 - Case File In TICRS

2004-02-24 - Statement Of Use Processing Complete

2004-02-24 - Extension 1 granted

2004-01-20 - Use Amendment Filed

2004-01-20 - Extension 1 filed  
2004-01-20 - PAPER RECEIVED  
2003-07-22 - NOA Mailed - SOU Required From Applicant  
2003-04-29 - Published for opposition  
2003-04-09 - Notice of publication  
2003-03-11 - Approved For Pub - Principal Register  
2003-02-19 - Communication received from applicant  
2003-02-19 - PAPER RECEIVED  
2003-02-07 - Non-final action mailed  
2002-11-12 - Communication received from applicant  
2003-01-07 - PAPER RECEIVED  
2002-11-12 - PAPER RECEIVED  
2003-02-03 - Previous Action Count Withdrawn  
2002-12-16 - Assigned To Examiner  
2002-05-03 - Non-final action mailed  
2002-05-01 - Assigned To Examiner

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**ATTORNEY/CORRESPONDENT INFORMATION**

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**Attorney of Record**

Ryan Gile

**Correspondent**

Ryan Gile

Weide & Miller, Ltd.

7251 W. Lake Mead Blvd., Ste. 530

Las Vegas NV 89128

Phone Number: (702) 382-4804

Fax Number: (702) 382-4805

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# **EXHIBIT 3**

# **EXHIBIT 3**



## United States Patent and Trademark Office

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### Assignments on the Web > [Trademark Query](#)

## Trademark Assignment Abstract of Title

### Total Assignments: 6

**Serial #:** [76358322](#)

**Filing Dt:** 01/07/2002

**Reg #:** [2845613](#)

**Reg. Dt:** 05/25/2004

**Registrant:** Miami Tribe of Oklahoma Business Develop

**Mark:** ROCKET GAMES

### Assignment: 1

**Reel/Frame:** [3236/0952](#)

**Received:** 01/30/2006

**Recorded:** 01/30/2006

**Pages:** 5

**Conveyance:** ASSIGNS THE ENTIRE INTEREST

**Assignor:** [MIAMI TRIBE OF OKLAHOMA BUSINESS DEVELOPMENT AUTHORITY](#)

**Exec Dt:** 01/24/2006

**Entity Type:** FEDERALLY RECOGNIZED  
INDIAN TRIBE

**Citizenship:** OKLAHOMA

**Entity Type:** LIMITED LIABILITY  
COMPANY

**Citizenship:** OKLAHOMA

**Assignee:** [ELINK, L.L.C.](#)

66201 EAST 290 ROAD  
GROVE, OKLAHOMA 74344

**Correspondent:** GREGORY F. BUHYOFF  
7251 W. LAKE MEAD BLVD.  
BANK WEST BUILDING, SUITE 530  
LAS VEGAS, NV 89128

### Assignment: 2

**Reel/Frame:** [3382/0545](#)

**Received:** 09/01/2006

**Recorded:** 09/01/2006

**Pages:** 23

**Conveyance:** SECURITY INTEREST

**Assignor:** [ELINK, L.L.C.](#)

**Exec Dt:** 06/28/2006

**Entity Type:** LIMITED LIABILITY  
COMPANY

**Citizenship:** OKLAHOMA

**Entity Type:** NATIONAL BANKING  
ASSOCIATION

**Citizenship:** NONE

**Assignee:** [BANK OF AMERICA, N.A.](#)  
300 SOUTH FOURTH STREET  
SECOND FLOOR  
LAS VEGAS, NEVADA 89101

**Correspondent:** JAMIE NAFZIGER  
DORSEY & WHITNEY LLP  
50 SOUTH SIXTH STREET, SUITE 1500  
MINNEAPOLIS, MN 55402-1498

### Assignment: 3

**Reel/Frame:** [3480/0784](#)

**Received:** 02/13/2007

**Recorded:** 02/13/2007

**Pages:** 4

**Conveyance:** MERGER

**Assignor:** [ELINK, L.L.C.](#)

**Exec Dt:** 12/19/2006

**Entity Type:** LTD LIAB JT ST CO

**Citizenship:** OKLAHOMA

**Entity Type:** LTD LIAB JT ST CO

**Citizenship:** DELAWARE

**Assignee:** [ROCKET GAMING SYSTEMS, LLC](#)  
8311 W. SUNSET RD., SUITE 110  
LAS VEGAS, NEVADA 89113

**Correspondent:** MARK BORGHESE  
7251 W. LAKE MEAD, SUITE 530  
LAS VEGAS, NV 89128

### Assignment: 4

**Reel/Frame:** [3484/0471](#)      **Received:** 02/16/2007      **Recorded:** 02/14/2007      **Pages:** 8

**Conveyance:** CORRECTIVE ASSIGNMENT TO CORRECT THE CONVEYING PARTY ENTITY TYPE AND RECEIVING PARTY ENTITY TYPE PREVIOUSLY RECORDED ON REEL 003480 FRAME 0784. ASSIGNOR(S) HEREBY CONFIRMS THE CORRECT CONVEYING PARTY ENTITY TYPE IS; LIMITED LIABILITY COMPANY; RECEIVING PARTY ENTITY TYPE IS; LIMITED LIABILITY COMPANY.

**Assignor:** [ELINK, L.L.C.](#)

**Exec Dt:** 12/19/2006

**Entity Type:** LIMITED LIABILITY COMPANY

**Citizenship:** OKLAHOMA

**Entity Type:** LIMITED LIABILITY COMPANY

**Citizenship:** DELAWARE

**Assignee:** [ROCKET GAMING SYSTEMS, LLC](#)  
8311 W. SUNSET RD., SUITE 110  
LAS VEGAS, NEVADA 89113

**Correspondent:** MARK BORGHESE  
7251 W. LAKE MEAD, SUITE 530  
LAS VEGAS, NEVADA 89128

### Assignment: 5

**Reel/Frame:** [3659/0855](#)      **Received:** 11/13/2007      **Recorded:** 11/13/2007      **Pages:** 9

**Conveyance:** SECURITY INTEREST

**Assignor:** [ROCKET GAMING SYSTEMS, LLC](#)

**Exec Dt:** 11/06/2007

**Entity Type:** LIMITED LIABILITY COMPANY

**Citizenship:** DELAWARE

**Entity Type:** NATIONAL BANKING ASSOCIATION

**Citizenship:** NONE

**Assignee:** [BANK OF AMERICA, N.A.](#)  
300 SOUTH FOURTH STREET  
SECOND FLOOR  
LAS VEGAS, NEVADA 89101

**Correspondent:** ELIZABETH C. BUCKINGHAM  
50 SOUTH SIXTH STREET  
SUITE 1500  
MINNEAPOLIS, MN 55402

### Assignment: 6

**Reel/Frame:** [4135/0882](#)      **Received:** 01/22/2010      **Recorded:** 01/22/2010      **Pages:** 4

**Conveyance:** RELEASE BY SECURED PARTY

**Assignor:** [BANK OF AMERICA, N.A.](#)

**Exec Dt:** 01/06/2010

**Entity Type:** NATIONAL BANKING ASSOCIATION

**Citizenship:** NONE

**Entity Type:** LIMITED LIABILITY COMPANY

**Citizenship:** DELAWARE

**Assignee:** [ROCKET GAMING SYSTEMS, LLC.](#)  
8311 WEST SUNSET ROAD, SUITE 110  
LAS VEGAS, NEVADA 89113

**Correspondent:** DAVID M. SULLIVAN  
20 NORTH BROADWAY, SUITE 1800  
OKLAHOMA CITY, OK 73102

Search Results as of: 11/09/2011 11:44 AM

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350. v.2.2  
Web interface last modified: July 25, 2011 v.2.2

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