

ESTTA Tracking number: **ESTTA493191**

Filing date: **09/07/2012**

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

Proceeding	91206268
Party	Defendant AGC, LLC
Correspondence Address	PATRICIA A. MOTTA AGC, LLC 1 AMERICAN RD CLEVELAND, OH 44144-2301 patty.motta@amgreetings.com;paul.carden
Submission	Answer
Filer's Name	Patricia A. Motta
Filer's e-mail	patty.motta@amgreetings.com, paul.cardenas@amgreetings.com
Signature	/patricia a. motta/
Date	09/07/2012
Attachments	answer.pdf (5 pages)(113946 bytes)

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

Mad Catz, Inc.,)	
)	
Opposer,)	Opposition No. 91206268
)	Serial No. 85/594,499
v.)	
)	
AGC, LLC,)	
)	
Applicant.)	

ANSWER TO NOTICE OF OPPOSITION

BOX TTAB NO FEE
Commissioner for Trademarks
P.O. Box 1451
Alexandra, VA 22313-1451

In response to the Notice of Opposition filed July 26, 2012, the Applicant, AGC, LLC, by and through its attorney, answers the Opposition identified above as follows:

1. In response to the allegations for the Grounds of Opposition in the Notice that Opposer has used its MAD CATZ mark and design since 1993, the Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegation set forth, and based thereon, denies this allegation.

2. In response to the allegations for the Grounds of Opposition that Applicant's mark is confusingly similar, the Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegation set forth, and based thereon, denies this allegation.

AFFIRMATIVE DEFENSES

In further answer to the Notice, the Applicant asserts that:

1. Applicant's mark is easily distinguishable from Opposer's mark in appearance and commercial impression. Applicant's mark consists of the term "MAD CATS" within a cloud that contains a silhouette of a female cat person, as shown below.



Whereas Opposer's mark consists of "an animal paw print with 4-red lines forming scratch marks extending from the paw with the words "MAD CATZ" above the paw print and the extension of the letter "z" in the word "CATZ" circling under the paw print and ending beneath the "A" in the word "MAD", as shown below.



2. The Examining Attorney assigned to examine Applicant's application to register its MAD CATS mark and design for greeting cards in Class 16 did not cite Opposer's mark as a conflicting mark that would bar registration of Application mark. And we believe that the Examining Attorney was correct in not citing Opposer's mark as a bar to registration of Applicant's mark under Section 2(d).

In addition to the distinctive design elements of each parties marks, respectively shown above, Applicant's goods are also easily distinguishable from the goods of Opposer, which are: "electronic control apparatus and instruments for video game machines for use with televisions, namely, joysticks, trackballs, steering wheels, foot pedals, foot pads, electronic laser and light guns, computer mice, analog and digital controllers; parts for video game machines for use with televisions, namely, video cables, video leads and memory cards; magnifying viewing apparatus in the nature of a lens used to enlarge the display of a video game; electronic games equipment, namely, car cigarette lighter power adaptors, system selectors for interconnecting multiple video game systems, rf adaptors for controllers, rechargeable power packs; computer peripheral devices, namely, controllers, joysticks, fishing pole controllers, steering wheels; all of the aforesaid goods for use in or in relation to computer or video games; hand held controllers for playing electronic games; all for use in or relating to computer or video games in Class 9. The Examining Attorney concluded that greeting cards on the one hand, and electronic components on the other, are different enough so as not to lead to confusion.

3. Opposer has failed to state a claim upon which relief can be granted.

4. Upon information and belief, Opposer has not endeavored to use its mark in connection with greeting cards. Lacking priority as to Class 16 greeting cards, Opposer cannot prove an essential element of its claim of confusion.

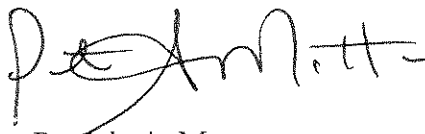
5. Upon information and belief, according to the USPTO TARR database, Opposer's first date of use is 1999 not 1993 as alleged in the Notice.

6. Applicant reserves the right to add other Affirmative Defenses as they become known throughout the pendency of this proceeding.

WHEREFORE, in consideration of the foregoing, Applicant, by and through its attorney, respectfully requests that this Opposition Proceeding be dismissed and Applicant's mark proceed to registration.

Respectfully submitted,

AGC, LLC

A handwritten signature in black ink, appearing to read "Patricia A. Motta". The signature is fluid and cursive, with a large initial "P" and "M".

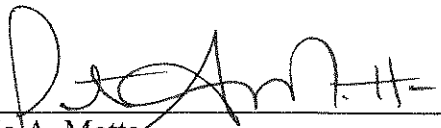
By: Patricia A. Motta
Attorney, Assistant Secretary, and Authorized Agent for
Applicant
One American Road
Cleveland, Ohio 44144
T: 216-252-7300 (ext. 2205)
F: 216-252-6741

Dated:
September 7th, 2012

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of **APPLICANT'S ANSWER TO NOTICE OF OPPOSITION** was served by first class U.S. Mail on this 7th day of September, 2012 to:

Whitney E Peterson
Mad Catz, Inc.
7480 Mission Valley Road
Suite 101
San Diego, CA 92108-4433
UNITED STATES

By: 
Patricia A. Motta
Attorney, Assistant Secretary, and Authorized Agent
for AGC, LLC in Opposition No. 91206268