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

Proceeding	91212821
Party	Defendant Link Tomorrow Co. Ltd.
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Date	04/14/2014
Attachments	Answer.pdf(112177 bytes)

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

<p>Midasplayer.com Limited And King.com Ltd.</p> <p style="text-align:right">Petitioner,</p> <p>v.</p> <p>Link Tomorrow Co. Ltd.,</p> <p style="text-align:right">Applicant.</p>	<p>Opposition No: 91212821</p>
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ANSWER AND AFFIRMATIVE DEFENSES

Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

COMES NOW, the Applicant, Link Tomorrow Co. Ltd., a Republic of Korea corporation, having its principal place of business at 5F, 136 Yeoksam-ro, Gangnam-gu Seoul, Republic of Korea and responds to the Notice of Opposition, and in doing so denies all allegations and legal arguments made in headings of the Complaint except as specifically stated herein:

1. Applicant admits the allegations contained in paragraph 1 of the Notice of Opposition.

2. Applicant admits the allegations contained in paragraph 2 of the Notice of Opposition.

3. Applicant is without knowledge or information sufficient to enable it to admit or deny the allegations contained in paragraph 3 of the Notice of Opposition and therefore denies same.

4. Applicant is without knowledge or information sufficient to enable it to admit or deny the allegations contained in paragraph 4 of the Notice of Opposition and therefore denies same.

5. Applicant admits that Opposer is the purported owner of Application Serial Nos. 85/840,713, 85/966,584, and 85/966,585 for the marks CANDY CRUSH, CANDY CRUSH SAGA & Design, and CANDY CRUSH & Design. Applicant denies the remaining allegations contained in paragraph 5 of the Notice of Opposition. Applicant further specifically states that upon information and belief Opposer has abandoned Application Serial No. 85/842,584 and thus expressly acknowledges that it has no rights in and to the mark CANDY. (A true and correct copy of the Express Abandonment is attached hereto as Exhibit A). Applicant still further states that Opposer's characterization of its marks as "CANDY Marks" is deceptive and misleading since the CANDY application was expressly abandoned and all other marks in Opposer's Applications are for the full phrase CANDY CRUSH or CANDY CRUSH SAGA.

6. Applicant is without knowledge or information sufficient to enable it to admit or deny the allegations contained in paragraph 6 of the Notice of Opposition relating to the extent of sales and promotion of the CANDY CRUSH or CANDY CRUSH SAGA marks, and therefore denies same. Applicant denies the remaining allegations contained in paragraph 6 of the Notice of Opposition. Applicant further states that Opposer's characterization of its marks as "CANDY Marks" is deceptive and misleading since the CANDY application was expressly abandoned and

all other marks in Opposer's Applications are for the full phrase CANDY CRUSH or CANDY CRUSH SAGA.

7. Applicant admits that Application Serial No. 85/840,713 was filed before Application Serial No. 85/756,676, but denies the remaining allegations in paragraph 7 of the Notice of Opposition. Applicant still further states that Opposer's characterization of its marks as "CANDY Marks" is deceptive and misleading since the CANDY application was expressly abandoned and all other marks in Opposer's Applications are for the full phrase CANDY CRUSH or CANDY CRUSH SAGA.

8. Applicant admits that it had heard of the game CANDY CRUSH SAGA prior to adoption of its CANDY PANG mark, but denies the remaining allegations contained in paragraph 8 of the Notice of Opposition. Applicant further states that Opposer's characterization of its marks as "CANDY Marks" is deceptive and misleading since the CANDY application was expressly abandoned and all other marks in Opposer's Applications are for the full phrase CANDY CRUSH or CANDY CRUSH SAGA.

9. Applicant admits the allegations contained in paragraph 9 of the Notice of Opposition.

10. Applicant denies the allegations contained in paragraph 10 of the Notice of Opposition. Applicant further states Opposer's CANDY CRUSH or CANDY CRUSH SAGA marks contain the words CRUSH or CRUSH SAGA which Applicant's do not and Applicant's CANDY PANG mark contains the word PANG which Opposer's do not. Still further Opposer's Application Serial Nos. 85/966,584, and 85/966,585 contain a design that is not contained in Applicant's mark, and Applicant's CANDY PANG mark contains a design which is not contained in Opposer's Application Serial Nos. 85/840,713, 85/966,584, and 85/966,585.

11. Applicant admits that Applicant and Opposer both sell games that are intended to be played on Android and iPhone devices, but denies the remaining allegations contained in paragraph 11 of the Notice of Opposition.

12. Applicant admits that that Applicant and Opposer both sell games that are intended to be played on Android and iPhone devices, but denies the remaining allegations contained in paragraph 12 of the Notice of Opposition.

13. Applicant denies the allegations contained in paragraph 13 of the Notice of Opposition.

14. Applicant denies the allegations contained in paragraph 14 of the Notice of Opposition.

15. Applicant denies the allegations contained in paragraph 15 of the Notice of Opposition.

16. Applicant denies the allegations contained in paragraph 16 of the Notice of Opposition.

AFFIRMATIVE DEFENSES

Pursuant to Federal Rule of Civil Procedure 8(b), Applicant asserts the following affirmative defenses to Opposer's Notice of Opposition and Applicant expressly reserves the right to assert additional affirmative defenses that further investigation, discovery or otherwise may indicate.

1. Opposer has failed to state a claim upon which relief may be granted.
2. Applicant has not infringed any valid and enforceable trademark right of Opposer.
3. Opposer has abandoned any and all right in and to the word CANDY alone, as Applicant expressly abandoned Application Serial No. 85/842,584. See Exhibit A.

4. The term "CANDY" is descriptive of the game pieces used in the games offered by Applicant Opposer, and is thus unprotectable as to Opposer, apart from the entire mark CANDY CRUSH or CANDY CRUSH SAGA, as was implicitly acknowledged by Opposer in Paragraph 2 of its Amended Answer to Notice of Opposition in Opposition No. 91210162. (A true and correct copy of Opposer's Amended Answer to Notice of Opposition in Opposition No. 91210162 is attached hereto as Exhibit B).

5. The term "CANDY" is commercially weak through the extensive use of this term by third parties for use in connection with games that are intended to be played on Android and iPhone devices.

6. There is no likelihood of confusion between Applicant's CANDY PANG mark and Opposer's CANDY CRUSH or CANDY CRUSH SAGA marks because Opposer's CANDY CRUSH or CANDY CRUSH SAGA marks contain the words CRUSH or CRUSH SAGA, which Applicant's do not, and Applicant's CANDY PANG mark contains the word PANG which Opposer's do not. Still further Opposer's Application Serial Nos. 85/966,584, and 85/966,585 contain a design that is not contained in Applicant's mark, and Applicant's CANDY PANG mark contains a design which is not contained in Opposer's Application Serial Nos. 85/840,713, 85/966,584, and 85/966,585.

7. Opposer' claims are barred because any harm or damage alleged by Opposer was not caused by any act or omission of Applicant.

WHEREFORE, having responded, Applicant prays that Opposer take nothing by way of its Notice of Opposition and that the Board dismiss the same.

Respectfully submitted,

/s/ Christine Lebrón-Dykeman

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ATTORNEYS FOR APPLICANT

LINK TOMORROW CO. LTD..

CERTIFICATE OF FILING

I hereby declare that the foregoing document has been filed via the Electronic System for Trademark Trials and Appeals (ESTTA) this 14th day of April, 2014.

/s/ Christine Lebrón-Dykeman

CERTIFICATE OF SERVICE

I hereby declare that the foregoing document was served upon the following this 14th day of April, 2014, via:

- | | |
|---|--|
| <input checked="" type="checkbox"/> 1 st Class U.S. Mail | <input type="checkbox"/> Federal Express |
| <input type="checkbox"/> Facsimile | <input type="checkbox"/> Hand Delivery |
| <input checked="" type="checkbox"/> Email | |

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ATTORNEYS FOR PETITIONERS
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AND KING.COM LTD.

/s/ Christine Lebrón-Dykeman