

ESTTA Tracking number: **ESTTA671106**

Filing date: **05/07/2015**

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	MGM Resorts International		
Entity	Corporation	Citizenship	Delaware
Address	3600 Las Vegas Boulevard South Las Vegas, NV 89109 UNITED STATES		

Attorney information	Michael J. McCue Lewis Roca Rothgerber LLP 3993 Howard Hughes Parkway Ste. 600 Las Vegas, NV 89169 UNITED STATES TRADEMARKS-LASVEGAS@LRRLAW.COM Phone:702.949.8200
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### Applicant Information

Application No	86444156	Publication date	04/14/2015
Opposition Filing Date	05/07/2015	Opposition Period Ends	05/14/2015
Applicant	Livingston, Terrice 2710 Perrin Dr. North Myrtle Beach, SC 29582 UNITED STATES		

### Goods/Services Affected by Opposition

Class 025. First Use: 2013/10/01 First Use In Commerce: 2013/10/01  
All goods and services in the class are opposed, namely: Belts; Hats; Jackets; Pants; Shirts; Shorts; Sweatshirts; Underwear

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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### Marks Cited by Opposer as Basis for Opposition


U.S. Registration No.	4727931	Application Date	01/06/2012
Registration Date	04/28/2015	Foreign Priority Date	NONE
Word Mark	MGM GRAND		

Design Mark	<h1>MGM GRAND</h1>		
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1995/11/01 First Use In Commerce: 1995/11/01 Robes		

U.S. Application No.	85648518	Application Date	06/11/2012
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	MGM GRAND AT HOME		
Design Mark	<h1>MGM GRAND AT HOME</h1>		
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 0 First Use In Commerce: 0 Robes		

U.S. Registration No.	2072069	Application Date	10/19/1993
Registration Date	06/17/1997	Foreign Priority Date	NONE
Word Mark	MGM GRAND LAS VEGAS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 014. First use: First Use: 1994/12/14 First Use In Commerce: 1994/12/14 souvenir items, namely pendants, rings being jewelry, watches, bracelets of precious metal, cuff links, tie tacs, ornamental pins, and cigarette lighters of precious metal</p> <p>Class 021. First use: First Use: 1994/12/14 First Use In Commerce: 1994/12/14 shot glasses cordial glasses, wine glasses, old fashioned glasses, on the rocksglasses, tulip glasses, tankards, mugs,tumblers, decanters, glass figurines,</p>		

	<p>soap dishes, tooth brush holders, non-metal piggy banks, salt and pepper shakers, and beer mugs</p> <p>Class 025. First use: First Use: 1994/12/14 First Use In Commerce: 1994/12/14</p> <p>tee shirts, jackets, tank tops, rompers, sweatshirts, and caps</p>
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U.S. Registration No.	2642096	Application Date	05/11/2001
Registration Date	10/29/2002	Foreign Priority Date	NONE
Word Mark	MGM GRAND		
Design Mark			
Description of Mark	The mark consists of a depiction of a walking lion over the words "MGM GRAND".		
Goods/Services	Class 025. First use: First Use: 1995/11/01 First Use In Commerce: 1995/11/01		
	Wearing apparel, namely, polo-shirts, t-shirts, tank tops, shirts, jackets, jogging suits, sweat shirts, sweat pants, jeans, pants, robes, sleepwear, rompers, scarves, socks, slippers, hats and caps		

U.S. Registration No.	3870708	Application Date	05/14/2010
Registration Date	11/02/2010	Foreign Priority Date	NONE
Word Mark	MGM GRAND		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1993/12/18 First Use In Commerce: 1993/12/18		
	Retail store services in the field of clothing, accessories, belts, handbags, footwear, swimwear, underwear, leather goods, wallets, umbrellas, perfumes, cos-		

	metics, beauty and skin care products, hair products, bath products, jewelry, watches, sunglasses, cigarette lighters, home and garden decor and accessories, glassware, mugs, plates, key chains, coasters, candles, flowers, cigars, candies, wines, snacks, wine accessories, magazines, newspapers, glass sculptures, gifts and souvenirs, artwork, books, video recordings and convenience store items; issuing gift certificates which may then be redeemed for goods or services; Providing facilities for business meetings and conventions; Providing information in the field of shopping via the internet
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U.S. Registration No.	3870709	Application Date	05/14/2010
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Registration Date	11/02/2010	Foreign Priority Date	NONE
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Word Mark	MGM GRAND
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Description of Mark	The mark consists of a depiction of a walking lion over a horizontal line with the words "MGM GRAND" underneath the horizontal line.
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Goods/Services	Class 035. First use: First Use: 1993/12/18 First Use In Commerce: 1993/12/18 Retail store services in the field of clothing, accessories, belts, handbags, footwear, swimwear, underwear, leather goods, wallets, umbrellas, perfumes, cosmetics, beauty and skin care products, hair products, bath products, jewelry, watches, sunglasses, cigarette lighters, home and garden decor and accessories, glassware, mugs, plates, key chains, coasters, candles, flowers, cigars, candies, wines, snacks, wine accessories, magazines, newspapers, glass sculptures, gifts and souvenirs, artwork, books, video recordings and convenience store items; issuing gift certificates which may then be redeemed for goods or services; Providing facilities for business meetings and conventions; Providing information in the field of shopping via the Internet
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U.S. Registration No.	3908061	Application Date	06/15/2010
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Registration Date	01/18/2011	Foreign Priority Date	NONE
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Word Mark	MGM GRAND
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Design Mark	<b>MGM GRAND</b>
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1995/11/01 First Use In Commerce: 1995/11/01 Clothing namely, polo-shirts, t-shirts, tank tops, shirts, jackets, jogging suits, sweat shirts, sweat pants, jeans, pants, robes, sleepwear, scarves, socks, slippers, hats and caps

U.S. Registration No.	4026926	Application Date	06/22/2010
Registration Date	09/13/2011	Foreign Priority Date	NONE
Word Mark	MGM RESORTS INTERNATIONAL		
Design Mark	<b>MGM RESORTS INTERNATIONAL</b>		
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2010/06/15 First Use In Commerce: 2010/06/15 Retail store services, featuring clothing and souvenir items; Customer loyalty services, namely, customer loyalty programs featuring loyalty coupons and loyalty points that provide casino benefits toward repeat customers		

U.S. Registration No.	4032483	Application Date	06/22/2010
Registration Date	09/27/2011	Foreign Priority Date	NONE
Word Mark	MGM RESORTS INTERNATIONAL		

Design Mark	MGM RESORTS INTERNATIONAL
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2010/06/15 First Use In Commerce: 2010/06/15 Golf shirts; Headgear, namely, hats andcaps; Jackets; Polo shirts; Robes; Shirts; Sweat pants; Sweat shirts; T-shirts; Tank tops; Visors; Warm up suits; Wind resistant jackets

Attachments	85510346#TMSN.png( bytes ) 85648518#TMSN.png( bytes ) 76255560#TMSN.png( bytes ) 85039281#TMSN.png( bytes ) 85039312#TMSN.png( bytes ) 85063121#TMSN.png( bytes ) 85069145#TMSN.png( bytes ) 85069129#TMSN.png( bytes ) moneygang.pdf(40904 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	/Michael J. McCue/
Name	Michael J. McCue
Date	05/07/2015

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

**MGM RESORTS INTERNATIONAL,**  
a Delaware Corporation

Opposer,

vs.

**TERRICE LIVINGSTON,**  
an individual,

Applicant.

Mark: MONEY GANG M.G.M.  
MILLIONAIRES

Serial No. 86/444,156

Published: April 14, 2015



**NOTICE OF OPPOSITION**

Opposer MGM Resorts International, a Delaware corporation with a business address of 3600 Las Vegas Boulevard South, Las Vegas, Nevada 89109, hereby opposes registration of the MONEY GANG M.G.M. MILLIONAIRES design mark that is the subject of pending application Serial No. 86/444,156 (the “156 Application”) filed by Applicant Terrice Livingston, and published in the *Official Gazette* on April 14, 2015. Opposer believes it will be damaged by the registration of Applicant’s mark and requests that registration be refused.

As grounds for its opposition, Opposer alleges as follows:

1. Opposer owns and operates resort properties throughout the United States and abroad, including MGM Grand Hotel & Casino—a world-famous resort hotel casino located on the Las Vegas Strip—and MGM Grand Detroit in Detroit, Michigan.

2. Opposer, for many years and since long prior to any date of first use upon which the Applicant can rely, has adopted and continuously used MGM and MGM-formative marks in connection with the operation of its properties and MGM-formative marks in connection with related goods and services, including the following:

Mark	Reg. No.	Goods and Services	Filing Date	Reg. Date	First Use
MGM GRAND LAS VEGAS	2,072,069	25: "Tee shirts, jackets, tank tops, rompers, sweatshirts, and caps" (also classes 14 and 21)	10/19/1993	6/17/1995	12/14/1994
MGM GRAND 	2,642,096	25: "Wearing apparel, namely, polo-shirts, t-shirts, tank tops, shirts, jackets, jogging suits, sweat shirts, sweat pants, jeans, pants, robes, sleepwear, rompers, scarves, socks, slippers, hats and caps"	5/11/2001	10/29/2002	11/1/1995
MGM GRAND	3,870,708	35: "Retail store services in the field of clothing, accessories, belts, handbags, footwear, swimwear, underwear, leather goods, wallets . . ."	5/14/2010	11/2/2010	12/18/1993
MGM GRAND 	3,870,709	35: "Retail store services in the field of clothing, accessories, belts, handbags, footwear, swimwear, underwear, leather goods, wallets . . ."	5/14/2010	11/2/2010	12/18/1993
MGM GRAND	3,908,061	25: "Clothing namely, polo-shirts, t-shirts, tank tops, shirts, jackets, jogging suits, sweat shirts, sweat pants, jeans, pants, robes, sleepwear, scarves, socks, slippers, hats and caps."	6/15/2010	1/18/2011	11/01/1995
MGM RESORTS INTERNATIONAL	4,026,926	35: "Retail store services, featuring clothing and souvenir items . . ."	6/22/2010	9/13/2011	6/15/2001
MGM RESORTS INTERNATIONAL	4,032,483	25: "Golf shirts; headgear, namely, hats and caps; jackets; polo shirts; robes; shirts; sweat pants; sweat shirts; t-shirts; tank tops; visors; warm up suits; wind resistant jackets."	6/22/2010	9/27/2011	6/15/2010

3. Opposer's trademark registrations are valid and subsisting. All of Opposer's trademark registrations are *prima facie* evidence of Opposer's exclusive right to use the above-listed marks in connection with the services specified in the registrations certificates.

4. Opposer also owns pending applications for MGM GRAND (Serial No. 85510346) and MGM GRAND AT HOME (Serial No. 85648518), both for robes in



International Class 25 (together with the above-referenced registrations and Opposer's common-law rights, the "MGM Marks").

5. On November 4, 2014, Applicant Terrice Livingston filed the '156 Application as a use-based application claiming the date of first use as October 1, 2013.

6. Opposer's use of its MGM Marks predates the filing date of the '156 Application as well as the first use date of Applicant's MONEY GANG M.G.M. MILLIONAIRES design mark. Opposer also obtained United States trademark registrations for seven of its MGM Marks prior to the date Applicant filed the '156 Application.

7. Applicant's MONEY GANG M.G.M. MILLIONAIRES design mark is confusingly similar to the MGM Marks. The marks share and emphasize the distinctive initials "MGM". The services listed in the '156 Application are identical or highly similar to the goods offered by Opposer under its MGM Marks. Specifically, Applicant seeks to register its mark for belts, hats, jackets, pants, shirts, shorts, sweatshirts, and underwear, which are within the scope of Opposer's existing federal trademark registrations for the MGM Marks.

8. Registration of the MONEY GANG M.G.M. MILLIONAIRES design mark is likely to cause confusion, to cause mistake, or to deceive consumers within the meaning of section 2(d) of the Trademark Act.

9. Opposer will suffer damages, including irreparable injury to its reputation and goodwill, if Applicant is permitted to register the MONEY GANG M.G.M. MILLIONAIRES design mark in the United States.

**WHEREFORE**, Opposer requests that the opposition be sustained and that registration of the MONEY GANG M.G.M. MILLIONAIRES design mark be refused.

Pursuant to 37 C.F.R. § 2.6(a)(17), please deduct the opposition fee in the sum of \$300.00 from the Lewis Roca Rothgerber LLP Deposit Account No. 502847.

Dated this 7th day of May, 2015.

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Respectfully submitted,

LEWIS ROCA ROTHGERBER LLP

**/S/ Michael J. McCue**

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Counsel for Opposer

**CERTIFICATE OF SERVICE**

I hereby certify that, on this 7th day of May 2015, a true and complete copy of the foregoing Notice of Opposition was served by United States mail, first class postage prepaid, on the following counsel of record for Applicant:

Mathew H. Swyers  
The Trademark Company  
344 Maple Avenue West, Suite 151  
Vienna, VA 22180-5612

/s/ **Tammy L. Bunch**  
An employee of Lewis Roca Rothgerber LLP