

ESTTA Tracking number: **ESTTA353056**

Filing date: **06/15/2010**

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

Proceeding	92051465
Party	Defendant EDGE GAMES, INC.
Correspondence Address	EDGE GAMES, INC. 530 SOUTH LAKE AVENUE, #171 PASADENA, CA 91101 UNITED STATES
Submission	Motion to Suspend for Civil Action
Filer's Name	Tim Langdell
Filer's e-mail	uspto@edgegames.com
Signature	/Tim Langdell/
Date	06/15/2010
Attachments	92051465_Motion to Suspend.pdf (54 pages)(4009591 bytes)

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

In the Matter of Registration No. 3,559,342
For the Trademark THE EDGE
Issued January 13, 2009

In the Matter of Registration No. 3,381,826
For the Trademark GAMER'S EDGE
Issued February 12, 2008

In the Matter of Registration No. 3,105,816
For the Trademark EDGE
Issued June 20, 2006

In the Matter of Registration No. 2,251,584
For the Trademark CUTTING EDGE
Issued June 8, 1999

In the Matter of Registration No. 2,219,837
For the Trademark EDGE
Issued January 26, 1999

EA DIGITAL ILLUSIONS CE AB, a Swedish Corporation; ELECTRONIC ARTS INC., a Delaware corporation,

Petitioners,

V.

EDGE GAMES, INC., a California corporation

Registrant.

**MOTION TO SUSPEND
PROCEEDINGS
PENDING OUTCOME
OF CIVIL ACTION**

Cancellation No. 92051465

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

MOTION TO SUSPEND PROCEEDINGS

NOW COMES Respondent and Registrant, EDGE Games Inc. (“EGI”), and moves through this motion that the instant cancellations proceedings be suspended pending the outcome of Federal Court proceedings brought against Petitioner Electronic Arts, Inc. by Registrant.

FACTS

On June 15, 2010 Registrant filed a Federal Court action against Petitioner Electronic Arts, Inc. for trademark infringement relating to Petitioner’s use of the mark “Mirror’s Edge” (Edge Games Inc. v. Electronic Arts Inc., No. CV-10-02614; copy of the Complaint is attached hereto as Exhibit 1). The Federal Court action deals with the same core issues under consideration in the instant cancellation proceedings, namely the infringement of Registrants registered and common law rights in the marks EDGE, THE EDGE, and a family of EDGE formative marks by Petitioners willful use of the EDGE formative mark “Mirror’s Edge” despite repeated decisions by the USPTO that Petitioner may not register said mark because it infringes Registrants family of long-established registered EDGE marks.

ARGUMENT

It is the policy of the Board to suspend proceedings when the parties are involved in a civil action which may be dispositive of or have a bearing on the Board case (*see* Trademark Rule 2.117(a)). Moreover, to the extent that a civil action in a Federal district court involves issues in common with those in a Board proceeding, the district court decision would be binding on the Board, whereas the Board decision is merely advisory

to the district court. *See American Bakeries Co. v. Pan-O-Gold Baking Co.*, 2 USPQ2d 1208 (D.C. Minn. 1986). Further, Board decisions are appealable to the district court. *See* Section 21 of the Trademark Act, and *Goya Foods, Inc. v. Tropicana Products Inc.*, 846 F.2d 848, 6 USPQ2d 1950, at 1953 (2d Cir. 1988).

Consequently, Registrant requests that the instant cancellation proceedings be suspended pending the final disposition of the civil action between the parties.

Date: June 15, 2010

Respectfully submitted,



By: _____

Dr. Tim Langdell, CEO
EDGE Games, Inc.
Registrant in *Pro Se*
530 South Lake Avenue, 171
Pasadena, CA 91101
Telephone: 626 449 4334
Facsimile: 626 844 4334
Email: ttab@edgegames.com

EXHIBIT 1

ORIGINAL
FILED

2010 JUN 15 A 9:36

RECEIVED BY MAIL
CLERK U.S. DISTRICT COURT
N.D. CALIF.

CHRISTOPHER D. BANYS (SBN 230038)
cdb@lanierlawfirm.com
DANIEL M. SHAFER (SBN 244839)
dms@lanierlawfirm.com
THE LANIER LAW FIRM, P.C.
2200 Geng Road, Suite 200
Palo Alto, California 94303
Telephone: (650) 322-9100
Facsimile: (650) 322-9103

ADR

Attorneys for Plaintiff,
EDGE GAMES, INC.

E-filing

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

EDGE GAMES, INC., a California corporation,

Plaintiff,

v.

ELECTRONIC ARTS INC. a Delaware
corporation,

Defendant.

CV 10-02614

Case No.

BZ

**COMPLAINT FOR TRADEMARK
INFRINGEMENT, FALSE
DESIGNATION OF ORIGIN, UNFAIR
COMPETITION, AND UNJUST
ENRICHMENT**

JURY TRIAL DEMANDED

COMPLAINT FOR TRADEMARK INFRINGEMENT,
FALSE DESIGNATION OF ORIGIN, UNFAIR
COMPETITION AND UNJUST ENRICHMENT

1 Plaintiff Edge Games, Inc. ("Edge Games"), for its Complaint against Defendant Electronic Arts,
2 Inc. ("EA"), upon knowledge as to its own acts, and upon information and belief as to all other matters,
3 hereby alleges as follows:

4 **INTRODUCTORY STATEMENT**

5 1. This is an action for trademark infringement and false designation of origin arising under
6 the Trademark Act of 1946 (Lanham Act), as amended, 15 U.S.C. §§ 1051 *et seq.* This action also
7 arises under the laws of the State of California for unfair competition and unjust enrichment.
8

9 **JURISDICTION AND VENUE**

10 2. This Court has subject matter jurisdiction under 15 U.S.C. § 1121 (Lanham Act), 28
11 U.S.C. § 1331 (federal question) and 28 U.S.C. § 1338(a)-(b) (trademark and unfair competition). This
12 court has supplemental jurisdiction over the remaining state law claims under 28 U.S.C. § 1367.
13

14 3. Venue in this judicial district is proper under 28 U.S.C. § 1391(b) and (c).

15 **INTRADISTRICT ASSIGNMENT**

16 4. Assignment of this action on a district-wide basis is proper under Civil L.R. 3-2(c), in
17 that this is an Intellectual Property Action.

18 **PARTIES**

19 5. Edge Games is a corporation organized and existing under the laws of the state of
20 California with its principal place of business at 530 South Lake Avenue, Suite 171, Pasadena,
21 California 91101.
22

23 6. Upon information and belief, Defendant EA is a corporation organized and existing under
24 the laws of the state of Delaware with its principal place of business at 209 Redwood Shores Parkway,
25 Redwood City, California 94065. Upon further information and belief, EA is qualified to do business
26 and does substantial business within the State of California and within this judicial district.
27

BACKGROUND

EDGE GAMES: A VIDEO GAMING PIONEER WITH VALUABLE TRADEMARKS

7. Edge Games and its predecessors and related entities comprise one of the oldest surviving video game development and publishing businesses, having been continuously in operation since the formative years of the industry in the 1980s. Edge Games' predecessor in interest adopted and began using "EDGE" as a trademark as early as 1984 in connection with the marketing and sale of video game software.

8. At all material times herein, Edge Games and/or its trademark licensees have been and are engaged in the development and interstate distribution and sale of video game software, video game accessories, video game publications, video game-related websites, comic books, and other related goods and services under a family of trademarks based on the designation "EDGE." These marks include "EDGE"; "THE EDGE"; "GAMER'S EDGE", "EDGE OF EXTINCTION"; "CUTTING EDGE"; and "EDGEGAMERS" (collectively, the "EDGE family of marks").

9. Edge Games' software and other products and services have been and continue to be advertised and sold throughout the United States, including California, and in foreign markets, under the EDGE family of marks. By virtue of advertising and sales, together with consumer acceptance and recognition, these marks identify only the video game-related goods and services of Edge Games and its licensees, and distinguish them from goods and services sold by others. The EDGE family of marks, and each mark therein, has thus become and is a valuable asset symbolizing Edge Games, its goodwill, and the quality of its products.

10. Edge Games is the assignee and owner of all right, title and interest under common law in and to the designation EDGE used in connection with, *inter alia*, video game software and related goods and services. Edge Games and/or its predecessor first adopted and used this mark at least as early as

1 1984, and have used it continuously since then. This mark is the subject of two applications for federal
2 registration owned by Edge Games and currently pending in the USPTO, namely Application Serial
3 Nos. 78/807,479 and 78/981,284. Copies of these application records, as they appear on the USPTO
4 website, are attached hereto as Exhibit A and Exhibit B, respectively.

5
6 11. Edge Games is the assignee and owner of all right, title and interest in and to Registration
7 No. 3,105,816, legally issued by the USPTO on June 20, 2006, for the designation EDGE used in
8 connection with, *inter alia*, various forms of printed matter, including video game magazines and comic
9 books. Edge Games and/or its predecessor first adopted and used this mark at least as early as 1985, and
10 have used it continuously since then. A copy of the registration record, as it appears on the USPTO
11 website, is attached hereto as Exhibit C and incorporated herein by reference.

12
13 12. Edge Games is the assignee and owner of all right, title and interest in and to Registration
14 No. 2,219,837, legally issued by the USPTO on January 26, 1999, for the designation EDGE used in
15 connection with, *inter alia*, printed matter and publications related to video games. Edge Games and/or
16 its predecessor first adopted and used this mark at least as early as 1985, and have used it continuously
17 since then. This mark is incontestable under 15 U.S.C. § 1065. A copy of the registration record, as it
18 appears on the USPTO website, is attached hereto as Exhibit D and incorporated herein by reference.

19
20 13. Edge Games is the assignee and owner of all right, title and interest in and to Registration
21 No. 3,381,826, legally issued by the USPTO on February 12, 2008, for the designation GAMER'S
22 EDGE used in connection with, *inter alia*, video game software and various video game accessories.
23 Edge Games and/or its predecessor first adopted and used this mark at least as early as 1986, and have
24 used it continuously since then. A copy of the registration record, as it appears on the USPTO website,
25 is attached hereto as Exhibit E and incorporated herein by reference.

1 14. Edge Games is the assignee and owner of all right, title and interest in and to Registration
2 No. 3,559,342, legally issued by the USPTO on January 13, 2009, for the designation THE EDGE used
3 in connection with, *inter alia*, video game software, video game controllers and video game magazines.
4 Edge Games and/or its predecessor first adopted and used this mark at least as early as 1995, and have
5 used it continuously since then. A copy of the registration record, as it appears on the USPTO website,
6 is attached hereto as Exhibit F and incorporated herein by reference.
7

8 15. Edge Games is the assignee and owner of all right, title and interest in and to Registration
9 No. 2,251,584, legally issued by the USPTO on June 8, 1999, for the designation CUTTING EDGE
10 used in connection with comic books. Edge Games and/or its predecessor first adopted and used this
11 mark at least as early as 1995, and have used it continuously since then. This mark is incontestable
12 under 15 U.S.C. § 1065. A copy of the registration record, as it appears on the USPTO website, is
13 attached hereto as Exhibit G and incorporated herein by reference.
14

15 16. Edge Games is the assignee and owner of all right, title and interest in and to Registration
16 No. 2,727,547, legally issued by the USPTO on June 17, 2003, for the designation EDGE OF
17 EXTINCTION used in connection with computer game software. Edge Games and/or its predecessor
18 first adopted and used this mark at least as early as the year 2000, and have used it continuously since
19 then. This mark is incontestable under 15 U.S.C. § 1065. A copy of the registration record, as it appears
20 on the USPTO website, is attached hereto as Exhibit H and incorporated herein by reference.
21

22 17. Edge Games is the assignee and owner of all right, title and interest in and to Registration
23 No. 3,585,463, legally issued by the USPTO on September 16, 2008, for the designation
24 EDGEGAMERS used in connection with entertainment services in the form of an online computer
25 gaming club. Edge Games and/or its predecessor first adopted and used this mark at least as early as
26
27

July 1, 2006, and have used it continuously since then. A copy of the registration record, as it appears on the USPTO website, is attached hereto as Exhibit I and incorporated herein by reference.

EA WILLFULLY INFRINGES EDGE GAMES' RIGHTS

18. On or about July 2, 2007, immediately after learning that EA had announced plans to launch a video game called MIRROR'S EDGE, Edge Games sent EA a cease-and-desist letter informing EA that its planned game title would infringe Edge Games' EDGE family of marks.

19. On information and belief, on July 5, 2007, rather than responding to Edge Games' cease-and-desist letter, EA instead filed Application Serial No. 77/222,986 in the United States Patent and Trademark Office ("USPTO") in an attempt to register the mark MIRROR'S EDGE for use in connection with a variety of goods and services, including video game software and related products. On or about February 27, 2008, the USPTO refused registration on the expressly-stated grounds that EA's intended use of MIRROR'S EDGE would cause a likelihood of confusion with several registered trademarks in Edge Games' EDGE family of marks. A copy of the refusal, as it appears on the USPTO website, is attached hereto as Exhibit J and incorporated herein by reference.

20. From approximately January through September of 2008, Edge Games made further attempts to communicate with EA to ensure that EA would not launch a game with the infringing title MIRROR'S EDGE. EA did not respond until early October of 2008, on the eve of MIRROR'S EDGE's planned launch, when EA finally began to engage in a dialogue and negotiation with Edge Games with the apparent intent of reaching an amicable resolution.

21. Thereafter, on or about November 11, 2008, despite having actual knowledge of Edge Games' marks, despite the USPTO's refusal to register MIRROR'S EDGE for EA due to likelihood of confusion with Edge Games' registered marks, and despite its lack of authorization from Edge Games, EA and/or its affiliates and/or licensees launched EA's MIRROR'S EDGE title and began mass

1 distribution and sales of video game software, comic books and other goods and services bearing the
2 MIRROR'S EDGE designation. This was a knowing and willful infringement of Edge Games' long-
3 established trademark rights, entitling Edge Games to an enhanced damages award.

4 22. Even after the launch of MIRROR'S EDGE, Edge Games and/or its representatives
5 continued negotiating with EA until approximately June 2009.
6

7 23. Edge Games is informed and believes that on or about September 8, 2009, EA sent a
8 letter to the USPTO formally abandoning its application to register MIRROR'S EDGE. Nonetheless,
9 Edge Games is informed and believes that EA continued selling the MIRROR'S EDGE game and
10 related products and services, and continued making plans to introduce additional MIRROR'S EDGE
11 releases.

12 24. On information and belief, by early 2009 EA had sold over one million units of its
13 MIRROR'S EDGE game software for at least the Xbox 360, Playstation 3 and PC platforms, with
14 substantial additional sales since that time. In addition, Edge Games is informed and believes that EA
15 has marketed and sold, and/or licensed third parties to market and sell, other infringing MIRROR'S
16 EDGE-branded products and services, including but not limited to a comic book adaptation of the
17 MIRROR'S EDGE game, and has published infringing video game-related websites that use the
18 MIRROR'S EDGE designation.
19

20 25. Most recently, in or about March 2010, Edge Games sent another cease-and-desist letter
21 to EA warning it against anticipated launches of the MIRROR'S EDGE game for additional platforms
22 such as iPad and iPhone. EA has not responded, but has since launched MIRROR'S EDGE for the iPad.
23

24 26. On information and belief, EA now plans to launch MIRROR'S EDGE 2 as a sequel to
25 the original MIRROR'S EDGE game, and also plans to launch a MIRROR'S EDGE title for the iPhone,
26 thus expanding its willful infringement of Edge Games' long-standing trademark rights.
27

FIRST CLAIM
INFRINGEMENT OF FEDERALLY REGISTERED TRADEMARKS
(15 U.S.C. § 1114)

27. Edge Games repeats and re-alleges the allegations of Paragraphs 1 through 26 as if fully set forth herein.

28. Edge Games is the owner of a family of registered trademarks, as identified above, incorporating the term EDGE for, *inter alia*, video games, video game-related websites, comic books, and other related goods and services.

29. Without Edge Games' consent, EA and/or its licensees have been and are now selling, offering for sale, distributing and advertising in interstate commerce video games, video game-related websites, comic books, and other related products and services bearing the designation MIRROR'S EDGE, so as to infringe upon each or any of Edge Games' above-identified registered trademarks.

30. EA's MIRROR'S EDGE designation bears sufficient overall similarity to each or any of the registered trademarks in Edge Games' EDGE family of marks, and/or is used by EA in connection with goods or services that are sufficiently competitive with or related to Edge Games' goods or services, so as to cause a likelihood of confusion, mistake or deception. Specifically, EA's use of the designation MIRROR'S EDGE is a colorable imitation of each and any of the registered marks in Edge Games' EDGE family of marks, and is likely to cause confusion, mistake, or deception among consumers as to the source of origin, sponsorship, or approval of products designated MIRROR'S EDGE, in that purchasers or others are likely to believe Edge Games' and its licensees' legitimate products bearing any of the trademarks in Edge Games' EDGE family of registered trademarks are connected with EA and/or its MIRROR'S EDGE products, and/or in that purchasers or others are likely to believe EA's MIRROR'S EDGE products are Edge Games' products or the products of a company legitimately connected with, approved by, or related to Edge Games.

31. As a direct and proximate result of EA's infringing activities, Edge Games has suffered substantial damage in an amount to be proven at trial.

32. EA's infringement of Edge Games' registered trademarks as alleged herein was knowing and willful, and is an exceptional case, entitling Edge Games to treble damages and an award of attorneys' fees under 15 U.S.C. § 1117(a) and (b).

33. EA's actions as alleged herein have caused and will cause Edge Games irreparable harm for which money damages and other remedies at law are inadequate. Unless EA is enjoined by this Court, it will continue and/or expand the wrongful activities alleged herein and otherwise continue to cause great and irreparable damage and injury to Edge Games.

SECOND CLAIM
FALSE DESIGNATION OF ORIGIN
(15 U.S.C. § 1125(a))

34. Edge Games repeats and re-alleges the allegations of Paragraphs 1 through 33 as if fully set forth herein.

35. As previously alleged, Edge Games is the assignee and owner of all right, title and interest in and to the unregistered trademark EDGE used in connection with, *inter alia*, video game software and related goods and services. Edge Games and/or its predecessor first adopted and used this mark at least as early as 1984, and have used it continuously since then in interstate commerce. This mark is the subject of two applications for federal registration owned by Edge Games and currently pending in the USPTO, namely Application Serial Nos. 78/807,479 and 78/981,284.

36. This EDGE mark is inherently distinctive of Edge Games' video games, video game accessories, and related products, and/or has acquired such distinctiveness over time.

37. EA has used its MIRROR'S EDGE designation in interstate commerce in a manner likely to cause confusion with Edge Games' unregistered EDGE mark.

38. As a direct and proximate result of EA's infringement, Edge Games has suffered substantial damage in an amount to be proven at trial.

39. EA's infringement of Edge Games' trademarks as alleged herein was knowing and willful.

40. EA's actions as alleged herein have caused and will cause Edge Games irreparable harm for which money damages and other remedies at law are inadequate. Unless EA is enjoined by this Court, it will continue and/or expand the wrongful activities alleged herein and otherwise continue to cause great and irreparable damage and injury to Edge Games.

THIRD CLAIM
COMMON LAW TRADEMARK INFRINGEMENT
(California Law)

41. Edge Games repeats and re-alleges the allegations of Paragraphs 1 through 40 as if fully set forth herein.

42. As detailed above, Edge Games has common law rights in California and throughout the United States in the various marks in its EDGE family of marks.

43. Each mark in Edge Games' EDGE family of marks has acquired distinctiveness.

44. EA's MIRROR'S EDGE designation infringes each and any mark in Edge Games' EDGE family of marks in that a likelihood of confusion exists between EA's MIRROR'S EDGE designation and each and any of the various marks in Edge Games' EDGE family of marks.

45. EA's MIRROR'S EDGE products and services compete in the marketplace with Edge Games' products and services sold under the EDGE family of marks.

46. As a direct and proximate result of EA's infringement, Edge Games has suffered substantial damage in an amount to be proven at trial.

1 47. EA's infringement of Edge Games' trademarks as alleged herein was knowing and
2 willful.

3 48. EA's actions as alleged herein have caused and will cause Edge Games irreparable harm
4 for which money damages and other remedies at law are inadequate. Unless EA is enjoined by this
5 Court, it will continue and/or expand the wrongful activities alleged herein and otherwise continue to
6 cause great and irreparable damage and injury to Edge Games.
7

8 **FOURTH CLAIM**
9 **UNFAIR COMPETITION**

(California Business & Professions Code § 17200 *et seq.*)

10 49. Edge Games repeats and re-alleges the allegations of Paragraphs 1 through 48 as if fully
11 set forth herein.

12 50. EA's infringement of Edge Games' EDGE family of marks constitutes unlawful, unfair
13 or fraudulent business acts or practices within the meaning of California Business & Professions Code §
14 17200 *et seq.*
15

16 51. EA's actions as alleged herein have caused and will cause Edge Games irreparable harm
17 for which money damages and other remedies at law are inadequate. Unless EA is enjoined by this
18 Court, it will continue and/or expand the wrongful activities alleged herein and otherwise continue to
19 cause great and irreparable damage and injury to Edge Games.
20

21 52. As a direct and proximate result of the aforementioned acts and practices, EA has been
22 unjustly enriched to the detriment of Edge Games, and Edge Games is entitled to restitution and
23 disgorgement by EA of all profits on the manufacture, use, display or sale of infringing goods and
24 services, in an amount to be proven at trial.

25 ///

26 ///

FIFTH CLAIM
COMMON LAW UNFAIR COMPETITION
(California Law)

53. Edge Games repeats and re-alleges the allegations of Paragraphs 1 through 52 as if fully set forth herein.

54. EA's MIRROR'S EDGE products and services compete in the marketplace with Edge Games' products and services sold under the EDGE family of marks.

55. EA's use, in competition with Edge Games, of a colorable imitation of each and any of the trademarks in Edge Games' EDGE family of marks constitutes an infringement that is actionable under the common law of unfair competition.

56. As a direct and proximate result of EA's infringement, Edge Games has suffered substantial damage in an amount to be proven at trial, and is entitled to monetary and equitable remedies.

57. EA's infringement of Edge Games' trademarks as alleged herein was knowing and willful.

SIXTH CLAIM
UNJUST ENRICHMENT
(California Law)

58. Edge Games repeats and re-alleges the allegations of Paragraphs 1 through 57 as if fully set forth herein.

59. As a direct and proximate result of the aforementioned acts and practices constituting infringement of Edge Games' EDGE family of marks, EA has profited at Edge Games' expense, and to the detriment of the value of Edge Games' EDGE family of marks.

60. EA's retention of such profits is unjust, in that it enriches EA to the detriment of Edge Games, and Edge Games is therefore entitled to restitution and disgorgement by EA of all profits on the manufacture, use, display or sale of infringing goods and services, in an amount to be proven at trial.

PRAYER FOR JUDGMENT

WHEREFORE, Edge Games prays that this Court enter judgment against Defendant as follows:

1. Adjudge that Edge Games' above-identified registered trademarks, and each of them, have been infringed by EA in violation of Edge Games' rights under 15 U.S.C. § 1114 and/or common law;
2. Adjudge that EA has competed unfairly with Edge Games in violation of Edge Games rights under California Business & Professions Code § 17200 and/or common law;
3. Adjudge that Edge Games recover from EA its damages and lost profits in an amount to be proven at trial, plus prejudgment interest;
4. Adjudge that EA be required to account for any profits that are attributable to its wrongful acts alleged herein, and that Edge Games be awarded the greater of (1) three times EA's profits, or (2) three times any damages sustained by Edge Games, under 15 U.S.C. § 1117, plus prejudgment interest;
5. Order an accounting of and impose a constructive trust on all of EA's funds and assets that have arisen out of its wrongful activities alleged herein;
6. Adjudge that EA be required to pay restitution to Edge Games, in an amount according to proof, for EA's wrongfully or unfairly gotten gains;
7. Adjudge that Edge Games be awarded its costs and disbursements incurred in connection with this action, including its reasonable attorneys' fees;

1 8. Adjudge that Edge Games be awarded punitive damages in an amount appropriate to
2 punish EA and deter others from engaging in similar conduct;

3 9. Adjudge that EA and its agents, employees, attorneys, successors, assigns, affiliates, and
4 joint venturers, and any person(s) acting in concert or participation therewith, be restrained and
5 enjoined during the pendency of this action and permanently thereafter from manufacturing,
6 producing, sourcing, importing, selling, offering for sale, distributing, advertising, or promoting
7 any goods bearing the designation MIRROR'S EDGE, including but not limited to video games,
8 video game software, and printed materials so designated, and be restrained and enjoined from
9 otherwise infringing Edge Games' trademarks; and
10

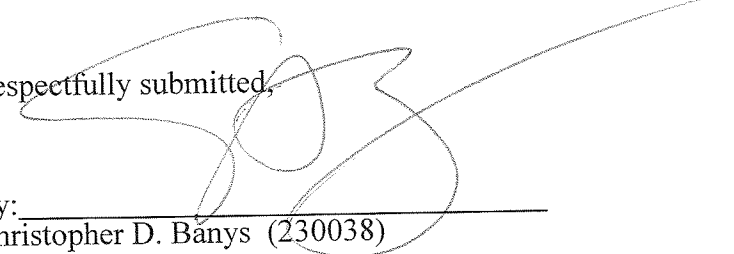
11 10. Order all such further relief for Edge Games as this Court deems just and proper.

12 **DEMAND FOR A JURY TRIAL**

13 Edge Games demands a trial by jury of all issues triable by a jury.

14
15
16 Dated: June 15, 2010

Respectfully submitted,

17
18 By: 
Christopher D. Banys (230038)
Daniel M. Shafer (244839)
The Lanier Law Firm, P.C.
2200 Geng Road, Suite 200
Palo Alto, CA 94303
Tel: (650) 332-9100
Fax: (650) 322-9103
cdb@lanierlawfirm.com
dms@lanierlawfirm.com

21
22
23
24 Attorneys for Plaintiff,
EDGE GAMES, INC.

EXHIBIT A



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Sat Jun 12 03:56:59 EDT 2010

[TESS HOME](#) | [NEW USER](#) | [STRUCTURED](#) | [FREE FORM](#) | [BROWSE DICT](#) | [SEARCH OG](#) | [BOTTOM](#) | [HELP](#)[Logout](#) Please logout when you are done to release system resources allocated for you.

Record 1 out of 1

[TARR Status](#) | [ASSIGN Status](#) | [TDR](#) | [TTAB Status](#) (Use the "Back" button of the Internet Browser to return to TESS)

EDGE

Word Mark	EDGE
Goods and Services	IC 009. US 021 023 026 036 038. G & S: Computers, plug-in boards, peripheral devices, flash cards, video game accessories, video game peripherals. FIRST USE: 19840601. FIRST USE IN COMMERCE: 19840601
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	78807479
Filing Date	February 5, 2006
Current Filing Basis	1A
Original Filing Basis	1A
Owner	(APPLICANT) EDGE GAMES, INC. CORPORATION 530 SOUTH LAKE AVENUE #171 PASADENA CALIFORNIA 91101
Assignment Recorded	ASSIGNMENT RECORDED
Prior Registrations	1853705;2219837;7502940
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

[TESS HOME](#) | [NEW USER](#) | [STRUCTURED](#) | [FREE FORM](#) | [BROWSE DICT](#) | [SEARCH OG](#) | [TOP](#) | [HELP](#)

[| HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)

EXHIBIT B



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Sat Jun 12 03:56:59 EDT 2010

[TESS HOME](#) | [NEW USER](#) | [STRUCTURED](#) | [FREE FORM](#) | [BROWSE DICT](#) | [SEARCH OG](#) | [BOTTOM](#) | [HELP](#)[Logout](#) | Please logout when you are done to release system resources allocated for you.

Record 1 out of 1

[TARR Status](#) | [ASSIGN Status](#) | [TDR](#) | [TTAB Status](#) (Use the "Back" button of the Internet Browser to return to TESS)

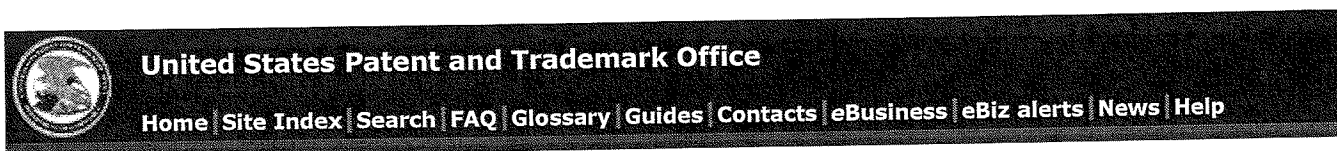
EDGE

Word Mark	EDGE
Goods and Services	IC 009. US 021 023 026 036 038. G & S: Computer game software, computer game programs, video game software, video game programs, computer game software that may be downloaded from a global computer network, video game software that may be downloaded from a global computer network, electronic game programs designed for use with mobile entertainment devices. FIRST USE: 19840601. FIRST USE IN COMMERCE: 19840601
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	78981284
Filing Date	February 5, 2006
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	January 12, 2010
Owner	(APPLICANT) EDGE GAMES, INC. CORPORATION CALIFORNIA 530 SOUTH LAKE AVENUE #171 PASADENA CALIFORNIA 91101
Assignment Recorded	ASSIGNMENT RECORDED
Prior Registrations	2219837;3105816;3559342;AND OTHERS
Type of Mark	TRADEMARK

Register PRINCIPAL
Live/Dead
Indicator LIVE

[TESS HOME](#)[NEW USER](#)[STRUCTURED](#)[FREE FORM](#)[BROWSE DICTIONARY](#)[SEARCH LOG](#)[TOP](#)[HELP](#)[| HOME | SITE INDEX | SEARCH | eBUSINESS | HELP | PRIVACY POLICY](#)

EXHIBIT C



Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Sat Jun 12 03:56:59 EDT 2010

[TESS HOME](#)
[NEW USER](#)
[STRUCTURED](#)
[FREE FORM](#)
[BROWSE DICT](#)
[SEARCH OG](#)
[BOTTOM](#)
[HELP](#)

[Logout](#)

Please logout when you are done to release system resources allocated for you.

Record 1 out of 1

[TARR Status](#)

[ASSIGN Status](#)

[TDR](#)

[TTAB Status](#)

(Use the "Back" button of the Internet

Browser to return to TESS)

Typed Drawing

Word Mark	EDGE
Goods and Services	IC 016. US 002 005 022 023 029 037 038 050. G & S: printed matter, namely, comic books, comic book reference guide books, books featuring stories in illustrated forms, graphic novels, comic strips, picture postcards, comic postcards, printed postcards, novelty stickers, decals, bumper stickers, note cards, note paper, stationery folders, computer magazines, video game magazines, magazines and posters about interactive entertainment; writing instruments, namely pencils, ball point pens, ink pens. FIRST USE: 19850106. FIRST USE IN COMMERCE: 19850106
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	78208607
Filing Date	January 29, 2003
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	March 28, 2006
Registration Number	3105816
Registration Date	June 20, 2006
Owner	(REGISTRANT) The EDGE Interactive Media, Inc. CORPORATION CALIFORNIA 530 South Lake Avenue #171 Pasadena CALIFORNIA 91101
	(LAST LISTED OWNER) EDGE GAMES, INC. CORPORATION 530 SOUTH LAKE AVENUE #171 PASADENA CALIFORNIA 91101
Assignment Recorded	ASSIGNMENT RECORDED
Prior Registrations	2219837
Type of Mark	TRADEMARK
Register	PRINCIPAL

Live/Dead
Indicator LIVE

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [TOP](#) [HELP](#)

[| HOME](#) [| SITE INDEX](#) [| SEARCH](#) [| eBUSINESS](#) [| HELP](#) [| PRIVACY POLICY](#)

EXHIBIT D

**United States Patent and Trademark Office**[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

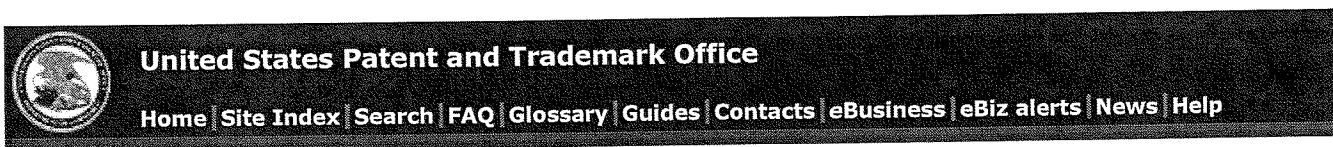
TESS was last updated on Sat Jun 12 03:56:59 EDT 2010

[TESS HOME](#) | [NEW USER](#) | [STRUCTURED](#) | [FREE FORM](#) | [BROWSE DICT](#) | [SEARCH OG](#) | [BOTTOM](#) | [HELP](#)[Logout](#) Please logout when you are done to release system resources allocated for you.**Record 1 out of 1**[TARR Status](#) | [ASSIGN Status](#) | [TDR](#) | [TTAB Status](#) (Use the "Back" button of the Internet Browser to return to TESS)**Typed Drawing**

Word Mark	EDGE
Goods and Services	IC 016. US 002 005 022 023 029 037 038 050. G & S: printed matter and publications, namely, magazines, newspapers, journals, and columns and sections within such magazines, newspapers, and journals, and pamphlets and booklets, all in the fields of business, entertainment, and education, relating to toys, games, board games, television, interactive music, and video; stationery; posters; exterior packaging for software, namely, cardboard cartons; printed paperboard inserts for plastic packaging of software; paper bags; plastic bubble packs for packaging; envelopes; and paper pouches for packaging. FIRST USE: 19840500. FIRST USE IN COMMERCE: 19840500
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	74556730
Filing Date	August 3, 1994
Current Filing Basis	1A;44E
Original Filing Basis	1A;44D
Published for Opposition	June 9, 1998
Change In Registration	CHANGE IN REGISTRATION HAS OCCURRED
Registration Number	2219837
Registration Date	January 26, 1999
Owner	(REGISTRANT) Edge Interactive Media, Inc., The CORPORATION CALIFORNIA 530 SOUTH LAKE AVENUE SUITE 171 Pasadena CALIFORNIA 91101 (LAST LISTED OWNER) EDGE GAMES, INC. CORPORATION 530 SOUTH LAKE AVENUE #171 PASADENA CALIFORNIA 91101
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of	Tim Langdell

Record**Priority Date** February 11, 1994**Prior Registrations** 1853705**Type of Mark** TRADEMARK**Register** PRINCIPAL**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20091103.**Renewal** 1ST RENEWAL 20091103**Live/Dead Indicator** LIVE[TESS HOME](#)[NEW USER](#)[STRUCTURED](#)[FREE FORM](#)[BROWSE DICT](#)[SEARCH OG](#)[TOP](#)[HELP](#)[| HOME |](#) [SITE INDEX|](#) [SEARCH |](#) [eBUSINESS |](#) [HELP |](#) [PRIVACY POLICY](#)

EXHIBIT E



Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Sat Jun 12 03:56:59 EDT 2010

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [BOTTOM](#) [HELP](#)

[Logout](#) Please logout when you are done to release system resources allocated for you.

Record 1 out of 1

[TARR Status](#) [ASSIGN Status](#) [TDR](#) [TTAB Status](#) (Use the "Back" button of the Internet Browser to return to TESS)

GAMER'S EDGE

Word Mark
Goods and Services

GAMER'S EDGE

IC 009. US 021 023 026 036 038. G & S: Computers; computer hardware; computer peripherals; computer games software; plug-on computer interface boards; computer accessories, namely, keyboards, mice, player-operated electronic game controllers for computers and electronic video game machines, computer memories, headphones, augmented reality headsets for use with computers and video game machines, virtual reality headsets for use with computers and video game machines, storage disc cases, video display and capture cards, sound cards, audio speakers, web-cameras, carrying cases and bags, all for carrying portable computers or computer accessories; video game software; video game consoles, namely, video game machines for use with televisions and video monitors; video game accessories, namely, joysticks made for video games, video game interactive control floor pads and mats, and video game interactive remote control units; video game peripherals, namely, external hard drives for computers and video game machines and other storage devices in the nature of plug-in memory devices that attach to the USB port which are commonly known as "flash drives" or "thumb drives" and video adapters in the nature of adapters which convert the video output of the computer or video game machine to the video input of a monitor or television; set top boxes, cable modems, dsl modems. FIRST USE: 19860601. FIRST USE IN COMMERCE: 19860601

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Trademark Search Facility Classification Code NOTATION-SYMBOLS Notation Symbols such as Non-Latin characters, punctuation and mathematical signs, zodiac signs, prescription marks

Serial Number 78807446

Filing Date February 5, 2006

Current Filing Basis 1A
Original Filing Basis 1A
Published for Opposition November 27, 2007
Registration Number 3381826
Registration Date February 12, 2008
Owner (REGISTRANT) The EDGE Interactive Media Inc CORPORATION CALIFORNIA 530 South Lake Avenue Suite 171 Pasadena CALIFORNIA 91101

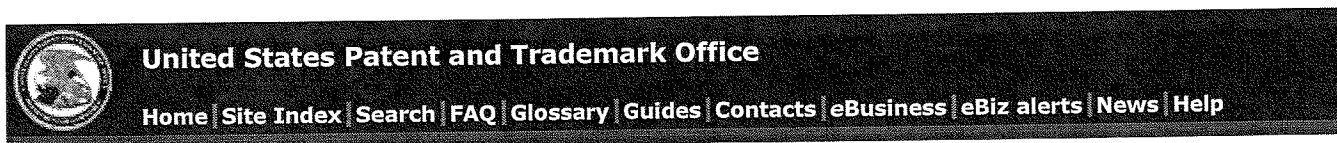
(LAST LISTED OWNER) EDGE GAMES, INC. CORPORATION 530 SOUTH LAKE AVENUE #171 PASADENA CALIFORNIA 91101

Assignment Recorded ASSIGNMENT RECORDED
Prior Registrations 2219837;2251584;3105816
Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "GAMER'S" APART FROM THE MARK AS SHOWN
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [Top](#) [HELP](#)

[| HOME](#) [| SITE INDEX](#) [| SEARCH](#) [| eBUSINESS](#) [| HELP](#) [| PRIVACY POLICY](#)

EXHIBIT F



Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Sat Jun 12 03:56:59 EDT 2010

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [BOTTOM](#) [HELP](#)

[Logout](#)

Please logout when you are done to release system resources allocated for you.

Record 1 out of 1

[TARR Status](#)

[ASSIGN Status](#)

[TDR](#)

[TTAB Status](#)

(Use the "Back" button of the Internet

Browser to return to TESS)

Typed Drawing

Word Mark
Goods and
Services

THE EDGE

IC 009. US 021 023 026 036 038. G & S: Video game peripherals, namely, video game controllers; computers; computer accessories, namely, keyboards, mice; game controllers for computer games; memory cards; headphones; augmented reality headsets for use with computers; virtual reality headsets for use with computers; storage disc cases, namely, compact disc cases and DVD cases; video display and capture cards; audio cards; audio speakers; web-cameras; backpacks, carrying cases and bags all designed for carrying portable computers, computer accessories, and computer peripherals; video game machines for use with televisions and accessories therefore, namely, video game controllers; video game software; computer game software, computer game software for use in location based entertainment centers. FIRST USE: 19840604. FIRST USE IN COMMERCE: 19840604

IC 016. US 002 005 022 023 029 037 038 050. G & S: Magazines, namely, magazines in the fields of business, entertainment, popular culture and education; Magazines, namely, in the fields of computer games, video games, board games, hand-held games, interactive media, television, music, video, movie, clothing, fashion, leisure activities and lifestyle; computer and video game magazines, comic books, posters, note paper, note cards, bumper stickers, stickers, pencils, ball point pens, ink pens, stationery; folders. FIRST USE: 19930414. FIRST USE IN COMMERCE: 19930414

IC 021. US 002 013 023 029 030 033 040 050. G & S: Mugs and cups. FIRST USE: 19950812. FIRST USE IN COMMERCE: 19950812

IC 025. US 022 039. G & S: T-shirts, sweatshirts, jackets. FIRST USE: 19950812. FIRST USE IN COMMERCE: 19950812

IC 028. US 022 023 038 050. G & S: Toys and playthings, namely, battery operated action toys, bendable toys, collectable toy figures, electronic action toys, electronically operated toy vehicles, fantasy character toys, mechanical action toys, modeled plastic toy figurines, model toy figures, plastic character toys, plush toys, positionable toy figures, toy action figures, toy boxes, toy figures; hand held units for playing games and accessories therefore, namely, carrying cases designed for hand-held units for playing electronic games; stand alone video game machines and accessories therefore, namely, carrying cases and covers designed for stand-alone video game machines. FIRST USE: 19950812. FIRST USE IN COMMERCE: 19950812

Mark Drawing (1) TYPED DRAWING

Code**Serial Number** 75077113**Filing Date** March 22, 1996**Current Filing Basis** 1A**Original Filing Basis** 1A**Published for Opposition** June 3, 2008**Registration Number** 3559342**Registration Date** January 13, 2009**Owner** (REGISTRANT) EDGE Games, Inc. CORPORATION NOT PROVIDED 530 SOUTH LAKE AVENUE SUITE 171 PASADENA CALIFORNIA 91101**Assignment Recorded** ASSIGNMENT RECORDED**Prior Registrations** 2219837**Type of Mark** TRADEMARK**Register** PRINCIPAL**Live/Dead Indicator** LIVE[TESS HOME](#)[NEW USER](#)[STRUCTURED](#)[FREE FORM](#)[BROWSE DICT](#)[SEARCH OG](#)[TOP](#)[HELP](#)[| HOME |](#) [SITE INDEX|](#) [SEARCH |](#) [eBUSINESS |](#) [HELP |](#) [PRIVACY POLICY](#)

EXHIBIT G

**United States Patent and Trademark Office**[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Sat Jun 12 03:56:59 EDT 2010

[TESS HOME](#) | [NEW USER](#) | [STRUCTURED](#) | [FREE FORM](#) | [BROWSE DICT](#) | [SEARCH OG](#) | [BOTTOM](#) | [HELP](#)[Logout](#) Please logout when you are done to release system resources allocated for you.**Record 1 out of 1**[TARR Status](#) | [ASSIGN Status](#) | [TDR](#) | [TTAB Status](#) (Use the "Back" button of the Internet Browser to return to TESS)**Typed Drawing**

Word Mark	CUTTING EDGE
Goods and Services	IC 016. US 002 005 022 023 029 037 038 050. G & S: publications, namely comic books and comic magazines and stories in illustrated form. FIRST USE: 19951201. FIRST USE IN COMMERCE: 19951201
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	74662343
Filing Date	April 17, 1995
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	November 28, 1995
Registration Number	2251584
Registration Date	June 8, 1999
Owner	(REGISTRANT) Marvel Entertainment Group, Inc. CORPORATION DELAWARE 387 Park Avenue South New York NEW YORK 10016 (LAST LISTED OWNER) EDGE GAMES, INC. CORPORATION 530 SOUTH LAKE AVENUE #171 PASADENA CALIFORNIA 91101
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	TIM LANGDELL
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20091116.
Renewal	1ST RENEWAL 20091116
Live/Dead	LIVE

Indicator

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH LOG	TOP	HELP
---------------------------	--------------------------	----------------------------	---------------------------	-----------------------------	----------------------------	---------------------	----------------------

[| HOME](#) [| SITE INDEX](#) [| SEARCH](#) [| eBUSINESS](#) [| HELP](#) [| PRIVACY POLICY](#)

EXHIBIT H



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Sat Jun 12 03:56:59 EDT 2010

[TESS HOME](#) | [NEW USER](#) | [STRUCTURED](#) | [FREE FORM](#) | [BROWSE DICT](#) | [SEARCH OG](#) | [BOTTOM](#) | [HELP](#)[Logout](#) Please logout when you are done to release system resources allocated for you.

Record 1 out of 1

[TARR Status](#) | [ASSIGN Status](#) | [TDR](#) | [TTAB Status](#) (Use the "Back" button of the Internet Browser to return to TESS)

Typed Drawing

Word Mark	EDGE OF EXTINCTION
Goods and Services	IC 009. US 021 023 026 036 038. G & S: Computer game software. FIRST USE: 20000310. FIRST USE IN COMMERCE: 20000310
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	75951042
Filing Date	March 3, 2000
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	March 19, 2002
Registration Number	2727547
Registration Date	June 17, 2003
Owner	(REGISTRANT) Cybernet Systems Corporation CORPORATION DELAWARE 727 Airport Blvd. Ann Arbor MICHIGAN 48108 (LAST LISTED OWNER) EDGE GAMES, INC. CORPORATION CALIFORNIA 530 SOUTH LAKE AVENUE, #171 PASADENA CALIFORNIA 91101
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	John G. Posa
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR).
Live/Dead Indicator	LIVE

[TESS HOME](#) | [NEW USER](#) | [STRUCTURED](#) | [FREE FORM](#) | [BROWSE DICT](#) | [SEARCH OG](#) | [TOP](#) | [HELP](#)

[| HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)

EXHIBIT I

**United States Patent and Trademark Office**[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Sat Jun 12 03:56:59 EDT 2010

[TESS HOME](#) | [NEW USER](#) | [STRUCTURED](#) | [FREE FORM](#) | [Browse Dict](#) | [SEARCH OG](#) | [BOTTOM](#) | [HELP](#)[Logout](#) Please logout when you are done to release system resources allocated for you.**Record 1 out of 1**[TARR Status](#) | [ASSIGN Status](#) | [TDR](#) | [TTAB Status](#) (Use the "Back" button of the Internet Browser to return to TESS)

EDGE GAMERS

Word Mark	EDGE GAMERS
Goods and Services	IC 041. US 100 101 107. G & S: Providing organizations for online game administrators, namely, entertainment services in the nature of an online computer gaming club; providing public forums for online game administrators, namely, entertainment services in the nature of an online computer gaming club. FIRST USE: 20060701. FIRST USE IN COMMERCE: 20060701
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	77352656
Filing Date	December 14, 2007
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	September 16, 2008
Change In Registration	CHANGE IN REGISTRATION HAS OCCURRED
Registration Number	3585463
Registration Date	March 10, 2009
Owner	(REGISTRANT) EDGE GAMES, INC. CORPORATION CALIFORNIA 530 SOUTH LAKE AVE, STE 171 PASADENA CALIFORNIA 91101

Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	DANIEL M CISLO
Type of Mark	SERVICE MARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

[TESS HOME](#)[NEW USER](#)[STRUCTURED](#)[FREE FORM](#)[BROWSE DICT](#)[SEARCH OG](#)[TOP](#)[HELP](#)[| HOME |](#) [SITE INDEX|](#) [SEARCH |](#) [eBUSINESS |](#) [HELP |](#) [PRIVACY POLICY](#)

EXHIBIT J

Document Description: **Off Action Outgoing**Mail / Create Date: **27-Feb-2008**[Previous Page](#)[Next Page](#)You are currently on page of 

To: Electronic Arts Inc. (sgarfield@ea.com)

Subject: TRADEMARK APPLICATION NO. 77222986 - MIRROR'S EDGE - N/A

Sent: 2/27/2008 6:34:46 PM

Sent As: ECOM108@USPTO.GOV

Attachments: [Attachment - 1](#)
[Attachment - 2](#)
[Attachment - 3](#)
[Attachment - 4](#)
[Attachment - 5](#)
[Attachment - 6](#)
[Attachment - 7](#)
[Attachment - 8](#)
[Attachment - 9](#)
[Attachment - 10](#)
[Attachment - 11](#)
[Attachment - 12](#)
[Attachment - 13](#)
[Attachment - 14](#)
[Attachment - 15](#)
[Attachment - 16](#)
[Attachment - 17](#)
[Attachment - 18](#)
[Attachment - 19](#)
[Attachment - 20](#)
[Attachment - 21](#)
[Attachment - 22](#)
[Attachment - 23](#)

UNITED STATES PATENT AND TRADEMARK OFFICE**SERIAL NO:** 77/222986**MARK:** MIRROR'S EDGE**CORRESPONDENT ADDRESS:**JAKE SCHATZ
ELECTRONIC ARTS INC.
209 REDWOOD SHORES PKWY***77222986*****RESPOND TO THIS ACTION:**<http://www.uspto.gov/teas/eTEASpageD.htm>

REDWOOD CITY, CA 94065-1175

GENERAL TRADEMARK INFORMATION:
<http://www.uspto.gov/main/trademarks.htm>**APPLICANT:** Electronic Arts Inc.**CORRESPONDENT'S
REFERENCE/DOCKET NO:**

N/A

CORRESPONDENT E-MAIL ADDRESS:
sgarfield@ea.com

OFFICE ACTION

TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE ISSUE/MAILING DATE.

ISSUE/MAILING DATE: 2/27/2008

The assigned examining attorney has reviewed the referenced application and determined the following.

This application was published for Opposition on January 15, 2008. It has been determined, by the Commissioner for Trademarks, that a clear error has been made in allowing this mark to be published. Jurisdiction has been restored to the Examining Attorney to take appropriate action in accordance with the evidence contained herein. TMEP Section 1715.03.

Section 2(d) - Likelihood of Confusion Refusal

Registration of the proposed mark is refused because of a likelihood of confusion with the marks in U.S. Registration Nos. 2219837, 2251584, 3105816, and 3381826. Trademark Act Section 2(d), 15 U.S.C. §1052(d); TMEP §§1207.01 *et seq.* See the enclosed registrations.

Taking into account the relevant *Du Pont* factors, a likelihood of confusion determination in this case involves a two-part analysis. First, the marks are compared for similarities in appearance, sound, connotation and commercial impression. *In re E.I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973). Second, the goods or services are compared to determine whether they are similar or related or whether the activities surrounding their marketing are such that confusion as to origin is likely. *In re National Novice Hockey League, Inc.*, 222 USPQ 638 (TTAB 1984); *In re August Storck KG*, 218 USPQ 823 (TTAB 1983); *In re Int'l Tel. and Tel. Corp.*, 197 USPQ 910 (TTAB 1978); *Guardian Prods. Co., v. Scott Paper Co.*, 200 USPQ 738 (TTAB 1978); TMEP §§1207.01 *et seq.*

The applicant's mark is MIRROR'S EDGE for the following:

Class 009: Pre-recorded audio tapes, video tapes, audio cassettes, video cassettes, CD-ROMs, DVDs, compact discs, and video discs, featuring entertainment related to films, games and music; computer game software; computer game software and manuals sold as a unit; computer video game software; computer video game software and manuals sold as a unit; interactive video game programs; interactive computer game programs, downloadable computer game software, downloadable

interactive entertainment software for playing computer games, downloadable interactive entertainment software for playing video games; downloadable computer game software via wireless devices; computer game software for mobile phones; Downloadable ring tones, graphics and digital music files via the internet and wireless devices

Class 016: Paper goods and printed matter, namely, address books; comic books; notebooks; children's books; books containing screenplays or scripts of movies, shows or games; diaries; paper doorknob hangers; invitation cards; personal organizers; paper table cloths; trading cards; wallet cards; posters; book plates; book marks; checkbook holders and covers; non-electronic personal planners and organizers; artist's materials, namely, pencils, pens; paper gift wrap; paper and fabric gift tags; gift bags; greeting cards, paper party decorations; paper napkins; paper party bags; paper party hats; postcards; stickers; sticker albums; calendars; cardboard figures, namely, temporary tattoos; school and office supplies, namely, erasers, pencils, pens, markers, pencil cases; pencil sharpeners; sheet music; novels; paper cake decorations; bank checks; series of fiction books; juvenile books; reference books in the field of science fiction; personalized books in the field of science, science fiction and computer games; comic magazines; books for role-playing, namely, role playing game equipment in the nature of game book manuals; art books in the field of science, science fiction and computer games; coffee table books in the field of science fiction and computer games; books in the field of science, science fiction and computer games; stationery type portfolios, calendars, children's activity books; magazines in the field of science, science fiction and computer games

Class 028: toys and sporting goods including games and playthings, namely, action figures and accessories therefore, plush toys, balloons, bathtub toys, ride-on toys, equipment sold as a unit for playing card games, toy vehicles, dolls, flying discs; electronic hand-held game unit; game equipment sold as a unit for playing a board game, a card game, a manipulative game, a parlor game and an action type target game; stand alone video output games machines, jigsaw and manipulative puzzles, paper face masks; playing cards; board games; toy candy dispensers and holders; card games; toy vehicles; dolls; hand held units for playing electronic games; hi bounce balls for games; costume masks; paper face masks; toy model vehicles and related accessories therefor sold as units; toy pedal cars; playsets for action figures; playsets for toy vehicles; skateboards; three-dimensional puzzles; toy banks; toy model hobby craft kits; toy model rockets and accessories therefor sold as unit; toy weapons; jigsaw puzzles; plush toys; roller skates; in-line skates; Christmas tree ornaments; amusement park rides; toy vehicles made of non-precious metals; beach toys, namely, inflatable toys; water squirting toys; construction toys; toy building blocks and connecting links for the same; athletic protective pads and padding for skateboarding, in-line skating, and roller skating; toy coin banks; pinball machines; inflatable swimming pools; inflatable pool toys; toy snow globes; toy foam weapons; equipment sold as a unit for playing arcade type electronic video games; kites

Class 038: providing an online bulletin board for transmission of messages among computer users concerning the field of entertainment relating to motion picture films and science fiction

Class 041: Entertainment services, namely, providing news, information and scheduling of programming about interactive computer game software, interactive video game software and interactive computer games and interactive video games, via electronic, wireless and computer networks; providing news, information and scheduling of programming in the field of entertainment relating to motion picture films and science fiction over an electronic network; entertainment services, namely, providing online computer and video games accessed and played via electronic, wireless and computer networks; entertainment services, namely, providing computer and video games accessed and played via mobile and cellular phones and other wireless devices; Entertainment services, namely, a continuing computer game and science fiction show broadcast over television, satellite, audio, and

video media; entertainment services, namely, providing a web site featuring musical performances, musical videos, related film clips, photographs, and other multimedia materials in the fields of film and music; entertainment services in the field of film and television, namely, production of films, videos, animation, and computer generated images; film distribution; entertainment in the nature of arranging and conducting competitions in the field of entertainment trivia; fan club services; production and distribution of motion pictures; providing news and information in the field of entertainment relating to motion picture films via global computer networks

The registrant's marks are for the following:

2219837 EDGE for printed matter and publications, namely, magazines, newspapers, journals, and columns and sections within such magazines, newspapers, and journals, and pamphlets and booklets, all in the fields of business, entertainment, and education, relating to toys, games, computers, computer software, computer games, video games, board games, hand-held games, interactive media, television, interactive music, and video; stationery; posters; exterior packaging for software, namely, cardboard cartons; printed paperboard inserts for plastic packaging of software; paper bags; plastic bubble packs for packaging; envelopes; and paper pouches for packaging

2251584 CUTTING EDGE for publications, namely comic books and comic magazines and stories in illustrated form

3105816 EDGE for printed matter, namely, comic books, comic book reference guide books, books featuring stories in illustrated forms, graphic novels, comic strips, picture postcards, comic postcards, printed postcards, novelty stickers, decals, bumper stickers, note cards, note paper, stationery folders, computer magazines, video game magazines, magazines and posters about interactive entertainment; writing instruments, namely pencils, ball point pens, ink pens

3381826 EDGE for Computers; computer hardware; computer peripherals; computer games software; plug-on computer interface boards; computer accessories, namely, keyboards, mice, player-operated electronic game controllers for computers and electronic video game machines, computer memories, headphones, augmented reality headsets for use with computers and video game machines, virtual reality headsets for use with computers and video game machines, storage disc cases, video display and capture cards, sound cards, audio speakers, web-cameras, carrying cases and bags, all for carrying portable computers or computer accessories; video game software; video game consoles, namely, video game machines for use with televisions and video monitors; video game accessories, namely, joysticks made for video games, video game interactive control floor pads and mats, and video game interactive remote control units; video game peripherals, namely, external hard drives for computers and video game machines and other storage devices in the nature of plug-in memory devices that attach to the USB port which are commonly known as "flash drives" or "thumb drives" and video adapters in the nature of adapters which convert the video output of the computer or video game machine to the video input of a monitor or television; set top boxes, cable modems, dsl modems.

The registered marks have a common owner.

Comparison of the Marks

The marks are compared for similarities in sound, appearance, meaning or connotation. *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973). Similarity in any one of these elements may be sufficient to find a likelihood of confusion. *In re White Swan Ltd.*, 8 USPQ2d 1534, 1536 (TTAB 1988); *In re Lamson Oil Co.*, 6 USPQ2d 1041, 1043 (TTAB 1987); *In re Mack*,

197 USPQ 755 (TTAB 1977); TMEP §1207.01(b).

The applicant's mark, MIRROR'S EDGE, is similar to the registered mark as they all contain the word EDGE or use EDGE as the full mark. While applicant's mark adds the term MIRROR, the mere addition of a term to a registered mark does not obviate the similarity between the marks nor does it overcome a likelihood of confusion under Section 2(d). *In re Chatam International Inc.*, 380 F.3d 1340, 71 USPQ2d 1944 (Fed. Cir. 2004) ("GASPAR'S ALE and "JOSE GASPAR GOLD"); *Coca-Cola Bottling Co. v. Joseph E. Seagram & Sons, Inc.*, 526 F.2d 556, 188 USPQ 105 (C.C.P.A. 1975) ("BENGAL" and "BENGAL LANCER"); *Lilly Pulitzer, Inc. v. Lilli Ann Corp.*, 376 F.2d 324, 153 USPQ 406 (C.C.P.A. 1967) ("THE LILLY" and "LILLI ANN"); *In re El Torito Rests. Inc.*, 9 USPQ2d 2002 (TTAB 1988) ("MACHO" and "MACHO COMBOS"); *In re United States Shoe Corp.*, 229 USPQ 707 (TTAB 1985) ("CAREER IMAGE" and "CREST CAREER IMAGES"); *In re Corning Glass Works*, 229 USPQ 65 (TTAB 1985) ("CONFIRM" and "CONFIRMCELLS"); *In re Riddle*, 225 USPQ 630 (TTAB 1985) ("ACCUTUNE" and "RICHARD PETTY'S ACCU TUNE"); *In re Cosvetic Laboratories, Inc.*, 202 USPQ 842 (TTAB 1979) ("HEAD START" and "HEAD START COSVETIC"); TMEP §1207.01(b)(iii).

Comparison of the Goods and Services

The goods and services of the parties need not be identical or directly competitive to find a likelihood of confusion. Instead, they need only be related in some manner, or the conditions surrounding their marketing are such that they would be encountered by the same purchasers under circumstances that would give rise to the mistaken belief that the goods and/or services come from a common source. *On-line Careline Inc. v. America Online Inc.*, 229 F.3d 1080, 56 USPQ2d 1471 (Fed. Cir. 2000); *In re Martin's Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 223 USPQ 1289 (Fed. Cir. 1984); *In re Melville Corp.*, 18 USPQ2d 1386, 1388 (TTAB 1991); *In re Corning Glass Works*, 229 USPQ 65 (TTAB 1985); *In re Rexel Inc.*, 223 USPQ 830 (TTAB 1984); *Guardian Prods. Co., Inc. v. Scott Paper Co.*, 200 USPQ 738 (TTAB 1978); *In re Int'l Tel. & Tel. Corp.*, 197 USPQ 910 (TTAB 1978); TMEP §1207.01(a)(i).

The applicant's goods and services are closely related to the registrant's goods and services as they all contain goods and services related to comic books, computer game programs, and other highly related goods likely to travel through the same channels of trade to the same classes of purchasers. Accordingly, because confusion as to source is likely, registration is refused under Trademark Action Section 2(d) based on a likelihood of confusion.

Please see attached Internet website evidence showing goods similar to the parties sold through the similar channels of trade.

Since the identification of the applicant's services is very broad, it is presumed that the application encompasses all services of the type described, including those in the registrant's more specific identification, that they move in all normal channels of trade and that they are available to all potential customers. TMEP §1207.01(a)(iii).

Any doubt regarding a likelihood of confusion is resolved in favor of the prior registrant. *Hewlett-Packard Co. v. Packard Press Inc.*, 281 F.3d 1261, 62 USPQ2d 1001, 1004 (Fed. Cir. 2002); *In re Hyper Shoppes (Ohio), Inc.*, 837 F.2d 463, 6 USPQ2d 1025 (Fed. Cir. 1988); TMEP §§1207.01(d)(i).

Although the trademark examining attorney has refused registration, applicant may respond to the refusal to register by submitting evidence and arguments in support of registration.

Search Results- Two or More Earlier-Filed Pending Applications

Information regarding pending Application Serial Nos. 75077113 and 78807479 are enclosed. The filing dates of the referenced applications precede applicant's filing date. There may be a likelihood of confusion under Trademark Act Section 2(d) between applicant's mark and the referenced marks. If one or more of the referenced applications registers, registration may be refused in this case under Section 2(d). 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, upon entry of a response to this Office action, action on this case may be suspended pending final disposition of the earlier-filed applications.

If applicant believes that there is no potential conflict between this application and the earlier-filed applications, then applicant may present arguments relevant to the issue in a response to this Office action. The election not to submit arguments at this time in no way limits applicant's right to address this issue at a later point.

/Kapil K. Bhanot/
Trademark Examining Attorney
Law Office 108
Phone - (571) 270-1516
Fax No. (571) 270-2516

RESPOND TO THIS ACTION: If there are any questions about the Office action, please contact the assigned examining attorney. A response to this Office action should be filed using the form available at <http://www.uspto.gov/teas/eTEASpageD.htm>. If notification of this Office action was received via e-mail, no response using this form may be filed for 72 hours after receipt of the notification. **Do not attempt to respond by e-mail as the USPTO does not accept e-mailed responses.**

If responding by paper mail, please include the following information: the application serial number, the mark, the filing date and the name, title/position, telephone number and e-mail address of the person signing the response. Please use the following address: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

STATUS CHECK: Check the status of the application at least once every six months from the initial filing date using the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. When conducting an online status check, print and maintain a copy of the complete TARR screen. If the status of your application has not changed for more than six months, please contact the assigned examining attorney.

TDR Home

This document may be displayed as a PDF file containing images without text. You may view online or save the entire document by clicking on the file download icon in the upper right corner of this page.

[required PDF viewer]

FAQ: Are you seeing only the first page of this PDF document?

If you need help:

- **General trademark information:** Please e-mail TrademarkAssistanceCenter@uspto.gov, or telephone either 571-272-9250 or 1-800-786-9199.
- **Technical help:** For instructions on how to use TDR, or help in resolving **technical** glitches, please e-mail TDR@uspto.gov. If outside of the normal business hours of the USPTO, please e-mail [Electronic Business Support](#), or call 1-800-786-9199.
- **Questions about USPTO programs:** Please e-mail [USPTO Contact Center \(UCC\)](#).

NOTE: Within any e-mail, please include your telephone number so we can talk to you directly, if necessary. Also, include the relevant serial number or registration number, if existing.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Registrant's Motion to Suspend in these cancellation proceedings No. 92051465 was placed in United States Mail, postage prepaid, addressed to the correspondent of record for Petitioners, as follows:

John W. Crittenden
Cooley Godward Kronish LLP
101 California Street, Fifth Floor
San Francisco, CA 94111
UNITED STATES

This 15th day of June, 2010

A handwritten signature in black ink, appearing to read 'Tim Langdell', written over a horizontal line.

Dr. Tim Langdell
CEO, For Registrant in *pro se*