

ESTTA Tracking number: **ESTTA587371**

Filing date: **02/14/2014**

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

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Wizards of the Coast LLC		
Entity	Limited Liability Company	Citizenship	Delaware
Address	1027 Newport Avenue Pawtucket, RI 02862 UNITED STATES		

Attorney information	Carin G. Reynolds Golenbock Eiseman Assor Bell & Peskoe LLP 437 Madison Avenue New York, NY 10022 UNITED STATES creynolds@golenbock.com Phone:2129077321		
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Registration Subject to Cancellation

Registration No	3944981	Registration date	04/12/2011
Registrant	Elliott, William Lowell 4138 Guntren Road Chico, CA 95973 USX		

Goods/Services Subject to Cancellation


Class 028. First Use: 2010/05/28 First Use In Commerce: 2010/05/28 All goods and services in the class are cancelled, namely: Board games
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Grounds for Cancellation

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

Mark Cited by Petitioner as Basis for Cancellation

U.S. Application No.	86013499	Application Date	07/18/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	NONE		

Design Mark	
Description of Mark	The mark consists of a stylized sun.
Goods/Services	Class 028. First use: First Use: 1993/07/01 First Use In Commerce: 1993/07/01 Card games, trading card games, playingcards and accessories for use therewith

Attachments	86013499#TMSN.jpeg(bytes) Petition to Cancel - PLEASE ME (Sun Symbol Design).pdf(121299 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	/carin reynolds/
Name	Carin G. Reynolds
Date	02/14/2014

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

In the Matter of Trademark Registration Number 3,944,981
For the mark: PLEASE ME & Sun Design
Date of Registration: April 12, 2011

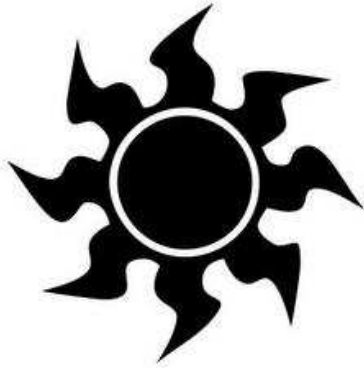
WIZARDS OF THE COAST LLC,	:	
	:	
Petitioner,	:	
	:	
v.	:	Cancellation No. _____
	:	
WILLIAM LOWELL ELLIOT,	:	
	:	
Respondent	:	

PETITION TO CANCEL

Petitioner WIZARDS OF THE COAST LLC (“Petitioner” or “Wizards”), a Delaware limited liability company having a place of business at 1027 Newport Avenue, Pawtucket, Rhode Island 02862, believes that it is being and that it will be damaged by Registration No. 3,944,981 (the “Registered Mark”) and hereby petitions to cancel this registration.

As grounds for cancellation, Wizards alleges that:

1. On July 18, 2013, Wizards filed a use-based application seeking registration of its stylized sun design mark, Application Serial No. 86/013,499 (the “SUN Design Mark”), for “card games, trading card games, playing cards and accessories for use therewith” in International Class 28:



2. Petitioner has continuously used its SUN Design Mark in commerce since at least as early as July 1, 1993, and Petitioner’s use of the SUN Design Mark has become well-known worldwide.

3. Upon information and belief, William Lowell Elliot (“Respondent”), an individual residing at 4138 Guntren Road, Chico, California 95973, is the current owner of the Registered Mark.

4. The Registered Mark consists of the design of a large stylized sun with the words “PLEASE ME” positioned in a concave, curved fashion underneath (hereinafter referred to as the “PLEASE ME & SUN Design Mark”) and is registered in International Class 28 for “board games:”



5. Respondent filed an intent to use application for the Registered Mark on April 9, 2009, and filed a statement of use claiming an actual date of first use of May 28, 2010 –

in either case more than fifteen years after Wizards first used its SUN Design Mark. Wizards therefore has clear priority of use.

6. Respondent's goods, board games, are closely related to the goods, namely card games, trading card games, and playing cards, sold under Petitioner's SUN Design Mark. In fact it is quite common for companies, including Petitioner, to sell both board games and card games, trading card games and playing cards. In addition, board games often feature playing cards.

7. Upon information and belief, Respondent's goods as identified in its registration move through similar channels of trade to the same general class of purchasers as do Petitioner's goods.

8. The dominant element of Respondent's PLEASE ME & SUN Design mark is the stylized sun icon: the words appear underneath it. Respondent's stylized sun icon is substantially similar to Petitioner's stylized sun icon, and the overall commercial impression of Respondent's PLEASE ME & SUN Design Mark so resembles Petitioner's SUN Design Mark that it is likely, when used on or in connection with the goods of the Respondent, to cause confusion, mistake, and/or deception as to the source and/or origin of Respondent's goods, thereby irreparably damaging Petitioner and Petitioner's goodwill in its SUN Design Mark, under 15 U.S.C. § 1052(d).

9. Continued registration of Respondent's PLEASE ME & SUN Design Mark is further likely to cause the public to assume erroneously that Respondent or its goods have been authorized, sponsored or licensed by Petitioner, thereby irreparably damaging Petitioner and Petitioner's goodwill in its SUN Design Mark under 15 U.S.C. § 1052(a).

10. Customers familiar with Petitioner's SUN Design Mark and goods would be likely to purchase Respondent's goods believing them to be goods originating from or sponsored by Petitioner.

11. Petitioner is likely to be damaged by continuance of the Registration on these goods and services because the registered PLEASE ME & SUN Design Mark on these items will remain a cloud on Petitioner's legal right to continue to use, develop and expand the use of Petitioner's SUN Design Mark. In fact, Respondent's registered mark has been cited against Petitioner's Application Serial No. 86/013499 for the SUN Design Mark in International Class 28 for use in connection with card games, trading card games, playing cards and accessories.

WHEREFORE, Petitioner prays that this Petition to Cancel be sustained, and that Registration No. 3,944,981 be canceled.

Dated: February 14, 2014
New York, New York

Respectfully Submitted,

HASBRO, INC.
By its Attorneys:
GOLENBOCK EISEMAN ASSOR BELL &
PESKOE LLP

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ELECTRONIC FILING CERTIFICATE

I hereby certify that the foregoing **PETITION TO CANCEL** is being submitted electronically through the Electronic System for the Trademark Trial and Appeal Board (“ESTTA”) on February 14, 2014.

/Carin G. Reynolds/
Carin G. Reynolds, Esq.

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **PETITION TO CANCEL** has been served on William Lowell Elliot by mailing said copy on February 14, 2014 via First Class Mail, postage prepaid to:

William Lowell Elliot
4138 Guntren Road
Chico, CALIFORNIA 95973

/Carin G. Reynolds/
Carin G. Reynolds