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Filing date: **01/29/2020**

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 has filed a petition to cancel the registration indicated below.

Petitioner Information

Name	Jam City, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	3525 EASTHAM DRIVE CULVER CITY, CA 90232 UNITED STATES		

Attorney information	Rose Kautz Cooley LLP 1299 Pennsylvania Avenue NW Washington, DC 20004 UNITED STATES trademarks@cooley.com, bghajar@cooley.com, jpo@cooley.com, rkautz@cooley.com 310-883-6400
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Registrations Subject to Cancellation

Registration No.	5804215	Registration date	07/16/2019
Registrant	Hangzhou Mengku Technology Co., Ltd. Room 517, No. 2 Tower Xixi Century Center, Xihu District Hangzhou, Zhejiang, 310012 CHINA Email: tm@kzton.com		

Goods/Services Subject to Cancellation

Class 009. First Use: 2018/09/01 First Use In Commerce: 2018/09/01 All goods and services in the class are subject to cancellation, namely: Computer game programs; Computer game software; Computer game software downloadable from a global computer network; Computer game software for gaming machines, namely, slot machines and video lottery terminals; Computer programs for video and computer games; Computer software, namely, game engine software for video game development and operation; Downloadable electronic game programs; Electronic game software; Electronic game software for cellular telephones; Electronic games software for wireless devices; Game software; Interactive game programs; Recorded computer game programs; Video game software; Virtual reality game software
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Grounds for Cancellation

No use of mark in commerce before application, amendment to allege use, or statement of use was filed	Trademark Act Sections 14(1) and 1(a), (c), and (d)
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Fraud on the USPTO		Trademark Act Section 14(3); In re Bose Corp., 580 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. 2009)	
Registration No.	5804216	Registration date	07/16/2019
Registrant	Hangzhou Mengku Technology Co., Ltd. Room 517, No. 2 Tower Xixi Century Center, Xihu District Hangzhou, Zhejiang, 310012 CHINA Email: tm@kzton.com		

Goods/Services Subject to Cancellation

<p>Class 041. First Use: 2018/09/01 First Use In Commerce: 2018/09/01 All goods and services in the class are subject to cancellation, namely: Electronic games services provided by means of the internet; Entertainment services, namely, providing on-line computer-games; Entertainment services, namely, providing online electronic games; Entertainment services, namely, providing temporary use of non-downloadable computer games; Production of video and computer game software; Providing on-line computer games; Provision of information relating to electronic computer games provided via the Internet</p>

Grounds for Cancellation

No use of mark in commerce before application, amendment to allege use, or statement of use was filed	Trademark Act Sections 14(1) and 1(a), (c), and (d)
Fraud on the USPTO	Trademark Act Section 14(3); In re Bose Corp., 580 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. 2009)

Attachments	SOLITAIRE GENIES Cancellation Petition.pdf(6191044 bytes)
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Signature	/Rose Kautz/
Name	Rose Kautz
Date	01/29/2020

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

In the Matter of Registration Nos. 5,804,215 and 5,804,216
For the Trademark SOLITAIRE GENIES
Issued July 16, 2019

JAM CITY, INC.,)	
)	
Petitioner,)	
)	Cancellation No.
v.)	
)	
HANGZHOU MENGKU TECHNOLOGY)	
TECHNOLOGY CO., LTD.,)	
)	
Registrant.)	
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PETITION FOR CANCELLATION

Jam City, Inc., a Delaware corporation having its principal place of business at 3562 Eastham Drive, Culver City, California 90232 (hereinafter “Petitioner”), will be damaged by the continued registration of the SOLITAIRE GENIES marks that are the subject of U.S. Registration Nos. 5,804,215 and 5,804,216 (the “SOLITAIRE GENIES Registrations”) and have the current owner of record Hangzhou Mengku Technology Co., Ltd. (hereinafter “Registrant”). Petitioner hereby petitions to cancel the SOLITAIRE GENIES Registrations under Section 14 of the Lanham Act, 15 U.S.C. § 1064.

As grounds for this Petition for Cancellation, Petitioner alleges the following:

Parties

1. Petitioner is a Delaware corporation, having its principal place of business at 3562 Eastham Drive, Culver City, California 90232.

2. On information and belief, Registrant is a Chinese limited liability company having its principal place of business at Room 517, No. 2 Tower Xixi Century Center, Xihu District Hangzhou, Zhejiang, China 310012.

The SOLITAIRE GENIES Registrations

3. On information and belief, Registrant is the owner of U.S. Trademark Registration No. 5,804,215 (“’215 Registration”) for the mark SOLITAIRE GENIES in connection with “Computer game programs; Computer game software; Computer game software downloadable from a global computer network; Computer game software for gaming machines, namely, slot machines and video lottery terminals; Computer programs for video and computer games; Computer software, namely, game engine software for video game development and operation; Downloadable electronic game programs; Electronic game software; Electronic game software for cellular telephones; Electronic game software for wireless devices; Game software; Interactive game programs; Recorded computer game programs; Video game software; Virtual reality game software” in International Class 9.

4. Registrant filed a use-based application for the ’215 Registration on or about November 15, 2018. In the application, Registrant declared that “The applicant is using the mark in commerce on or in connection with the identified goods/services.” Registrant also asserted a date of first use in commerce of September 1, 2018.

5. On or about November 15, 2018, in connection with its application for the ’215 Registration, Registrant also submitted supporting evidence of use (“specimens”) to the PTO. Registrant’s specimens consisted of screenshots taken from a personal Apple computer, showing an icon for a “SOLITAIRE GENIES” application on the computer’s desktop and in the

“Applications” folder. None of the specimens show the SOLITAIRE GENIES application available for download or otherwise available to consumers.





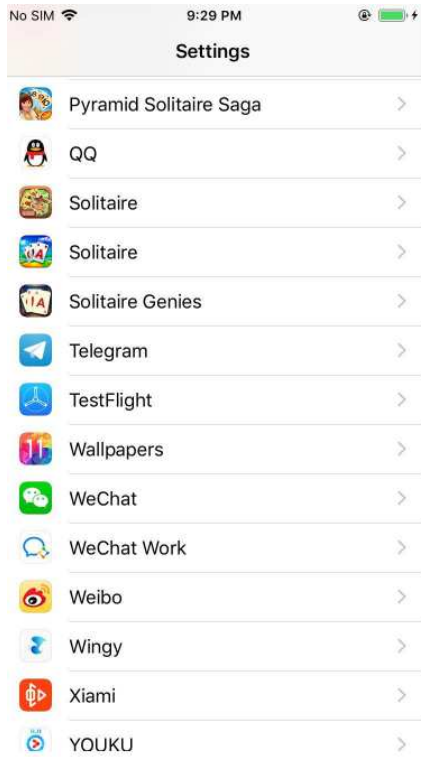
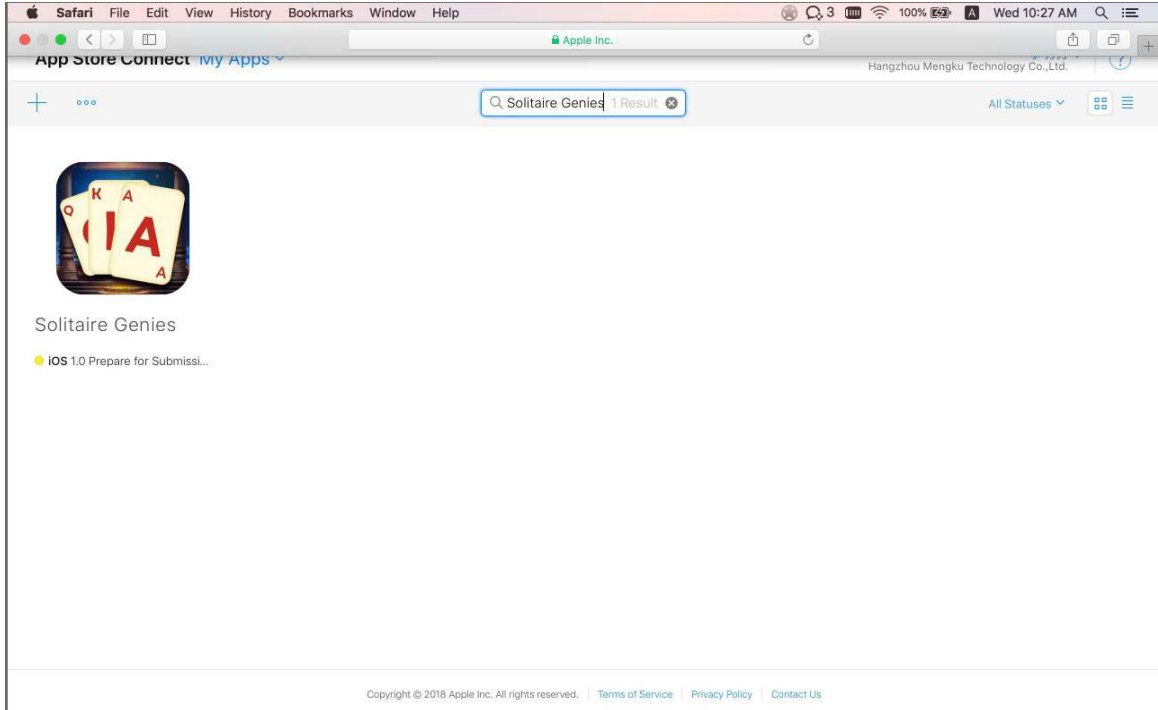
6. On information and belief, Registrant is also the owner of U.S. Trademark Registration No. 5,804,216 (“216 Registration”) for the mark SOLITAIRE GENIES in connection with “Electronic games services provided by means of the internet; Entertainment

services, namely, providing on-line computer games; Entertainment services, namely, providing online electronic games; Entertainment services, namely, providing temporary use of non-downloadable computer games; Production of video and computer game software; Providing on-line computer games; Provision of information relating to electronic computer games provided via the Internet” in International Class 41.

7. Registrant filed a use-based application for the '216 Registration on or about November 15, 2018. In the application, Registrant declared that “The applicant is using the mark in commerce on or in connection with the identified goods/services.” Registrant also asserted a date of first use in commerce of September 1, 2018.

8. On or about November 15, 2018, in connection with its application for the '216 Registration, Registrant also submitted supporting specimens to the PTO. Registrant's specimens consisted of (1) a screenshot of Apple's “My Apps” page, showing an icon for a “Solitaire Genies” mobile app with the description “Prepare for Submission,” (2) a screenshot taken from what appears to be a personal Apple iPhone, showing an icon for a “Solitaire Genies” application in the iPhone's “Settings” app, and (3) a screenshot taken from what appears to be a personal iPad, showing an icon for a “Solitaire Genies” application on the iPad's desktop. None of the specimens show the Solitaire Genies application available for download or otherwise available to consumers.

PETITION TO CANCEL
REG. NOS. 5,804,215 and 5,804,216






9. On July 16, 2019, the PTO issued the SOLITAIRE GENIES Registrations.
10. On information and belief, Registrant releases mobile games under the developer names PUZZLEJOY and Bigcool Games.
11. On information and belief, Registrant operates the website <http://www.puzzlejoyinc.com> (“Registrant’s Website”).
12. On information and belief, Registrant was not selling or offering for sale in U.S. commerce the goods and services identified in the SOLITAIRE GENIES registrations under the SOLITAIRE GENIES mark as of September 1, 2018 (the date of first use in commerce claimed in the SOLITAIRE GENIES Registrations), as of November 15, 2018 (the date Registrant filed for the SOLITAIRE GENIES Registrations), or as of July 16, 2019 (the date the USPTO issued the SOLITAIRE GENIES Registrations).
13. Petitioner’s information and belief is based on its investigation regarding Registrant’s use of the SOLITAIRE GENIES marks, including, for example, including, for example, a search of Registrant’s Website, the Google Play Store, the Apple App Store, Facebook, App Annie (a leading third-party mobile market data and tracking website available online at <https://www.appannie.com>), and the Internet Archive Wayback Machine (a leading third-party archive of historical website captures available online at <https://archive.org>).
14. In spite of its reasonable investigation, Petitioner has not been successful in identifying any evidence of use in commerce—as defined under Section 45 of the Trademark Act, 15 U.S.C. §1127—by Registrant of the marks that are the subject of the SOLITAIRE GENIES Registrations as of the date Registrant claimed first use, as of the date Registrant filed its use-based application, or as of the date the SOLITAIRE GENIES Registrations were issued.

Petitioner and Its Marks

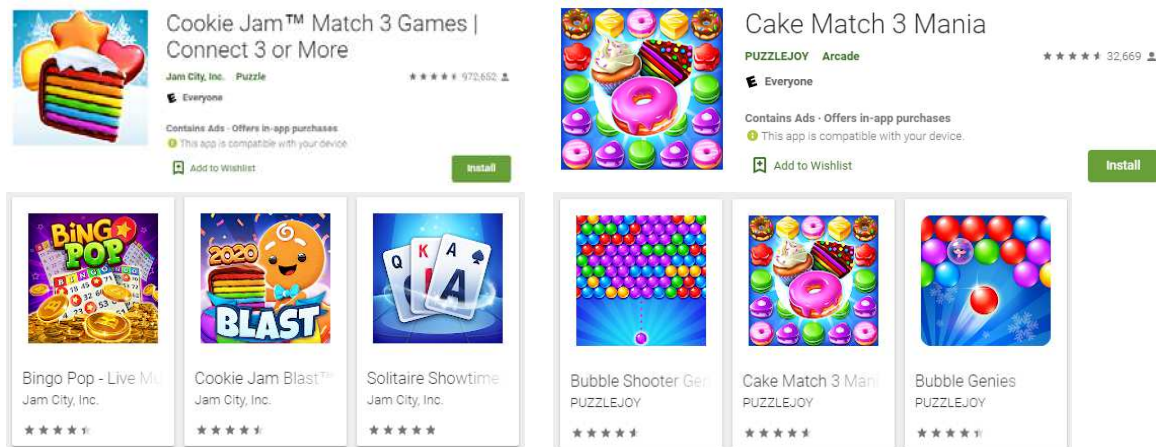
15. Petitioner is a global leader in mobile entertainment and has created some of the most enduring social gaming franchises for mobile gaming. Its mobile apps have been downloaded by hundreds of millions of users and are available on all major app platforms.

16. Petitioner is the owner of the following U.S. Trademark Registrations:

	<u>U.S. Reg. No.</u>	<u>Reg. Date</u>	<u>Goods and Services</u>
COOKIE JAM	4,686,013	February 10, 2015	IC 09, "Computer game software; downloadable computer game software" IC 41, "Providing online computer games; providing online computer games through social media websites"
COOKIE JAM BLAST	5,418,417	March 6, 2018	IC 09, "Computer game software; downloadable computer game software for use on mobile and cellular phones" IC 41, "Providing online computer games; providing online computer games through social media websites"
 (Rainbow Cake Design)	5,383,942	January 23, 2018	IC 09, "Computer game software; downloadable computer game software for use on mobile and cellular phones" IC 41, "Providing online computer games; providing online computer games through social media websites"
GENIES & GEMS	4,985,385	June 21, 2016	IC 09, "Computer game software; downloadable computer game software; Computer game software for use on mobile and cellular phones" IC 41, "Providing online computer games; providing online computer games through social media websites"

	<u>U.S. Reg. No.</u>	<u>Reg. Date</u>	<u>Goods and Services</u>
	5,935,613	December 17, 2019	IC 09, “Downloadable computer game software; downloadable computer game software for use on mobile and cellular phones”
(Genies & Gems Design)			
	5,941,943	December 24, 2019	IC 41, “Providing online computer games; providing online computer games through social media websites”
(Genies & Gems Design)			

17. Petitioner and Registrant are direct competitors in the mobile gaming market. Both Petitioner and Registrant offer their mobile games, including “Solitaire”-themed mobile games, through the same channels of trade, including the Google Play Store online, as pictured below:



18. In this marketplace context, Registrant’s SOLITAIRE GENIES mark is likely to cause confusion as to the source, sponsorship, or affiliation of Registrant’s mobile games,

particularly when considered in combination with Registrant's copying of Petitioner's Rainbow Cake Design shown above.

19. Given Registrant's pattern of highly suspect trademark filings, along with its pattern of releasing mobile games in the Google Play Store that are confusingly similar to Petitioner's games and that incorporate Petitioner's registered trademarks, and given Petitioner's ownership of various registered and common law rights in the GENIES & GEMS mark (which shares the term GENIES with Registrant's mark, and is used on identical products) and the aforementioned Rainbow Cake Design (which, as alleged above, Registrant has copied), Petitioner believes that Registrant's conduct and its registration of the SOLITAIRE GENIES mark is causing Petitioner damage. For these reasons, Petitioner has standing to challenge the registration of the SOLITAIRE GENIES Registrations.

**FIRST GROUND FOR CANCELLATION
NON-USE**

20. Petitioner incorporates by reference Paragraphs 1 through 19 inclusive, as if fully set forth herein.

21. On information and belief, and upon the results of Petitioner's investigation, Registrant had not used the SOLITAIRE GENIES mark in commerce, within the meaning of Section 1(a) of the Trademark Act, when Registrant filed its use-based applications for the SOLITAIRE GENIES Registrations with the USPTO or when the USPTO issued the SOLITAIRE GENIES Registrations.

22. On information and belief, and upon the results of Petitioner's investigation, Registrant's purported specimens of use do not reflect the SOLITAIRE GENIES mark in commerce within the meaning of Sections 1(a) and 1(d) of the Trademark Act, but instead show the mark's use in connection with an unreleased application that is not available to consumers.

23. Because Registrant was not using the SOLITAIRE GENIES mark in U.S. commerce at the time that it filed its use-based application or at the time the SOLITAIRE GENIES Registrations issued, the issuance of the SOLITAIRE GENIES Registrations violated 15 U.S.C. § 1051(a).

**SECOND GROUND FOR CANCELLATION
REGISTRANT FRAUDULENTLY OBTAINED
THE SOLITAIRE GENIES REGISTRATIONS**

24. Petitioner incorporates by reference Paragraphs 1 through 23 inclusive, as if fully set forth herein.

25. On or about November 15, 2018, Registrant filed use-based applications for the SOLITAIRE GENIES mark in Classes 9 and 41. In support of these applications, Registrant declared that it was “using the mark in commerce on or in connection with the identified goods/services,” and that the SOLITAIRE GENIES mark was “first used in commerce at least as early as 09/01/2018, and is now in use in such commerce.” Li Fangfang, identified as the Correspondent for Registrant, signed the declaration supporting the Statement of Use (listing the signatory’s position as “Principal”), which included a statement that “[t]o the best of the signatory's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made above have evidentiary support.”

26. On information and belief, and upon the results of Petitioner’s investigation, at the time that Registrant filed its use-based applications for the SOLITAIRE GENIES marks, Registrant was not using the SOLITAIRE GENIES marks in U.S. commerce.

27. On information and belief, and upon the results of Petitioner’s investigation, at the time that Registrant filed its use-based applications for the SOLITAIRE GENIES marks, Registrant was not using the SOLITAIRE GENIES marks in U.S. commerce in connection with

all the goods and services claimed in the SOLITAIRE GENIES Registrations.

28. On information and belief, and upon the results of Petitioner's investigation, the representations that Registrant made to the USPTO on November 15, 2018 regarding use of the SOLITAIRE GENIES marks in U.S. commerce were false.

29. On information and belief, and upon the results of Petitioner's investigation, Registrant knew that those representations were false and made them with the intent to deceive the USPTO.

30. On information and belief, and upon the results of Petitioner's investigation, Registrant knowingly made those false material representations to the USPTO in order to obtain the SOLITAIRE GENIES Registrations.

31. The USPTO relied on those false representations in granting the SOLITAIRE GENIES Registrations.

32. The USPTO would not have granted the SOLITAIRE GENIES Registrations but for Registrant's false representations.

33. On information and belief, and upon the results of Petitioner's investigation, Registrant's actions in obtaining the SOLITAIRE GENIES Registrations constitute fraud, thereby invalidating the SOLITAIRE GENIES Registrations. Accordingly, the SOLITAIRE GENIES Registrations should be cancelled in their entirety.

