

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant : Take-Two Interactive Software, Inc.  
Serial No. : 88/564,555 Examiner: Lourdes Ayala, Esq.  
Filed : August 2, 2019 Law Office 106  
Mark : MAFIA

**APPLICANT’S RESPONSE TO OFFICE ACTION DATED AUGUST 28, 2019**

The Examining Attorney has refused registration of Applicant’s mark MAFIA (“Applicant’s Mark”) on the grounds that registration of the mark, when used in connection with the applied-for services in International Class 41 (“Applicant’s Services”), is likely to cause confusion because it is similar to a prior registered mark and a prior-filed application. The Examining Attorney is also requiring an amendment of the description of the services in the Application. Applicant’s response is set forth as follows.


**I. IDENTIFICATION OF SERVICES**

Applicant amends its description of services in Class 41 as follows:

Entertainment services, namely, providing online **computer games and video** games, providing a website featuring **information on** computer games and video games, and news, information, tips, hints, contests, computer interface themes, enhancements, audio-visual content, music, films, videos, television programs, animated series, and ~~other~~ multimedia **entertainment content** materials, **all** in the field of computer games and video games; providing information, news and commentary in the field of computer games and video games.

**II. APPLICANT’S MARK IS NOT CONFUSINGLY SIMILAR TO THE CITED MARK**

The Examining Attorney has refused registration of Applicant’s Mark MAFIA on the grounds that the mark, when used in connection with Applicant’s Services, so resembles the

mark  (Reg. No. 5,349,766) for “entertainment services, namely, providing an on-line computer game; providing on-line electronic publications, not

downloadable, namely, providing on-line electronic books and magazines in the field of games; gaming services provided on-line from a computer network; gaming services provided on-line from a mobile port; layout services, other than for advertising purposes” in International Class 41, by Yotta Games Limited, that it is likely to cause confusion, mistake, or to deceive (the “Cited Registration”).

Applicant notes that the Cited Registration was cancelled on November 30, 2019 under Section 7 because the registrant filed a voluntary surrender of the registration with prejudice. Applicant therefore requests that the Examining Attorney withdraw her refusal with respect to the Cited Registration.

### **III. POTENTIAL SECTION 2(d) REFUSAL**

The Examining Attorney has also potentially refused registration of Applicant’s Mark on the grounds that the mark, when used in connection with Applicant’s Services, so resembles a prior-filed application for the mark MAFIA WARS (Ser. No. 88/464,027) for “Downloadable computer game software; downloadable computer game programs; downloadable electronic game programs; interactive downloadable video game programs; downloadable computer game software for use on mobile devices” in International Class 9 and “Entertainment services, namely, providing online computer and electronic games; entertainment services, namely, providing temporary use of non-downloadable computer games for use on mobile devices; providing temporary use of on-line non-downloadable computer game software through online social networking websites” in International Class 41, by Zynga Inc. (the “Cited Application”), that it may be likely to cause confusion, mistake, or to deceive.

Applicant respectfully submits that there is no likelihood of confusion between Applicant’s Mark and the Cited Application and requests that the Examining Attorney put the Application under suspension. Applicant expressly reserves the right to submit arguments and

address any issues later if the application for the Cited Application is eventually registered and if a formal refusal under Section 2(d) issues.

**IV. CONCLUSION**

For the foregoing reasons, Applicant respectfully requests that its services be amended, the refusal with respect to the Cited Registration be withdrawn, and that the Examining Attorney suspend the Application. If any unresolved issues still remain, the Examining Attorney is respectfully requested to telephone the undersigned in order to resolve said issues.

Respectfully submitted,

Dated: February 20, 2020

KELLEY DRYE & WARREN LLP  
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