

Attorney Docket No.: 052999-100619

TALES of ARISE

Mark:

Application Serial No.: 88/888,819

### ARGUMENTS

This is a response to the Office Action issued on June 24, 2020. Applicant, Kabushiki Kaisha BANDAI NAMCO Entertainment Inc. (“Applicant”), thanks the Examining Attorney for the thorough review of the application. In the Office Action, the Examining Attorney has raised a prior-filed application advisory. For the reasons set forth below, Applicant respectfully disagrees that the prior-filed application poses any risk to the registration of the subject mark. The Examining Attorney also requires further specification of the services in Class 41. The Applicant herein amends the services in Class 41 to address this requirement.

#### **I. Prior-Filed Application Advisory**

The Examining Attorney has provisionally refused registration of the subject mark

TALES of ARISE

(“Applicant’s Mark”) on the basis of U.S. Trademark Application No.

ARISE  
---A SIMPLE STORY---

88/457,468 for the mark (hereinafter the “Cited Application” and “Cited Mark” respectively). Applicant respectfully disagrees and submits that there is no likelihood of confusion between Applicant’s Mark and the Cited Mark.

An Office Action recently issued in the Cited Application on July 14, 2020 refusing registration on the basis that the specimens of use are not acceptable. The applicant of the Cited Application has a deadline of January 14, 2020 to respond to the Office Action. In light of the foregoing, Applicant respectfully requests that the Examining Attorney consider these arguments and withdraw the Prior Pending Application Advisory prior to the disposition of the Cited Application, so that the Applicant’s application may progress towards registration.

**a. Likelihood of Confusion**

The Trademark Office must consider the relevant *Du Pont* factors in determining the issue of likelihood of confusion. *In re E. I. du Pont De Nemours & Co.*, 177 USPQ 563 (C.C.P.A. 1973). Further, the significance of each factor is case specific. *Nina Ricci S.A.R.L. v. E.T.F. Enterprises, Inc.*, 12 USPQ2d 1901 (Fed.Cir. 1989), *rev'g*, 9 USPQ2d 1061 (TTAB 1988); *In re E. I. du Pont De Nemours & Co, supra*. In this instance, the most relevant *Du Pont* factors are:

- 1) Applicant's Mark is part of the well-known *Tales* series of games;
- 2) The term ARISE is relatively weak as applied to the relevant goods and services;
- 3) There are significant differences in look, sound, connotation, and commercial impression between the marks; and
- 4) Consumers use a high degree of care when purchasing goods and services under the marks.

**i. *Applicant's Tales Series and Related Marks***

Applicant's TALES OF ARISE game is part of the well-known *Tales* series of games, which consumers will immediately recognize and associate directly with Applicant. *See* Exhibit A. The *Tales* series is a franchise of fantasy role-playing video games. *Id.* The series first began in 1995 and currently includes sixteen main titles, multiple spin-off games and supplementary media in the form of manga series, anime series, and audio dramas. *Id.*

Additionally, the *Tales* series has been widely successful since the release of the initial games. The Wikipedia page for the *Tales* series states the following (*see* Exhibit A):

The best-selling titles of the series as of April 2008 were Tales of Symphonia (1.6 million copies for the GameCube and PS2), Tales of Destiny (1.534 million for PlayStation and PS2), Tales of Phantasia (1.431 million for Super Famicom, PlayStation, GBA, and PSP), Tales of Eternia (1.271 million for PlayStation and PSP), and Tales of Destiny 2 (1.106 million for PS2 and PSP), not including mobile or online games. Other titles that have since sold over 1 million copies worldwide include Tales of Vesperia (614,305 copies for the Xbox 360, 465,888 for PS3, and over 500,000 for Definitive Edition), Tales of Xillia (PS3), and Tales of Berseria. The success of entries has also been linked with the consoles they are released on: Vesperia's release on the Xbox 360 caused the console to sell out for the first time in Japan, while Namco decided to release Zestiria on the PlayStation 3 due to the low sales prospects for next-gen consoles in their target audience. By December 2013, the series had shipped over 16 million units worldwide across 100 different countries. As of May 2019, the series has sold over 20 million units worldwide.

In 2019, sales of the *Tales* series topped 20 million worldwide. *See* Exhibit B. Further, many of the *Tales* games have been nominated for and received awards in the gaming industry. *See* Exhibit

C. As a result of the large number of sales of the *Tales* series over the past twenty-five years and the popularity and reputation of the games in the marketplace, the series and the individual titles have become well-known in the gaming industry and amongst gaming consumers and fans. Due to such recognition, the terms TALES OF in connection with video games have become immediately associated with Applicant and the *Tales* series.

Moreover, Applicant is the owner of the following registrations and allowed application for its various *Tales* games, which incorporate the terms TALES OF and are also registered or applied-for in connection with video game related goods and services. True and correct copies of the TSDR records for the below marks are attached hereto as Exhibit D.

Serial No.	Reg. No.	Mark
88321980		TALES OF CRESTORIA
86848273	5396921	TALES OF THE RAYS
86851067	5147894	TALES OF ZESTIRIA THE X
86716050	5042596	TALES OF LINK
86673275	5311859	TALES OF BERSERIA
86065287	4978419	TALES OF ZESTIRIA
85575868	4325711	TALES OF XILLIA
85546423	4325606	TALES OF HEARTS
77689925	4242274	TALES OF GRACES
77463490	3607384	TALES OF VESPERIA
77240639	3450688	TALES OF THE WORLD
76645196	3340554	TALES OF PHANTASIA
76635047	3268850	TALES OF THE ABYSS
76624233	3149282	TALES OF LEGENDIA
76599009	3090772	TALES OF SYMPHONIA
75151613	2249989	TALES OF DESTINY

In view of the above, consumers directly associate the terms TALES OF in connection with video games with Applicant and its *Tales* series. For this reason alone, Applicant's Mark TALES OF ARISE will also be directly associated with Applicant's *Tales* franchise of games. Thus, there can be no likelihood of confusion between Applicant's Mark and the Cited Mark.

**ii. The Term ARISE is Relatively Weak**

The term ARISE, which is common to both marks, is relatively weak as applied to the relevant goods and services. The strength of a mark must be considered when determining the scope of protection it should be accorded. *See Amstar Corp. v. Domino's Pizza, Inc.*, 615 F.2d 252, 259, 205 USPQ 969, 975 (5th Cir. 1980). The weaker the mark, the less likely it is that consumers will view it as an indication of origin, *see Plus Prods. v. Plus Discount Foods, Inc.*, 722 F.2d 999, 1006,

222 USPQ 373, 378 (2d Cir. 1983), and the narrower its scope of protection. *See Sure-Fit Prods. Co. v. Saltzson Drapery Co.*, 254 F.2d 158, 160, 117 USPQ 295, 297 (CCPA 1958) (“where a party uses a weak mark, his competitors may come closer to his mark than would be the case with a strong mark without violating his rights”). The Trademark Trial and Appeal Board (the “Board”) has “recognized that . . . weak designations may be entitled to a narrower scope of protection than an entirely arbitrary or coined word.” TMEP § 1207.01(b)(ix).

Evidence establishing that the consuming public is exposed to third-party use of similar marks on similar goods supports that a mark is relatively weak and entitled to only a narrow scope of protection. TMEP § 1207.01(d)(iii); *see Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondee en 1772*, 396 F.3d 1369, 1373-74, 73 USPQ2d 1689, 1693 (Fed. Cir. 2005); *see also In re FabFitFun, Inc.*, 127 USPQ2d 1670, 1675 (TTAB 2018) (finding the component term SMOKING HOT in the marks I’M SMOKING HOT and SMOKIN’ HOT SHOW TIME to be “somewhat weak” based in part on evidence of third-party use of the term on similar cosmetics goods, noting that such uses “tend to show consumer exposure to third-party use of the term on similar goods”); *Mini Melts, Inc. v. Reckitt Benckiser LLC*, 118 USPQ2d 1464, 1470 (TTAB 2016) (noting that evidence that third parties had adopted marks that were the same as or similar to opposer’s mark for use in connection with food products “may show that a term carries a highly suggestive connotation in the industry and, therefore, may be considered weak”).

Here, the term ARISE presented within the respective marks is relatively weak as shown by the number of third-party uses of similar marks incorporating the term ARISE or the variation RISE used in connection with video game related goods and services. A sampling of such third-party uses is attached hereto in Exhibit E as well as listed below:

- 1) **ARise**: <https://play.google.com/store/apps/details?id=com.ClimaxStudios.Arise>;  
<https://apps.apple.com/us/app/arise/id1281550152>
- 2) **Arise – Ghost in the Shell**: [https://www.amazon.com/Ghost-Shell-Arise-Borders-Blu-ray/dp/B012C89VGQ/ref=sr\\_1\\_2?keywords=%22arise%22&qid=1582675972&s=video\\_games&sr=1-2](https://www.amazon.com/Ghost-Shell-Arise-Borders-Blu-ray/dp/B012C89VGQ/ref=sr_1_2?keywords=%22arise%22&qid=1582675972&s=video_games&sr=1-2)
- 3) **Ardein.Arise**: <https://store.steampowered.com/app/1318550/ArdeinArise/>
- 4) **Arisen**: [https://store.steampowered.com/app/1363470/ARISEN\\_Prologue/](https://store.steampowered.com/app/1363470/ARISEN_Prologue/)
- 5) **Fantasy Grounds – Shaintar: Legends Arise**:  
[https://store.steampowered.com/app/555590/Fantasy\\_Grounds\\_Shaintar\\_Legends\\_Arise\\_Savage\\_Worlds/](https://store.steampowered.com/app/555590/Fantasy_Grounds_Shaintar_Legends_Arise_Savage_Worlds/)
- 6) **Station 21 – Aeon Arise**:  
[https://store.steampowered.com/app/694820/Station\\_21\\_Aeon\\_Arise/](https://store.steampowered.com/app/694820/Station_21_Aeon_Arise/)
- 7) **Dragon’s Dogma: Dark Arisen**: [https://www.gog.com/game/dragons\\_dogma\\_dark\\_arisen](https://www.gog.com/game/dragons_dogma_dark_arisen)
- 8) **Digimon ReArise**:  
[https://play.google.com/store/apps/details?id=com.bandainamcoent.digimon\\_rearise\\_ww](https://play.google.com/store/apps/details?id=com.bandainamcoent.digimon_rearise_ww)
- 9) **Darkness Rises**: <https://play.google.com/store/apps/details?id=com.nexon.da3.global>
- 10) **Rise of the Kings**: <https://play.google.com/store/apps/details?id=com.and.riseofthekings>
- 11) **Rise of Empires: Ice and Fire**:  
<https://play.google.com/store/apps/details?id=com.im30.ROE.gp>
- 12) **Rise of Queendom**:  
<https://play.google.com/store/apps/details?id=com.gf.palacem4glgl.hwyad.google>

13) **Rise** of the Dragon: [https://www.gog.com/game/rise\\_of\\_the\\_dragon](https://www.gog.com/game/rise_of_the_dragon)

As such, the term ARISE should only be afforded a narrow scope of protection when considering whether there is a likelihood of confusion.

*iii. Dissimilarity of the Marks*

TALES of ARISE

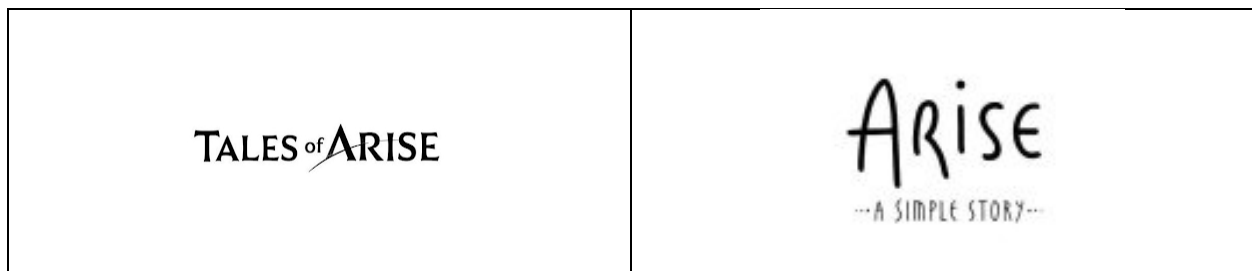
Applicant asserts that Applicant's Mark

and the Cited Mark



are sufficiently different in appearance, sound, connotation, and commercial impression such that there is no likelihood of confusion between the two marks. *See Du Pont*, 476 F.2d at 1361, 177 USPQ at 567 (noting that when conducting a likelihood of confusion analysis, marks must be compared for similarities in appearance, sound, meaning or connotation, and commercial impression). Importantly, “[s]imilarity of the marks in one respect – sight, sound, or meaning – will not automatically result in a finding of likelihood of confusion even if the goods are identical or closely related.” *See* TMEP §1207.01(b)(i).

First, from a visual standpoint, Applicant's Mark provides a very different visual impression than the Cited Mark. Both Applicant's Mark and the Cited Mark are stylized, as shown below.



Applicant's Mark is described as consisting “of the stylized wording “TALES OF ARISE” with a line cutting through the word “ARISE””; whereas, the Cited Mark is described as consisting “of the stylized word “ARISE” above the stylized smaller wording “A SIMPLE STORY”. Three dots appear to the left and right of the “A SIMPLE STORY” wording.”

## TALES of ARISE

Even though both Applicant's Mark

and the Cited Mark



include the term ARISE, when viewing the marks side-by-side, there are no visual commonalities (beyond the term ARISE) that would suggest to consumers that the marks and any related goods or services are in any way connected. The Board has noted that prominent design features can, in fact, serve to distinguish a design mark from another mark.

For example, in *In re Hy-Vee, Inc.*, 2015 TTAB LEXIS 93, \*1 (Trademark Trial & App. Bd. March



25, 2015), the Board found that the mark *DIGITAL QPONS* for *An interactive web site for users to review and rate internet content, people, companies, products and/or services utilizing a software application to award points whereby web site users are eligible to exchange points earned for promotional items consisting of coupons, rebates, discounts or special offerings on goods and/or service provided by web site sponsors; Promoting the sale of goods and services of others through electronic couponing, promotions and discounts* in Class 35 is not confusingly



similar to the mark *DIGITAL COUPONS* for *consumer coupons downloaded from a global computer network, namely, digital coupons with barcodes which can be scanned onto a stored value cards; downloadable mobile application for users to review products and services and to award points whereby mobile application users are eligible to exchange points earned for promotional items consisting of coupons, rebates, discounts or special offerings on goods and/or services* in Class 9 and *an interactive web site featuring technology for users to review products and services and to award points whereby web site users are eligible to exchange points earned for promotional items consisting of coupons, rebates, discounts or special offerings on goods and/or services* in Class 42. The Board reasoned that the visual distinctions between the marks create substantially different commercial impressions and therefore, there is no likelihood of confusion.

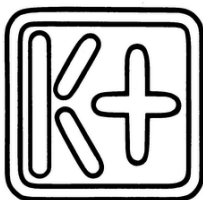
As another example, in *In re White Rock Distilleries Inc.*, 92 USPQ2d 1282 (TTAB 2009), the Board held that the mark VOLTA for *vodka drinks* and the mark TERZA VOLTA with a stick-



TERZA  
VOLTA

like design element, , for *wines* is not likely to cause confusion given the added design element to the TERZA VOLTA mark.

Similarly, in *In re Electrolyte Labs., Inc.*, 929 F.2d 645 (Fed Cir. 1990), the court held that the



marks for *k + brand of potassium, chloride and magnesium vitamins* and

K<sup>+</sup>EFF

for *potassium and chloride supplement for human use* are not likely to be confused noting that the designs of the marks are substantially different.

Further, the fact that the marks contain the term *ARISE* does not necessarily support a finding of likelihood of confusion. It is well settled that there is no automatic determination of likelihood of confusion merely because two marks have one or two words in common. For example, the Board has held that there is no likelihood of confusion between the following sets of marks directed to the same or similar goods or services despite the clear presence of the same words in the respective marks: (1) *BED & BREAKFAST REGISTRY* for *making lodging reservations for others in private homes* and *BED & BREAKFAST INTERNATIONAL* for *room booking agency services* (*In re Bed & Breakfast Registry*, 791 F.2d 157, 159, 229 USPQ 818, 819 (Fed. Cir. 1986)); (2)



for *clothing, namely, shirts, jackets and sweatshirts* and *COUNTRY ROCK CAFÉ* for *T-shirts, sweatshirts, polo shirts, sport shirts, jackets, hats, caps and belts* (*Hard Rock Cafe Licensing Corp. v. Elsea*, 48 USPQ2d 1400, 1408-09 (TTAB 1998)); and (3) *BROADWAY CHICKEN* for *restaurant services* and *BROADWAY PIZZA* for *restaurant services* (*In re Broadway Chicken, Inc.*, 38 USPQ2d 1559, 1566 (TTAB 1996)).

## TALES of ARISE

Moreover, both Applicant's Mark and the Cited Mark



comprise distinct added elements which serve to distinguish the marks, including Applicant's addition of the wording TALES OF and the Cited Mark's inclusion of the wording A SIMPLE STORY. Also, both marks include added design elements. Additions to marks may be sufficient to avoid a likelihood of confusion if: (1) the marks in their entireties convey significantly different commercial impressions; or (2) the matter common to the marks is not likely to be perceived by purchasers as a distinguishing source because it is merely descriptive or diluted. TMEP 1207.01(b)(iii); see *Bass Pro Trademarks, L.L.C. v. Sportsman's Warehouse, Inc.*, 89 USPQ2d 1844, 1857-58 (TTAB 2008) (finding that, although the marks



and were similar by virtue of the shared descriptive wording "SPORTSMAN'S WAREHOUSE," this similarity was outweighed by differences in terms of sound, appearance, connotation, and commercial impression created by other matter and stylization in the respective marks).

By way of example, the Board has held that the following sets of marks are not likely to be confused in view of the added elements to the marks and the differences in commercial impressions: (1) THE RITZ KIDS for *clothing items (including gloves)* and RITZ for *various kitchen textiles (including barbeque mitts)* (*Shen Mfg. Co. v. Ritz Hotel Ltd.*, 393 F.3d 1238, 1245, 73 USPQ2d 1350, 1356-57 (Fed. Cir. 2004)); (2) CATFISH BOBBERS (with "CATFISH" disclaimed) for *fish* and BOBBER for *restaurant services* (*In re Farm Fresh Catfish Co.*, 231 USPQ 495, 495-96 (TTAB 1986)); and (3) CAPITAL CITY BANK for *banking and financial services* and CITIBANK for *banking and financial services* (*Citigroup Inc. v. Capital City Bank Group, Inc.*, 637 F.3d 1344, 1356, 98 USPQ2d 1253, 1261 (Fed. Cir. 2011)). In this instance, the marks perceive entirely different commercial impressions, given the distinctive added elements to each mark.



## TALES of ARISE

Furthermore, when pronounced, Applicant's Mark

does not sound like



the Cited Mark because the marks include different wording that do not sound alike. Applicant's Mark has the added wording TALES OF and the Cited Mark has the added wording --A SIMPLE STORY--. Notably too is that the common term ARISE comes at the



beginning of the Cited Mark

; whereas, the term comes at

## TALES of ARISE

the end of the Applicant's Mark, which also further distinguishes the marks. In *Colgate-Palmolive*, the court noted there was no phonetic similarity between the marks "PEAK" and "PEAK PERIOD," stating that "[t]he difference in the appearance and sound of the marks in issue is too obvious to render detailed discussion necessary. In their entireties they neither look nor sound alike." *Colgate-Palmolive Co.*, 58 C.C.P.A. at 737. This reasoning is equally applicable in the instant case.

Finally, although marks are compared in their entireties, one feature of a mark may be more significant or dominant in creating a commercial impression. See *In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012); *In re Nat'l Data Corp.*, 753 F.2d 1056, 1058, 224 USPQ 749, 751 (Fed. Cir. 1985); TMEP §1207.01(b)(viii), (c)(ii). Greater weight is often given to this dominant feature when determining whether marks are confusingly similar. See *In re Nat'l Data Corp.*, 753 F.2d at 1058, 224 USPQ at 751. Applicant puts forth that the dominant feature of its mark is the wording TALES OF, as the terms appear at the beginning of the mark. In *Presto Prods., Inc. v. Nice-Pak Prods., Inc.*, 9 USPQ2d 1895 (TTAB 1988), the Board opined that "it is often the first part of a mark which is most likely to be impressed upon the mind of a purchaser and remembered." See also, *Palm Bay Imports, Inc. v. Veuve Clicquot Ponsardin Maison Fondée En 1772*, 396 F.3d 1369, 73 USPQ2d 1689 (Fed. Cir. 2005) (in the mark VEUVE CLIQUOT, VEUVE is a "prominent feature" because it is the first word in the mark

as well as the first word to appear on the wine label). Additionally, the wording TALES OF is the dominant feature of Applicant's Mark because it is associated with Applicant's well-known TALES OF family of marks and its *Tales* video game series, as discussed in more detail above. Given Applicant's long-standing use of the TALES OF family of marks in connection with video games, consumers immediately associate the terms TALES OF with Applicant and its *Tales* series.

When comparing the dominant portions of Applicant's Mark—TALES OF—and the Cited Mark—ARISE—there can be no likelihood of confusion because the terms are completely different in all regards— appearance, sound, connotation, and commercial impression. *See e.g., Fossil Inc. v. Fossil Group*, 49 USPQ2d 1451, 1998 WL 962201 (TTAB 1998) (“It need hardly be said that in comparing the marks of the parties, the marks must be compared in their entireties. Nevertheless, it is not improper in making this comparison to give more weight to one feature of a mark if such feature is more prominent than the other features.”).

Thus, when properly considered in their entireties, the marks at issue, *i.e.*,

TALES of ARISE

ARISE  
...A SIMPLE STORY...

and , create significantly different overall appearances, sounds, connotations, and commercial impressions. Because of these differences between the marks, Applicant submits that there is no likelihood of confusion between Applicant's Mark and the Cited Mark.

***iv. High Degree of Care in Making Purchasing Decision***

Consumers selecting both Applicant's and the owner of the Cited Mark's goods and/or services exercise a high degree of care when making their decisions. This high degree of care decreases any possibility of confusion that could exist between the use of the marks on these services. If confusion is to exist, it must be in the mind of some relevant consumer who encounters both marks.

The care expected of purchasers against which likelihood of confusion is measured is determined by the marketing environment in which the goods or services are ordinarily bought or sold. Some factors to be considered are the manner in which the goods are purchased. . . the manner in which the goods are marketed. . . and the class of prospective purchasers. . .

Restatement (Third) Unfair Competition § 20, comment g (1995).

In weighing the issue of likelihood of confusion, consideration should be given to the “general impression of the ordinary purchaser, buying under the normally prevalent conditions of the market and giving the attention such purchasers usually give in buying that class of goods.” *W.W.W. Pharmaceutical Co. Inc. v. The Gillette Co.*, 984 F.2d 567, 575, 25 USPQ2d 1593, 1600 (2d Cir. 1993). Some conditions of purchase are more conducive than others to the exercise of a

high degree of reasonable care. *Industrial Nucleonics Corp. v. Hinde Engineering Co.*, 475 F.2d 1197, 177 USPQ 386, 387 (C.C.P.A. 1973). These conditions include (1) if the purchaser is an enthusiast and (2) the price of the goods or services. *See, e.g., Turtle Wax, Inc. v. First Brands Corporation*, 781 F.Supp. 1314, 22 USPQ2d 1013, 1024 and n. 18 (N.D. Ill. 1991) (car buffs who purchase car polish exercise a high degree of care in making a selection); *McGregor-Doniger, Inc. v. Drizzle, Inc.*, 599 F.2d 1126, 1137, 202 USPQ 81, 92 (2<sup>nd</sup> Cir. 1979) (considering the high cost of goods).

Here, the respective consumers of Applicant's goods and services and the goods and services associated with the Cited Mark, which generally relate to video games, are sophisticated and knowledgeable consumers who exercise a high degree of ordinary care when selecting such goods and services. Careful thought, consideration, and evaluation goes into the selection of a video game. Accordingly, a consumer seeking such goods or services would spend a noteworthy amount of time researching, examining and inspecting the goods or services where possible before making a decision.

Typically, when a consumer elects to purchase a video game, he or she is seeking a specific game, or at the very least a specific genre of a game. The genres and themes associated with the games offered under Applicant's Mark and the Cited Mark are entirely distinct. In particular, Applicant's TALES OF ARISE game takes place in a setting divided between the medieval world of "Dahna" and the advanced world of "Rena." *See* Exhibit F. Rena's superior technological and magical advancement cause it to hold power over Dahna, taking its resources and treating its people as slaves. *Id.* The protagonists are a man named Alphen, native to Dahna, and a woman named Shionne, from Rena, who end up travelling together. *Id.* Applicant's TALES OF ARISE game is also part of the *Tales* series of games, which consumers will recognize and associate directly with Applicant. On the other hand, the game offered under the Cited Mark is described as a journey through the lives of two people where memories come alive and time bends to your will. *See* Exhibit G. The game starts out at a funeral pyre and treks through the characters' lives, reliving various moments and memories. *Id.* Based on these brief descriptions alone, it is clear that Applicant's and the owner of the Cited Mark's video games are in no way similar or even of the same genre.

Applicant's game and the game offered under the Cited Mark are also rated differently. The TALES OF ARISE game is expected to be rated for teens and older, which means it contains content that may not be suitable for younger children. The game offered under the Cited Mark on the other hand is rated for everyone, which suggests that the content is appropriate for all ages. The ratings of the games suggest that they are or will be marketed to distinct sets of customers, which further supports that there is no likelihood of confusion. In view of the stark differences between the video games offered under the marks, consumers are not likely to be confused as to the source or sponsorship of the goods and services.

## **II. Conclusion**

Because Applicant's Mark will be directly associated with Applicant and Applicant's *Tales* series in light of mark beginning with the terms TALES OF, the term ARISE is relatively weak as applied to the goods and services, there are significant differences in appearance, sound, connotation and

TALES of ARISE

commercial impression of the marks and

ARISE  
...A SIMPLE STORY...

, and there is a high level of consumer sophistication in purchasing the related goods and services, Applicant submits that there is no likelihood of confusion between Applicant's Mark and the Cited Mark.

Accordingly, Applicant respectfully requests that the advisory be withdrawn and the application approved for publication.