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

Proceeding no.	92066411
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Date	11/07/2022
Attachments	Opposition to Motion for Protective Order_Part1.pdf(4851297 bytes) Opposition to Motion for Protective Order_Part2.pdf(5044340 bytes)

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

ONEIDA NATION, Petitioner/Counterclaim Defendant, v. ONEIDA INDIAN NATION, Registrant/Counterclaim Plaintiff.	Cancellation No. 92066411 Mark: ONEIDA INDIAN NATION Registration No.: 2309491 Registered: January 18, 2000 Mark: ONEIDA Registration No.: 4808677 Registered: September 8, 2015 Mark: ONEIDA Registration No.: 4813028 Registered: September 15, 2015
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**RESPONDENT/COUNTERCLAIM PLAINTIFF'S RESPONSE IN
OPPOSITION TO PETITIONER/COUNTERCLAIM DEFENDANT'S
MOTION FOR PROTECTIVE ORDER RE RULE 30(b)(6) DEPOSITION**

Oneida Nation ("Petitioner") has made sweeping allegations against Oneida Indian Nation ("Respondent") and its registrations for ONEIDA-formative marks, including claims of fraud, abandonment, lack of bona fide intent to use, no use as a trademark, and likelihood of confusion. Respondent is entitled to discovery into those claims, including binding oral testimony about Petitioner's institutional knowledge. The TBMP states that "the preferred method" for obtaining such testimony is via a Rule 30(b)(6) deposition. TBMP § 404.06(b).

Respondent properly served Petitioner with a Rule 30(b)(6) deposition notice, along with a list of topics about which it intends to inquire. 55 TTABVUE 16-24. Respondent then engaged in good faith efforts to address Petitioner's concerns, modifying or withdrawing many topics. See 55 TTABVUE 11-13, 51-60, 94-98. Petitioner's motion for protective order nonetheless seeks to strike and/or modify five of

the remaining topics. These topics are directed to relevant, discoverable information, and Respondent should be required to put forward witnesses competent to testify about Petitioner's knowledge of those topics.

The topics that remain in dispute are well within the scope of discovery. For example, given Petitioner's claims that Respondent abandoned its ONEIDA and ONEIDA NATION marks, Respondent naturally seeks to obtain binding testimony from Petitioner about what it knows about Respondent's use of Respondent's marks. Petitioner inexplicably seeks to limit this topic to the knowledge of whichever "*individual* witness" Petitioner chooses to put forward for the deposition. 55 TTABVue 5 (emphasis added). Petitioner's proposal makes no sense—the entire purpose of a Rule 30(b)(6) deposition is to allow a party to probe the *institutional* knowledge of an organizational party such as Petitioner. Not surprisingly, Petitioner cites no precedent that suggests that a Rule 30(b)(6) topic can or should be modified in this way. To the contrary, it is well-established that Rule 30(b)(6) witnesses must be prepared to testify as to the organization's knowledge.

Petitioner's other arguments are just as meritless. For example, Petitioner is resisting discovery into its own knowledge of Respondent's marks at the time Petitioner submitted an application for an ONEIDA-formative mark. Petitioner is attempting to have it both ways, claiming that Respondent's failure to disclose its purported knowledge of Petitioner's use of ONEIDA-formative marks at the time of its trademark applications and renewals amounts to fraud, while asserting that Petitioner's knowledge of Respondent's use of ONEIDA-formative marks is entirely irrelevant. Petitioner also seeks to limit discovery into objections made against and received from third parties as

to Petitioner's ONEIDA-formative marks that are the basis of Petitioner's likelihood-of-confusion claims. Such evidence goes to the strength of Petitioner's marks for purposes of the likelihood-of-confusion analysis, is plainly relevant, and is expressly permissible under Board rules.

Respondent thus respectfully requests that the Board deny Respondent's motion for a protective order and allow Respondent's Rule 30(b)(6) deposition of Petitioner to proceed on Topics 4-6 and 16-17 without any modification.

ARGUMENT

A protective order may only be granted upon a showing of good cause by the movant. TBMP § 412.06. "The moving party seeking a protective order"—including a protective order seeking to strike or modify Rule 30(b)(6) deposition topics—"bears the burden of showing good cause." TBMP § 412.06; *see also FMR Corp. v. Alliant Partners*, 51 U.S.P.Q.2d 1759, 1761 (TTAB 1999) (holding that the burden is on the movant in the context of a motion for protective order directed to a deposition); *Saevik v. Swedish Med. Ctr.*, No. 19-cv-1992, 2021 WL 2411612, at *1 (W.D. Wash. June 14, 2021) (noting that the defendant seeking a protective order "limiting the scope of" one Rule 30(b)(6) topic and "barring questions regarding" others "bears the burden of showing that there is good cause").

"To establish good cause, the movant must submit 'a particular and specific demonstration of fact, as distinguished from stereotyped and conclusory statements.'" *FMR*, 51 U.S.P.Q.2d at 1761; *see also* TBMP § 412.06. "The existence of good cause for a protective order is a factual matter to be determined from the nature and character of the information sought by deposition or interrogatory request or request for

production or request for admission weighed in the balance of the factual issues involved in the Board proceeding.” TBMP § 412.06.

I. Petitioner Should Be Required to Put Forward 30(b)(6) Witnesses to Testify About Petitioner’s Knowledge, Not Merely Individual Witnesses’ Knowledge, Regarding Topics 4 and 5.

Petitioner has agreed to put forward witnesses to testify about Topics 4 and 5, but insists that those witnesses should only be required to testify as to their own individual knowledge, rather than Petitioner’s knowledge. Petitioner’s position is at odds with the purpose of Rule 30(b)(6), which is to allow inquiry into an entity’s institutional knowledge. Furthermore, Petitioner’s claim that providing witnesses on these topics would be overly burdensome and “impossible” is incorrect.

The claims in this matter were asserted by Petitioner, the Oneida Nation of Wisconsin—not any of its individual officers, employees, or members, or whomever Petitioner may choose as a Rule 30(b)(6) witness. Respondent is thus entitled to probe its knowledge.

Respondent’s Topics 4 and 5 are set forth below:

Topic 4: Petitioner’s knowledge and awareness of Respondent’s use of Respondent’s Marks.

Topic 5: Petitioner’s knowledge and awareness of any third-party marks comprised of or containing ONEIDA.

55 TTABVue 55. These topics are plainly relevant. Petitioner’s knowledge of Respondent’s use of Respondent’s marks (Topic 4) is relevant, among other things, to Petitioner’s claims that Respondent abandoned its marks. For example, if Petitioner actually is aware that Respondent has used its mark in connection with relevant goods and services during the time period Petitioner claims establishes abandonment, that fact would undermine Petitioner’s abandonment claims. Petitioner’s knowledge of third-party

ONEIDA marks (Topic 5) is relevant, among other things, to Petitioner's fraud and likelihood-of-confusion claims. For example, the existence of third-party marks comprised of or containing ONEIDA is relevant to the strength of Petitioner's mark. Whether Petitioner knew of other third-party ONEIDA-formative marks is also relevant to its assertion that **Respondent's** knowledge of ONEIDA-formative marks supports its fraud claims. And, as Petitioner acknowledges, TBMP § 414(9) provides that "[i]nformation concerning a party's awareness of third-party use and/or registration of the same or similar marks for the same or closely related goods or services as an involved mark, is discoverable"

A. Petitioner's Proposal to Limit Topics 4 and 5 to the Knowledge of Unidentified Individual Deponents Is Improper and Inconsistent with Rule 30(b)(6).

The parties' dispute on Topics 4 and 5 is narrow. Petitioner "is willing to provide a witness regarding its general knowledge in these areas, i.e., the knowledge of the individual witnesses" as to Topics 4 and 5. 55 TTABVUE 5. The disagreement thus boils down to whether Petitioner will provide witnesses who are informed about **Petitioner's** knowledge of the Topics, or whether Petitioner can limit its individual Rule 30(b)(6) deponents to testifying about their own **personal knowledge**. Rule 30(b)(6) makes clear that the former is required.

Petitioner has not cited any precedent for its position that a party subject to a Rule 30(b)(6) deposition notice can unilaterally limit itself to providing "the knowledge of the individual witness" that it strategically selects to testify on a particular topic. 55 TTABVUE 5. Nor could it. The purpose of a Rule 30(b)(6) deposition—indeed, the entire reason that rule exists—is to provide an opportunity to probe the knowledge of an organization, not the individual knowledge of a natural person, in a deposition. It is thus

well-settled that a party subject to a Rule 30(b)(6) deposition notice has an obligation to prepare its witness to testify based on organizational knowledge of the identified topics.

As explained in the TBMP:

The deponent at a Fed. R. Civ. P. 30(b)(6) deposition is the organization, and the organization speaks through the representative appearing at the deposition. A Fed. R. Civ. P. 30(b)(6) witness is responsible for providing all the relevant information known or reasonably available to the organization and his or her answers bind the organization.

....

An organization served with a Fed. R. Civ. P. 30(b)(6) notice of deposition has an obligation not only to pick and produce persons who have knowledge of the subject matter identified in the notice but also to prepare those persons so that they can give complete, knowledgeable, and binding answers as to matters known or reasonably available to the organization.

TBMP § 404.06(b) (footnotes omitted).

Another reason that Rule 30(b)(6) depositions require a witness informed about an organization's knowledge is that such depositions present a potentially unique avenue to "bind the organization" to positions taken in oral testimony. See TBMP § 404.06(b). Thus, even if an individual witness's knowledge on a topic were entirely co-extensive with Petitioner's, and even if Respondent had already obtained that exact same testimony from the exact same individual witness, Respondent still would be entitled to depose a Rule 30(b)(6) witness on that topic to ensure that its answers are binding on Petitioner. See *New Jersey v. Sprint Corp.*, No. 03-cv-2071, 2010 WL 610671, at *2 (D. Kan. Feb. 19, 2010) ("Even if the substance of the information ultimately provided mirrors that of the testimony given [individual witnesses], plaintiff still is entitled to tie down the definitive positions of [defendant] itself, rather than that of the [individual witnesses]." (emphasis added)).

Petitioner's position appears to be an attempt to engage in the type of gamesmanship that Rule 30(b)(6) was enacted to foreclose. The goal of the rule was to prevent the practice of parties "'bandying' their opponents with deposition witnesses who all disclaimed knowledge on the topics the adversary wanted to investigate." 8A Wright & Miller, Fed. Prac. & Proc. Civ. § 2103 (3d ed.). If a party had no obligation to educate a Rule 30(b)(6) witness on its organizational knowledge, the party undoubtedly would carefully choose witnesses with no knowledge of any adverse information. See *Calzaturificio S.C.A.R.P.A. v. Fabiano Shoe Co., Inc.*, 201 F.R.D. 33, 36 (D. Mass. 2001) (requiring preparation of witnesses "is necessary in order to make the deposition a meaningful one and to prevent the 'sandbagging' of an opponent by conducting a half-hearted inquiry before the deposition but a thorough and vigorous one before the trial"). In such a situation there would be no reason for a party to take a Rule 30(b)(6) deposition—and thus forfeit the choice of deponent to its litigation adversary—rather than an individual deposition.

B. Topics 4 and 5 Are Not Unduly Burdensome or "Impossible" to Prepare For.

Petitioner acknowledges that Topics 4 and 5 seek discoverable information, see 55 TTABVUE 5 (acknowledging the applicability of TBMP § 419(9)), but argues that preparing an organizational witness of Topics 4 and 5 would be unduly burdensome, *id.* ("the requests impose an undue burden to prepare a witness that is not proportional to the needs of the case"). Indeed, Petitioner asserts that "it would be **impossible** to somehow investigate and prepare a witness on Petitioner's entire institutional knowledge of Respondent, Respondent's use of ONEIDA and related marks, and all other uses by third parties." 55 TTABVUE 6 (emphasis added).

This argument fails for multiple reasons. First, Petitioner attacks a strawman when it argues that “it would be impossible to somehow investigate and prepare a witness on Petitioner’s entire institutional knowledge of Respondent.” *Id.* Neither Topic covers Petitioner’s “entire institutional knowledge of Respondent.”¹

Second, the topics are not overbroad merely because Petitioner and Respondent are both entities with long histories. Petitioner claims that the Topics are unreasonable because “the scope of the topics does not represent a standard commercial situation of reasonable temporal scope, but a truly historical examination of Respondent’s use of ONEIDA and Petitioner’s knowledge of the same going back hundreds of years.” 55 TTABVUE 6. Petitioner’s objection here is highly embellished. But even if it weren’t, the fault falls on Petitioner for bringing an action that implicates issues of priority and fraud over the parties’ long histories. The mere fact that deposition topics may be broad is not a basis to strike them if the topics are otherwise relevant and appropriate for a matter. *See Concerned Citizens of Belle Haven v. Belle Haven Club*, 223 F.R.D. 39, 43 (D. Conn. 2004) (“Even if the documents are voluminous and the review of the documents would be burdensome, the deponents are still required to review them in order to prepare themselves to be deposed.”).

Third, it is not “impossible” to prepare a witness to testify on these topics. A Rule 30(b)(6) witness is only “responsible for providing all the relevant information known or reasonably available to the organization.” TBMP § 404.06(b). Information lost due to the passage of time, for example, need not be provided. *See Order on Mot. to Compel* (Aug. 23, 2022), 52 TTABVUE 7; *see also Dravo Corp. v. Liberty Mut. Ins. Co.*, 164

¹ Topic 4 covers Petitioner’s knowledge of “Respondent’s ***use of Respondent’s Marks***.” 55 TTABVUE 55 (emphasis added). Topic 5 is not about Respondent at all.

F.R.D. 70, 76 (D. Neb. 1995) (granting motion to compel Rule 30(b)(6) deposition and noting that if the organizational party “does not possess such knowledge as to so prepare” the individual witness, “then its obligations under Rule 30(b)(6) obviously cease, since the rule requires testimony only as to ‘matters known or reasonably available to the organization’”). Interpreting Respondent’s Topics to require the “impossible” ignores what Rule 30(b)(6) (and thus Topics 4 and 5) actually require of Petitioner—to prepare witnesses about “information known or reasonably available to” Petitioner.

Finally, even if Topics 4 and 5 were overbroad (and they are not), Petitioner’s proposed remedy—limiting the topics to the personal knowledge of unidentified individuals—is not reasonable. Petitioner does not explain why such a modification of the topics is more appropriate than, for example, limiting the scope of the topics to a particular time range. As discussed above (at Section I.A.), the proposal makes no sense in the context of Rule 30(b)(6). Because Petitioner’s proposed remedy is unreasonable,² the Board should still deny the motion as to Topics 4 and 5, even if it finds that those topics are overbroad as written.

II. Topic 6 Seeks Relevant Information.

Petitioner also asks for an order striking Topic 6, which covers information about Petitioner’s use of and application for the mark ONEIDA DOWNS (App. No. 88129469 for “Bingo parlor services; Gaming services in the nature of bingo; Entertainment

² Petitioner’s only proposal is to limit Topics 4 and 5 to the knowledge of individual witnesses. It does not propose striking the topics or limiting them in any other way. *Compare, e.g.*, 55 TTABVUE 6 (regarding Topics 4 and 5: “the Board should enter a protective order limiting the scope of discovery to only general information on these topics known by the individual witnesses, as proposed by Petitioner”) with 55 TTABVUE 8 (regarding Topics 16 and 17: “the Board should enter a protective order either striking these two topics, or limiting to the more-focused subject matter proposed by Petitioner as set forth above”).

services, namely, casino gaming; Gaming services in the nature of casino gaming”) at a time when it undoubtedly was aware of Plaintiff’s use of its marks in connection with identical services. Petitioner should not be allowed to have it both ways—to accuse Respondent of fraud based on Respondent’s alleged knowledge of Petitioner and its marks at the time of certain trademark filings, while insulating itself from discovery by Respondent into Petitioner’s knowledge of Respondent and its marks at the time of Petitioner’s application for an ONEIDA-formative mark.

Petitioner filed its Section 1(a) application for the standard character mark ONEIDA DOWNS on September 24, 2018, listing no concurrent users of the mark. Thus, more than a year after initiating this proceeding, Petitioner affirmed that “no other persons ... have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive.” See Exhibit A. The USPTO refused registration in part on the basis of a likelihood of confusion with Respondent’s registrations for ONEIDA (No. 4813028) and ONEIDA INDIAN NATION (No. 2309491), both of which are involved in this proceeding. See Exhibit B.³ In the view of the USPTO, therefore, Petitioner’s ONEIDA DOWNS application is related to the marks involved in this proceeding.

One of Petitioner’s theories in this case is that Respondent’s submission of similar declarations despite Respondent’s alleged knowledge of the existence of Petitioner and its use of ONEIDA amounts to fraud. Information about the

³ The USPTO suspended the application pending this action and stated that “[t]hese refusals will be made final once this application is removed from suspension, unless a new issue arises.” See Exhibit C.

circumstances surrounding the ONEIDA DOWNS application is thus relevant. The fact that Petitioner signed a declaration in support of its application for an *ONEIDA*-formative mark with knowledge of Respondent's use of Respondent's marks for services identical to those covered by the ONEIDA DOWNS application (such as Respondent's "entertainment services, namely casino services, bingo services, lottery services" offered under the ONEIDA INDIAN NATION mark) tends to disprove Petitioner's assertion that such conduct on the part of Respondent amounts to fraud. Such evidence also would potentially support an estoppel and/or unclean hands defense, insofar as Petitioner should not be permitted to assert that Respondent committed fraud through representations/omissions identical to those of Petitioner.

The Board should therefore reject Petitioner's request to strike Topic 6.

III. Topics 16 and 17 Properly Seek Information Regarding the Strength of Petitioner's Marks.

Lastly, Petitioner requests an order limiting or striking Topics 16 and 17, which are set forth below:

Topic 16: Objections Petitioner has made against any third party's use and/or registration of any names or marks based in whole or in part on Petitioner's Marks.

Topic 17: Objections Petitioner has received from any third party concerning Petitioner's use and/or registration of Petitioner's Marks.

55 TTABVue 56. Respondent proposes limiting these topics by adding the words "in Petitioner's Goods and Services" (e.g., "objections Petitioner has made against any third party's use and/or registration *in Petitioner's Goods and Services* of any names or marks based in whole or in part on Petitioner's Marks"). 55 TTABVue 8 (emphasis added).

Topics 16 and 17 are appropriate as a matter of black-letter law. Section 414(10) of the TBMP states that “[i]nformation concerning litigation and controversies ... between a responding party and third parties based on the responding party’s involved mark is discoverable.” Petitioner is seeking to cancel Respondent’s registrations for ONEIDA given its own claimed prior use of ONEIDA-formative marks. Petitioner does not contest that its marks are relevant to those claims, but rather apparently wants the topics to be limited only to cover objections regarding the specific goods and services with which Petitioner uses the marks.⁴

By seeking to limit Topics 16 and 17 in this way, Petitioner appears to be suggesting that only use of a mark for identical goods and services can support a likelihood of confusion claim. That is incorrect. Similarity of goods and services is a factor in the likelihood of confusion analysis; identity is not required. Petitioner does not purport to limit its likelihood of confusion claims to identical goods and services. See 18 TTABVUE 53 (asserting likelihood-of-confusion claim as to goods and services “related” to those offered by others). Indeed, if Petitioner has objected to third-party uses of ONEIDA in connection with goods or services that Petitioner does not offer, that fact

⁴ The definition of “Petitioner’s Goods and Services” references Petitioner’s answer to the following interrogatory: “Identify each product and service ever advertised, promoted, offered for sale, sold, or intended to be advertised, promoted, offered for sale, or sold in connection with Petitioner’s Marks.” See 55 TTABVUE 19. Those goods and services are: newsletters pertaining to tribal events and issues; charitable services, namely, providing financial assistance to families and individuals; providing educational scholarships; medical services; governmental services, namely, mental health assistance services, family mental health and psychological counseling services, nutrition counseling services, counseling services in the fields of alcohol and substance abuse; police protection services; governmental services, namely, family counseling in the nature of marriage counseling and providing emotional support; conducting sporting events, namely, boxing, yoga, lacrosse, golf; entertainment services, namely, live musical performances, live comedy performances, and cooking demonstrations; golf instruction; conducting seminars, workshops, lectures, and classes relating to tribal culture, heritage, and language; and museum and cultural services; retail store services featuring convenience store items and gasoline; casinos; hotel and restaurant services; retail and commercial printing and graphics art design services.

would undermine its position that these topics should be limited to those specific goods and services.

CONCLUSION

Based on the foregoing, Respondent respectfully requests that the Board deny Petitioner's motion for protective order. Alternatively, if the Board grants any portion of the motion, Respondent requests that the Board modify the Topics rather than strike them entirely.

Respectfully Submitted,

ONEIDA INDIAN NATION

Dated: November 7, 2022

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CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing
RESPONDENT/COUNTERCLAIM PLAINTIFF'S RESPONSE IN OPPOSITION TO
PETITIONER/COUNTERCLAIM DEFENDANT'S MOTION FOR PROTECTIVE ORDER
RE RULE 30(b)(6) DEPOSITION was served by email on this 7th day of November
2022, upon Petitioner by email at the following addresses of record:

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EXHIBIT A

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 88129469

Filing Date: 09/24/2018

NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.

The table below presents the data as entered.

Input Field	Entered
TEAS Plus	YES
MARK INFORMATION	
*MARK	ONEIDA DOWNS
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	ONEIDA DOWNS
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Oneida Nation
INTERNAL ADDRESS	P.O. Box 365
*STREET	N7210 Seminary Road
*CITY	Oneida
*STATE (Required for U.S. applicants)	Wisconsin
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. and certain international addresses)	54155
LEGAL ENTITY INFORMATION	
*TYPE	Sovereign and Federally Recognized Indian Nation
* STATE/COUNTRY WHERE LEGALLY ORGANIZED	United States
GOODS AND/OR SERVICES AND BASIS INFORMATION	
*INTERNATIONAL CLASS	041
*IDENTIFICATION	Bingo parlor services; Gaming services in the nature of bingo ; Entertainment services, namely, casino gaming; Gaming services in the nature of casino gaming

*FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 10/02/1999
FIRST USE IN COMMERCE DATE	At least as early as 10/02/1999
SPECIMEN FILE NAME(S)	
ORIGINAL PDF FILE	SPE0-963024513-20180917100939777221_._Oneida_Downs_Specimens.pdf
CONVERTED PDF FILE(S) (3 pages)	\\TICRS\EXPORT17\IMAGEOUT17\881\294\88129469\xml1\FTK0003.JPG
	\\TICRS\EXPORT17\IMAGEOUT17\881\294\88129469\xml1\FTK0004.JPG
	\\TICRS\EXPORT17\IMAGEOUT17\881\294\88129469\xml1\FTK0005.JPG
SPECIMEN DESCRIPTION	sample bingo cards and game programs showing use of mark
ADDITIONAL STATEMENTS INFORMATION	
*TRANSLATION (if applicable)	
*TRANSLITERATION (if applicable)	
*CLAIMED PRIOR REGISTRATION (if applicable)	
*CONSENT (NAME/LIKENESS) (if applicable)	
*CONCURRENT USE CLAIM (if applicable)	
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* AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
APPLICATION FILING OPTION	TEAS Plus
NUMBER OF CLASSES	1
FEE PER CLASS	225
* TOTAL FEE PAID	225
SIGNATURE INFORMATION	
ORIGINAL PDF FILE	hw_963024513-155238470_. 2018-09-21_SIGNED_Declaration.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT17\IMAGEOUT17\881\294\88129469\xml1\FTK0006.JPG
* SIGNATORY'S NAME	Louise Cornelius
* SIGNATORY'S POSITION	Gaming General Manager

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 88129469

Filing Date: 09/24/2018

To the Commissioner for Trademarks:

MARK: ONEIDA DOWNS (Standard Characters, see below)

The mark in your application is ONEIDA DOWNS.

The applicant, Oneida Nation, a Sovereign and Federally Recognized Indian Nation legally organized under the laws of United States, having an address of

P.O. Box 365
N7210 Seminary Road
Oneida, Wisconsin 54155
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 041: Bingo parlor services; Gaming services in the nature of bingo; Entertainment services, namely, casino gaming; Gaming services in the nature of casino gaming

Use in Commerce: The applicant is using the mark in commerce on or in connection with the identified goods/services. The applicant attaches, or will later submit, one specimen as a JPG/PDF image file showing the mark as used in commerce on or in connection with any item in the class of listed goods/services, regardless of whether the mark itself is in the standard character format or is a stylized or design mark. The specimen image file may be in color, and the image must be in color if color is being claimed as a feature of the mark.

In International Class 041, the mark was first used by the applicant or the applicant's related company or licensee predecessor in interest at least as early as 10/02/1999, and first used in commerce at least as early as 10/02/1999, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods/services, consisting of a(n) sample bingo cards and game programs showing use of mark.

Original PDF file:

[SPE0-963024513-20180917100939777221_..Oneida_Downs_Specimens.pdf](#)

Converted PDF file(s) (3 pages)

[Specimen File1](#)

[Specimen File2](#)

[Specimen File3](#)

The applicant's current Attorney Information:

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E-mail Authorization: I authorize the USPTO to send e-mail correspondence concerning the application to the applicant or the applicant's attorney, or the applicant's domestic representative at the e-mail address provided in this application. I understand that a valid e-mail address must be maintained and that the applicant or the applicant's attorney must file the relevant subsequent application-related submissions via the Trademark Electronic Application System (TEAS). Failure to do so will result in the loss of TEAS Plus status and a requirement to submit an additional processing fee of \$125 per international class of goods/services.

A fee payment in the amount of \$225 has been submitted with the application, representing payment for 1 class(es).

Declaration

Declaration Signature The attached signature image file:
\\TICRS\EXPORT17\IMAGEOUT17\881\294\88129469\xml1\FTK0006.JPG

Signatory's Name: Louise Cornelius
Signatory's Position: Gaming General Manager
Payment Sale Number: 88129469
Payment Accounting Date: 09/25/2018

Serial Number: 88129469
Internet Transmission Date: Mon Sep 24 15:54:14 EDT 2018
TEAS Stamp: USPTO/FTK-XX.XX.XXX.XX-20180924155414477
088-88129469-61011f08b1ff2a0b744fcc9f7b4
fb99737b75516b514a4d6968e1a5bc6373a217-C
C-2799-20180924155238470244

ONEIDA DOWNS

ONEIDA BINGO
ONEIDA Downs

0113761



7582

\$3.00

Consolation Trifecta
 Single Line: \$200
 Double Bingo: \$300
 Triple Bingo: \$500 Posted



6 **12** **7** *Winner's Circle*
 PLACE WIN SHOW

B I N G O					HORSE
1	30	32	47	73	9
15	25	37	59	70	1
11	22	40	48	61	12
4	18	38	55	72	4
13	19	33	54	69	10
HORSE	HORSE	HORSE	HORSE	HORSE	HORSE
2	6	8	3	5	7

3 **8** **7** *Winner's Circle*
 PLACE WIN SHOW

B I N G O					HORSE
8	19	35	51	63	6
3	25	45	53	67	2
14	29	31	52	62	12
5	16	32	48	70	11
6	27	41	54	65	1
HORSE	HORSE	HORSE	HORSE	HORSE	HORSE
9	5	10	3	7	8



Date 00/00/2009 Thursday AM \$3.00

0000



Winner's Circle

<div> <div>PLACE</div> <div>WIN</div> <div>SHOW</div> </div>					HORSE
B	I	N	G	O	
					HORSE
					HORSE
					HORSE
					HORSE
					HORSE
HORSE	HORSE	HORSE	HORSE	HORSE	HORSE

Winner's Circle

<div> <div>PLACE</div> <div>WIN</div> <div>SHOW</div> </div>					HORSE
B	I	N	G	O	
					HORSE
					HORSE
					HORSE
					HORSE
					HORSE
HORSE	HORSE	HORSE	HORSE	HORSE	HORSE

October 2, 1999
\$50 BINGO BASH

CUSTOMER COUNT DETERMINES PAYOUT		001-599	600-699	700+
1.	BIG	\$ 500.00	\$ 600.00	\$ 700.00
2.	Thunderbird	\$ 500.00	\$ 600.00	\$ 700.00
3.	Crazy Bingo	\$ 500.00	\$ 600.00	\$ 700.00
4.	Chevron	\$ 500.00	\$ 600.00	\$ 700.00
5.	Crazy Bingo	\$ 500.00	\$ 600.00	\$ 700.00
6.	Three Stripes	\$ 500.00	\$ 600.00	\$ 700.00
7.	SPECIAL - HAMMERHEAD T.	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00
8.	Straight Bingo and Small 4 Corners	\$ 500.00	\$ 600.00	\$ 700.00
9.	Straight Bingo and Large Diamond	\$ 500.00	\$ 600.00	\$ 700.00
10.	Crazy Bingo	\$ 500.00	\$ 600.00	\$ 700.00
11.	Straight Bingo and Small Diamond	\$ 500.00	\$ 600.00	\$ 700.00
12.	Straight Bingo and Any Postage Stamp	\$ 500.00	\$ 600.00	\$ 700.00
13.	Crazy Bingo	\$ 500.00	\$ 600.00	\$ 700.00
***	14. ONEIDA DOWNS	POSTED	POSTED	POSTED
15.	SPECIAL - BOTTOMLESS	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00
16.	Crazy Bingo	\$ 500.00	\$ 600.00	\$ 700.00
17.	Straight Bingo and Large 4 Corners	\$ 500.00	\$ 600.00	\$ 700.00
18.	Straight Bingo and Small 4 Corners	\$ 500.00	\$ 600.00	\$ 700.00
19.	Crazy Bingo	\$ 500.00	\$ 600.00	\$ 700.00
20.	SPECIAL - STARBURST	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00
21.	Straight Bingo and Any Postage Stamp	\$ 500.00	\$ 600.00	\$ 700.00
22.	Crazy Bingo	\$ 500.00	\$ 600.00	\$ 700.00
***	23. SUPER X-TRA KASH	POSTED	POSTED	POSTED
24.	Straight Bingo and Large Diamond	\$ 500.00	\$ 600.00	\$ 700.00
25.	Crazy Bingo	\$ 500.00	\$ 600.00	\$ 700.00
26.	Top or Bottom Line Bingo	\$ 500.00	\$ 600.00	\$ 700.00
***	27. BONANZA	POSTED	POSTED	POSTED
***	28. JUMBONEIDA	POSTED	POSTED	POSTED
***	29. DO-IT-YOURSELF	1/2 TAKE	1/2 TAKE	1/2 TAKE
***	30. THREE SISTERS	POSTED	POSTED	POSTED
***	31. BINGO OR BETTER	\$ 700.00	\$ 700.00	\$ 700.00
32.	Crazy Bingo	\$ 500.00	\$ 600.00	\$ 700.00
33.	BLACKOUT	\$ 5,000.00	\$ 6,000.00	\$ 7,000.00

*** - Not included in \$50 ticket purchase package.

Doors open at 2:30 PM • * Warm-ups at 4:00 PM**

Games begin at 5:00 PM SHARP!

There will be a break after Game #15.

“GIVEAWAYS”

CASH DRAWINGS: 15 - \$500.00 • 15 - \$200.00

(Recipients are responsible for all taxes. Must be present to win.)

Declaration

Read the following statements before signing. Acknowledge the statements by signing below.

- **Basis:**

If the applicant is filing the application based on use in commerce under 15 U.S.C. § 1051(a):

- The signatory believes that the applicant is the owner of the trademark/service mark sought to be registered;
- The mark is in use in commerce on or in connection with the goods/services in the application;
- The specimen(s) shows the mark as used on or in connection with the goods/services in the application; and
- To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.

AND/OR

If the applicant is filing the application based on an intent to use the mark in commerce under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e):

- The signatory believes that the applicant is entitled to use the mark in commerce;
- The applicant has a bona fide intention to use the mark in commerce on or in connection with the goods/services in the application; and
- To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.

- To the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive.
- To 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.
- The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Signature: _____

Signatory's Name: Louise Cornelius

Signatory's Position: Gaming General Manager

Signatory's Phone Number: 920-429-3201

Date Signed: 9.21.2018

NOTE TO APPLICANT: When filed as part of the electronic form (i.e., scanned and attached as an image file), the signature page **must** include both the signature information **and** the declaration language. Do **not** include the entire application, but do ensure that the declaration language actually appears; *a signature by itself will not be acceptable*. If, due to browser limitations, the declaration language appears on a previous page when printed, you must "merge" the declaration and signature block onto a single page prior to signing, so that the *one complete page* can be scanned to create an acceptable image file. It is recommended that you copy-and-paste the entire text form into another document, manipulate the spacing there to move the declaration and signature section to a separate page, and then print this new version of the text form to send to the signatory.

EXHIBIT B

To: Oneida Nation (tmdocketing@andruslaw.com)
Subject: U.S. TRADEMARK APPLICATION NO. 88129469 - ONEIDA DOWNS - 6363-00008
Sent: 1/9/2019 8:35:11 PM
Sent As: ECOM120@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](#)
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[Attachment - 20](#)
[Attachment - 21](#)
[Attachment - 22](#)
[Attachment - 23](#)
[Attachment - 24](#)

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

U.S. APPLICATION
SERIAL NO. 88129469

MARK: ONEIDA DOWNS

88129469

CORRESPONDENT
ADDRESS:
CHRISTOPHER R.
LIRO
ANDRUS
INTELLECTUAL
PROPERTY LAW, LLP
100 E WISCONSIN
AVE SUITE 1100
MILWAUKEE, WI
53202

**CLICK HERE TO RESPOND TO THIS
LETTER:**
http://www.uspto.gov/trademarks/teas/response_forms.jsp

[VIEW YOUR APPLICATION FILE](#)

APPLICANT: Oneida
Nation

**CORRESPONDENT'S
REFERENCE/DOCKET
NO:**

6363-00008

**CORRESPONDENT E-
MAIL ADDRESS:**

tmdocketing@andruslaw.com

OFFICE ACTION

STRICT DEADLINE TO RESPOND TO THIS LETTER

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW. A RESPONSE TRANSMITTED THROUGH THE TRADEMARK ELECTRONIC APPLICATION SYSTEM (TEAS) MUST BE RECEIVED BEFORE MIDNIGHT **EASTERN TIME** OF THE LAST DAY OF THE RESPONSE PERIOD.

ISSUE/MAILING DATE: 1/9/2019

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

SUMMARY OF ISSUES:

- Section 2(d) Refusals – Likelihood of Confusion
- Advisory: Ownership Of Cited Registration No. 3016505
- Issue Regarding Applicant's Entity Type

SECTION 2(d) REFUSALS – LIKELIHOOD OF CONFUSION

Applicant seeks to register ONEIDA DOWNS for “Bingo parlor services; Gaming services in the nature of bingo; Entertainment services, namely, casino gaming; Gaming services in the nature of casino gaming” in Class 41.

Registration of the applied-for mark is refused because of a likelihood of confusion with the marks ONEIDA in U.S. Registration No 3016505, ONEIDA INDIAN NATION in U.S. Registration Nos. 2309491 and 2355438, and ONEIDA in U.S. Registration No. 4813028. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the attached registrations.

Trademark Act Section 2(d) bars registration of an applied-for mark that is so similar to a registered mark that it is likely consumers would be confused, mistaken, or deceived as to the commercial source of the goods and/or services of the parties. *See* 15 U.S.C. §1052(d). Likelihood of confusion is determined on a case-by-case basis by applying the factors set forth in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973) (called the “*du Pont* factors”). *In re i.am.symbolic, llc*, 866 F.3d 1315, 1322, 123 USPQ2d 1744, 1747 (Fed. Cir. 2017). Only those factors that are “relevant and of record” need be considered. *M2 Software, Inc. v. M2 Commc'ns, Inc.*, 450 F.3d 1378, 1382, 78 USPQ2d 1944, 1947 (Fed. Cir. 2006) (citing *Shen Mfg. Co. v. Ritz Hotel Ltd.*, 393 F.3d 1238, 1241, 73 USPQ2d 1350, 1353 (Fed. Cir. 2004)); *see In re Inn at St. John's, LLC*, 126 USPQ2d 1742, 1744 (TTAB 2018).

Although not all *du Pont* factors may be relevant, there are generally two key considerations in any likelihood of confusion analysis: (1) the similarities between the compared marks and (2) the relatedness of the compared goods and/or services. *See In re i.am.symbolic, llc*, 866 F.3d at 1322, 123 USPQ2d at 1747 (quoting *Herbko Int'l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1164-65, 64 USPQ2d 1375, 1380 (Fed. Cir. 2002)); *Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 1103, 192 USPQ 24, 29 (C.C.P.A. 1976) (“The fundamental inquiry mandated by [Section] 2(d) goes to the cumulative effect of differences in the essential characteristics of the goods [or services] and differences in the marks.”); TMEP §1207.01.

SIMILARITY OF THE MARKS

Marks are compared in their entirety for similarities in appearance, sound, connotation, and commercial impression. *Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 1321, 110 USPQ2d 1157, 1160 (Fed. Cir. 2014) (quoting *Palm Bay Imps., Inc. v. Veuve*

Clicquot Ponsardin Maison Fondée En 1772, 396 F.3d 1369, 1371, 73 USPQ2d 1689, 1691 (Fed. Cir. 2005)); TMEP §1207.01(b)-(b)(v). “Similarity in any one of these elements may be sufficient to find the marks confusingly similar.” *In re Inn at St. John’s, LLC*, 126 USPQ2d 1742, 1746 (TTAB 2018) (citing *In re Davia*, 110 USPQ2d 1810, 1812 (TTAB 2014)); TMEP §1207.01(b).

When comparing marks, “[t]he proper test is not a side-by-side comparison of the marks, but instead whether the marks are sufficiently similar in terms of their commercial impression such that [consumers] who encounter the marks would be likely to assume a connection between the parties.” *Cai v. Diamond Hong, Inc.*, ___ F.3d ___, 127 USPQ2d 1797, 1801 (Fed. Cir. 2018) (quoting *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1368, 101 USPQ2d 1713, 1721 (Fed. Cir. 2012)); TMEP §1207.01(b). The proper focus is on the recollection of the average purchaser, who retains a general rather than specific impression of trademarks. *In re Inn at St. John’s, LLC*, 126 USPQ2d 1742, 1746 (TTAB 2018) (citing *In re St. Helena Hosp.*, 774 F.3d 747, 750-51, 113 USPQ2d 1082, 1085 (Fed. Cir. 2014); *Geigy Chem. Corp. v. Atlas Chem. Indus., Inc.*, 438 F.2d 1005, 1007, 169 USPQ 39, 40 (CCPA 1971)); TMEP §1207.01(b).

Where the services of an applicant and registrant are “similar in kind and/or closely related,” the degree of similarity between the marks required to support a finding of likelihood of confusion is not as great as in the case of diverse services. *In re J.M. Originals Inc.*, 6 USPQ2d 1393, 1394 (TTAB 1987); see *Shen Mfg. Co. v. Ritz Hotel Ltd.*, 393 F.3d 1238, 1242, 73 USPQ2d 1350, 1354 (Fed. Cir. 2004); TMEP §1207.01(b).

Applicant has applied for the standard character mark ONEIDA DOWNS and the cited registrations are the marks ONEIDA and ONEIDA INDIAN NATION, in both standard character/typed drawing and design form. Registration No. 3016505 is owned by the Oneida Tribe of Indians of Wisconsin and Registration Nos. 2309491 2355438, and 4813028 are owned by the Oneida Indian Nation of New York.

The first word of all the marks is ONEIDA. Because applicant’s mark is merely adding the additional wording DOWNS to the dominant element of each of the registrant’s marks, particularly for highly related services, the marks are similar in appearance, sound, and connotation. These elements altogether lead to a very similar commercial impression that, for such highly related services, is likely to lead to confusion.

Adding a term to a registered mark generally does not obviate the similarity between the compared marks, as in the present case, nor does it overcome a likelihood of confusion under Section 2(d). See *Coca-Cola Bottling Co. v. Jos. E. Seagram & Sons, Inc.*, 526 F.2d 556, 557, 188 USPQ 105, 106 (C.C.P.A. 1975) (finding BENGAL and BENGAL LANCER and design confusingly similar); *In re Toshiba Med. Sys. Corp.*, 91 USPQ2d 1266, 1269 (TTAB 2009) (finding TITAN and VANTAGE TITAN confusingly similar); *In re El Torito Rests., Inc.*, 9 USPQ2d 2002, 2004 (TTAB 1988) (finding MACHO and MACHO COMBOS confusingly similar); TMEP §1207.01(b)(iii). In the present case, the marks are identical in part.

When evaluating a composite mark consisting of words and a design, the word portion is normally accorded greater weight because it is likely to make a greater impression upon purchasers, be remembered by them, and be used by them to refer to or request the goods and/or services. *In re Aquitaine Wine USA, LLC*, 126 USPQ2d 1181, 1184 (TTAB 2018) (citing *In re Viterro Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012)); TMEP §1207.01(c)(ii). Thus, although marks must be compared in their entireties, the word portion is often considered the dominant feature and is accorded greater weight in determining whether marks are confusingly similar, even where the word portion has been disclaimed. *In re Viterro Inc.*, 671 F.3d at 1366-67, 101 USPQ2d at 1911 (citing *Giant Food, Inc. v. Nation’s Foodservice, Inc.*, 710 F.2d 1565, 1570-71, 218 USPQ2d 390, 395 (Fed. Cir. 1983)).

Because the marks are similar in appearance, sound, connotation and commercial impression, the marks are confusingly similar.

RELATEDNESS OF THE SERVICES

The applicant identifies the following services in International Class 41:

Bingo parlor services; Gaming services in the nature of bingo; Entertainment services, namely, casino gaming; Gaming services in the nature of casino gaming

Registration No. 3016505 identifies the following services in International Class 41:

Casinos

Registration No. 2309491 and 2355438 identify the following services in International Class 41:

entertainment services, namely casino services, bingo services, lottery services, live variety entertainment services in the nature of musical performances, seminars, workshops, lectures and classes relating to the culture, heritage and language of the Oneida Indian nation; providing recreational facilities and programs

Registration No. 4813028 identifies the following services in International Class 41:

Conducting sporting events, namely, boxing, yoga, lacrosse, golf; entertainment services, namely, live musical performances, live comedy performances, and cooking demonstrations; golf instruction; conducting seminars, workshops, lectures, and classes relating to the culture, heritage, and language of the Oneida Indian Nation; and museum and cultural center services

The compared services need not be identical or even competitive to find a likelihood of confusion. *See On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086, 56 USPQ2d 1471, 1475 (Fed. Cir. 2000); *Recot, Inc. v. Becton*, 214 F.3d 1322, 1329, 54 USPQ2d 1894, 1898 (Fed. Cir. 2000); TMEP §1207.01(a)(i). They need only be “related in some manner and/or if the circumstances surrounding their marketing are such that they could give rise to the mistaken belief that [the services] emanate from the same source.” *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369, 101 USPQ2d 1713, 1722 (Fed. Cir. 2012) (quoting *7-Eleven Inc. v. Wechsler*, 83 USPQ2d 1715, 1724 (TTAB 2007)); TMEP §1207.01(a)(i).

The attached Internet evidence consists of screenshots from third parties that provide bingo parlor and bingo gaming as a function of casino services and in addition to live musical performances. The evidence establishes that the same entity commonly provides the relevant services and markets the services under the same mark, that the relevant services are sold or provided through the same trade channels and used by the same classes of consumers in the same fields of use, and that the services are similar or complementary in terms of purpose or function:

- Casino Arizona
 - <https://www.casinoarizona.com/casino/bingo/>
 - <https://www.casinoarizona.com/entertainment/>
- Foxwoods
 - <https://www.foxwoods.com/bingo/URL>
 - <https://www.foxwoods.com/shows.aspx>
 - <https://www.foxwoods.com/uploadedFiles/Pages/Game/Poker/Foxwoods-Poker-Tournament-Policies.pdf>
- Pechanga
 - <https://www.pechanga.com/play/bingo>
 - <https://www.pechanga.com/entertain>
 - <https://www.pechanga.com/play/poker>
- Harrah's AK-CHIN
 - <https://www.caesars.com/harrahs-ak-chin/casino/bingo#>
 - <https://www.caesars.com/harrahs-ak-chin/shows>

Thus, applicant's and registrant's services are considered related for likelihood of confusion purposes. *See, e.g., In re Davey Prods. Pty Ltd.*, 92 USPQ2d 1198, 1202-04 (TTAB 2009); *In re Toshiba Med. Sys. Corp.*, 91 USPQ2d 1266, 1268-69, 1271-72 (TTAB 2009).

Because the marks are confusingly similar and the services are related, there is a likelihood of confusion to relevant consumers, and therefore registration is refused.

ADVISORY: OWNERSHIP OF CITED REGISTRATION

If the mark in the cited Registration No. 3016505 is owned by applicant, applicant may provide evidence of ownership of the mark by satisfying one of the following:

- (1) Record the assignment with the USPTO's Assignment Recordation Branch (ownership transfer documents such as assignments can be filed online at <http://etas.uspto.gov>) and promptly notify the trademark examining attorney that the assignment has been duly recorded.
- (2) Submit copies of documents evidencing the chain of title.
- (3) Submit the following statement, verified with an affidavit or signed declaration under 37 C.F.R. §2.20: “**Applicant is the owner of U.S. Registration No. 3016505.**” To provide this statement using the Trademark Electronic Application System (TEAS), use the “Response to Office Action” form; answer “yes” to wizard questions #3 and #10; then, continuing on to the next portion of the form, in the “Additional Statement(s)” section, find “Active Prior Registration(s)” and insert the U.S. registration numbers in the data fields; and follow the instructions within the form for signing. The form must be signed twice; a signature is required both in the “Declaration Signature” section and in the “Response Signature” section.

TMEP §812.01; *see* 15 U.S.C. §1060; 37 C.F.R. §§2.193(e)(1), 3.25, 3.73(a)-(b); TMEP §502.02(a).

Recording a document with the Assignment Recordation Branch does not constitute a response to an Office action. TMEP §503.01(d).

Although applicant's mark has been refused registration, applicant may respond to the refusals by submitting evidence and arguments in support of registration. However, if applicant responds to the refusals, applicant must also respond to the requirement set forth below.

ISSUE REGARDING APPLICANT'S ENTITY TYPE

The application identifies applicant as Oneida Nation, a "**Sovereign and Federally Recognized Indian Nation**". This is not an acceptable legal entity designation because the USPTO does not accept applications from such an entity and only accepts applications only from a "**Federally Recognized Indian Tribe**". See TMEP §803.03(j). Therefore, applicant must specify a proper type of legal entity applying, e.g., **Federally Recognized Indian Tribe**. See 37 C.F.R. §§2.32(a)(3)(ii)-(iv), 2.61(b); TMEP §803.03.

If, in response to the above request, applicant provides information indicating that it is not the owner of the mark, registration will be refused because the application was void as filed. See 37 C.F.R. §2.71(d); TMEP §§803.06, 1201.02(b). An application must be filed by the party who owns or is entitled to use the mark as of the application filing date. See 37 C.F.R. §2.71(d); TMEP §1201.02(b).

ASSISTANCE

Please call or email the assigned trademark examining attorney with questions about this Office action. Although the trademark examining attorney cannot provide legal advice or statements about applicant's rights, the trademark examining attorney can provide applicant with additional explanation about the refusal(s) and/or requirement(s) in this Office action. See TMEP §§705.02, 709.06. Although the USPTO does not accept emails as responses to Office actions, emails can be used for informal communications and will be included in the application record. See 37 C.F.R. §§2.62(c), 2.191; TMEP §§304.01-.02, 709.04-.05.

TEAS PLUS OR TEAS REDUCED FEE (TEAS RF) APPLICANTS – TO MAINTAIN LOWER FEE, ADDITIONAL REQUIREMENTS MUST BE MET, INCLUDING SUBMITTING DOCUMENTS ONLINE: Applicants who filed their application online using the lower-fee TEAS Plus or TEAS RF application form must (1) file certain documents online using TEAS, including responses to Office actions (see TMEP §§819.02(b), 820.02(b) for a complete list of these documents); (2) maintain a valid e-mail correspondence address; and (3) agree to receive correspondence from the USPTO by e-mail throughout the prosecution of the application. See 37 C.F.R. §§2.22(b), 2.23(b); TMEP §§819, 820. TEAS Plus or TEAS RF applicants who do not meet these requirements must submit an additional processing fee of \$125 per class of goods and/or services. 37 C.F.R. §§2.6(a)(1)(v), 2.22(c), 2.23(c); TMEP §§819.04, 820.04. However, in certain situations, TEAS Plus or TEAS RF applicants may respond to an Office action by authorizing an examiner's amendment by telephone or e-mail without incurring this additional fee.

/benjaminrosen/
Benjamin Rosen
Examining Attorney
Law Office 120
(571) 272-8425
benjamin.rosen@uspto.gov

TO RESPOND TO THIS LETTER: Go to http://www.uspto.gov/trademarks/teas/response_forms.jsp. Please wait 48-72 hours from the issue/mailing date before using the Trademark Electronic Application System (TEAS), to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail TEAS@uspto.gov. For questions about the Office action itself, please contact the assigned trademark examining attorney. **E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.**

All informal e-mail communications relevant to this application will be placed in the official application record.

WHO MUST SIGN THE RESPONSE: It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

PERIODICALLY CHECK THE STATUS OF THE APPLICATION: To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at TrademarkAssistanceCenter@uspto.gov or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS: Use the TEAS form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

DESIGN MARK

Serial Number

75575398

Status

REGISTERED AND RENEWED

Word Mark

ONEIDA

Standard Character Mark

No

Registration Number

3016505

Date Registered

2005/11/22

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

Owner

Oneida Tribe of Indians of Wisconsin SOVEREIGN INDIAN NATION WISCONSIN
N7210 Seminary Road Post Office Box 365 Oneida WISCONSIN 54155

Goods/Services

Class Status -- ACTIVE. IC 041. US 100 101 107. G & S: Casinos.
First Use: 1992/00/00. First Use In Commerce: 1992/00/00.

Goods/Services

Class Status -- ACTIVE. IC 042. US 100 101. G & S: Hotel and
restaurant services; retail and commercial printing and graphics art
design services. First Use: 1992/00/00. First Use In Commerce:
1992/00/00.

Goods/Services

Class Status -- ACTIVE. IC 035. US 100 101 102. G & S: Retail
store services featuring convenience store items and gasoline. First
Use: 1992/00/00. First Use In Commerce: 1992/00/00.

Lining/Stippling Statement

The stippling in the drawing is for shading purposes only.

Print: Jan 7, 2019

75575398

Description of Mark

The mark consists in part of an eagle and stylized sun design.

Filing Date

1998/10/23

Examining Attorney

DE JONGE, KATHY

Attorney of Record

Kelly M. McAndrews



DESIGN MARK

Serial Number

75978732

Status

REGISTERED AND RENEWED

Word Mark

ONEIDA INDIAN NATION

Standard Character Mark

No

Registration Number

2355438

Date Registered

2000/06/06

Type of Mark

TRADEMARK; SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

Owner

ONEIDA INDIAN NATION OF NEW YORK AKA The Oneida Indian Nation of New York, AKA The Oneida Indian Nation, AKA Oneida Indian Nation, AKA The Oneida Nation or AKA Oneida Nation SOVEREIGN INDIAN NATION UNITED STATES 2037 Dream Catcher Plaza Oneida NEW YORK 13421

Goods/Services

Class Status -- ACTIVE. IC 014. US 002 027 028 050. G & S: ornamental pins. First Use: 1992/07/00. First Use In Commerce: 1992/07/00.

Goods/Services

Class Status -- ACTIVE. IC 016. US 002 005 022 023 029 037 038 050. G & S: [decals;] Christmas cards; [nation directory of member services,] newsletters pertaining to nation's events and issues; [folders,] stationery. First Use: 1991/05/00. First Use In Commerce: 1991/05/00.

Goods/Services

Class Status -- ACTIVE. IC 018. US 001 002 003 022 041. G & S: tote bags. First Use: 1993/12/00. First Use In Commerce: 1993/12/00.

Goods/Services

Class Status -- ACTIVE. IC 024. US 042 050. G & S: cloth flags.
First Use: 1991/06/00. First Use In Commerce: 1991/06/00.

Goods/Services

Class Status -- ACTIVE. IC 025. US 022 039. G & S: clothing,
namely T-shirts, [hats, sweatshirts,] sports shirts. First Use:
1992/08/00. First Use In Commerce: 1992/08/00.

Goods/Services

Class Status -- SECTION 8 - CANCELLED. IC 035. US 100 101 102. G &
S: [government services, namely, vital statistics services]. First
Use: 1974/00/00. First Use In Commerce: 1974/00/00.

Goods/Services

Class Status -- ACTIVE. IC 036. US 100 101 102. G & S: providing
educational, scholarship, welfare and personal financial assistance
services to families and individuals in the form of check
disbursements; providing personal loan services [; providing housing
agency services; providing home repair financial assistance services
]. First Use: 1988/04/20. First Use In Commerce: 1988/04/20.

Goods/Services

Class Status -- ACTIVE. IC 037. US 100 103 106. G & S:
construction [, and home maintenance] services. First Use:
1986/00/00. First Use In Commerce: 1986/00/00.

Goods/Services

Class Status -- ACTIVE. IC 041. US 100 101 107. G & S:
entertainment services, namely casino services, bingo services,
lottery services, live variety entertainment services in the nature of
musical performances, seminars, workshops, lecturers and classes
relating to the culture, heritage and language of the Oneida Indian
Nation; providing recreational facilities and programs. First Use:
1974/00/00. First Use In Commerce: 1974/00/00.

Goods/Services

Class Status -- ACTIVE. IC 042. US 100 101. G & S: restaurant and
non-alcoholic bar services; retail smoke shop services; medical care
services; legal services, police protection services; [child care
services;] family counseling services; [heating assistance services;
] mental health assistance services [, home visit healthcare and
nursing services]; nutrition program services; youth counseling
services regarding alcohol and other substance abuse; welfare
counseling services. First Use: 1980/00/00. First Use In Commerce:
1980/00/00.

Goods/Services

Class Status -- SECTION 8 - CANCELLED. IC 006. US 002 012 013 014
023 025 050. G & S: [metal key fobs]. First Use: 1993/06/06.
First Use In Commerce: 1993/06/06.

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "INDIAN NATION" APART FROM THE MARK AS SHOWN.

Filing Date

1994/07/13

Examining Attorney

FERRAIUOLO, DOMINIC J.

Attorney of Record

Melinda M. Lothes



DESIGN MARK

Serial Number

75978733

Status

CANCELLATION PENDING

Word Mark

ONEIDA INDIAN NATION

Standard Character Mark

No

Registration Number

2309491

Date Registered

2000/01/18

Type of Mark

TRADEMARK; SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

Owner

ONEIDA INDIAN NATION OF NEW YORK DBA The Oneida Indian Nation of New York, The Oneida Indian Nation, Oneida Indian Nation, The Oneida Nation, or Oneida Nation SOVEREIGN INDIAN NATION UNITED STATES 2037 Dream Catcher Plaza Oneida NEW YORK 13421

Goods/Services

Class Status -- ACTIVE. IC 014. US 002 027 028 050. G & S: ornamental pins. First Use: 1992/07/00. First Use In Commerce: 1992/07/00.

Goods/Services

Class Status -- ACTIVE. IC 016. US 002 005 022 023 029 037 038 050. G & S: [decals;] Christmas cards; [nation directory of member services,] newsletters pertaining to nation's events and issues; [folders,] stationery. First Use: 1991/05/00. First Use In Commerce: 1991/05/00.

Goods/Services

Class Status -- ACTIVE. IC 018. US 001 002 003 022 041. G & S: tote bags. First Use: 1993/12/00. First Use In Commerce: 1993/12/00.

Goods/Services

Class Status -- ACTIVE. IC 024. US 042 050. G & S: cloth flags.
First Use: 1991/06/00. First Use In Commerce: 1991/06/00.

Goods/Services

Class Status -- ACTIVE. IC 025. US 022 039. G & S: clothing,
namely T-shirts, hats, sweatshirts, sports shirts. First Use:
1992/08/00. First Use In Commerce: 1992/08/00.

Goods/Services

Class Status -- SECTION 8 - CANCELLED. IC 035. US 100 101 102. G &
S: [government services, namely, vital statistics services]. First
Use: 1974/00/00. First Use In Commerce: 1974/00/00.

Goods/Services

Class Status -- ACTIVE. IC 036. US 100 101 102. G & S: providing
educational, scholarship, welfare and personal financial assistance
services to families and individuals in the form of check
disbursements; providing personal loan services [; providing housing
agency services; providing home repair financial assistance services
]. First Use: 1988/04/20. First Use In Commerce: 1988/04/20.

Goods/Services

Class Status -- ACTIVE. IC 041. US 100 101 107. G & S:
entertainment services, namely casino services, bingo services,
lottery services, live variety entertainment services in the nature of
musical performances, seminars, workshops, lecturers and classes
relating to the culture, heritage and language of the Oneida Indian
nation; providing recreational facilities and programs. First Use:
1974/00/00. First Use In Commerce: 1974/00/00.

Goods/Services

Class Status -- ACTIVE. IC 042. US 100 101. G & S: restaurant and
non-alcoholic bar services; retail smoke shop services; medical care
services; legal services, police protection services, providing
temporary housing accommodations, [child care services,] family
counseling services, [heating assistance services,] financial
assistance services, mental health assistant services, [home visit
services,] nutrition program services, youth counseling services
regarding alcohol and other substance abuse. First Use: 1980/00/00.
First Use In Commerce: 1980/00/00.

Goods/Services

Class Status -- SECTION 8 - CANCELLED. IC 006. US 002 012 013 014
023 025 050. G & S: [metal key fobs]. First Use: 1993/06/06. First
Use In Commerce: 1993/06/06.

Goods/Services

Class Status -- ACTIVE. IC 037. US 100 103 106. G & S:
construction [and home maintenance] services. First Use:
1986/00/00. First Use In Commerce: 1986/00/00.

Disclaimer Statement

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "INDIAN NATION" APART FROM THE MARK AS SHOWN.

Filing Date

1994/07/13

Examining Attorney

FERRAIUOLO, DOMINIC J.

Attorney of Record

Melinda M. Lothes

ONEIDA INDIAN NATION

Print: Jan 7, 2019

78978992

DESIGN MARK

Serial Number

78978992

Status

CANCELLATION PENDING

Word Mark

ONEIDA

Standard Character Mark

Yes

Registration Number

4813028

Date Registered

2015/09/15

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Owner

Oneida Indian Nation of New York AKA The Oneida Indian Nation of New York, The Oneida Indian Nation, Oneida Indian Nation, The Oneida Nation, or Oneida Nation FEDERALLY-RECOGNIZED INDIAN TRIBE UNITED STATES 2037 Dream Catcher Plaza Oneida NEW YORK 13421

Goods/Services

Class Status -- ACTIVE. IC 041. US 100 101 107. G & S: Conducting sporting events, namely, boxing, yoga, lacrosse, golf; entertainment services, namely, live musical performances, live comedy performances, and cooking demonstrations; golf instruction; conducting seminars, workshops, lectures, and classes relating to the culture, heritage, and language of the Oneida Indian Nation; and museum and cultural center services. First Use: 1974/00/00. First Use In Commerce: 2015/07/20.

Prior Registration(s)

2309491;2355438

Filing Date

2006/01/26

Print: Jan 7, 2019

78978992

Examining Attorney

VANSTON, KATHLEEN M.

Attorney of Record

Melinda M. Lothes

ONEIDA

Bingo

[Home](#) / [Casino](#) / [Bingo](#)

Current Promotions



Bingo Birthday Month

Swipe your Player Rewards Club card at a Bingo kiosk and receive Birthday packs!

[MORE INFO](#)


L8 Nite Bingo Machine Frenzy

Hit it big at L8 Nite Bingo during Bingo Machine Frenzy!

[MORE INFO](#)


L8 Nite Bingo Hot Seats

Win some extra cash playing L8 Nite Bingo in 2018!

[MORE INFO](#)


NEW BINGO LOYALTY PROGRAM

Earn 2,100 in a 1 month period and pick a chip on the kiosk to win 1 of 3 worth \$200 up to \$765!

[MORE INFO](#)

About the Casino Arizona Bingo Hall

Grab a bingo dauber and your lucky troll, because Casino Arizona is the premier bingo location in the Phoenix and Scottsdale area. Enjoy great food and drinks, and catch the latest action on one of the many flat screen TVs throughout the Bingo Hall.

- Spacious 1,000-seat hall
- 16 sessions each week
- Giant flat-screen TVs
- Food & drink specials
- [Holiday Menus](#)
Special Bingo food menus are offered for most holidays.
- "QuickPlay" speed bingo
- Keno and Video Poker available on handheld devices

Best Bingo Value in Phoenix!

- Lowest minimum pricing on electronic PHDs
- Highest payouts
- No rental fees
- 3 levels of bingo
- More game cards per pack
- Highest discounted packages (more than 50% savings)
- Largest bonanza progressive
- PHD bonanza trades
- More progressives (6 total) than any other bingo hall



Pricing and Packages

Daily Matinee

Paper

\$3 Buy-In (Level 1) \$5 Buy-In (Level 2) \$10 Buy-In (Level 3)
\$1 Extras \$2 Extras \$3 Extras

\$15 Special Pack

Electronic Packages

\$15 River Pack \$50 Fire Pack \$75 Wind Pack \$100 Water Pack
(saves \$23) (saves \$43) (saves \$62) (saves \$87)

Evening Sessions

Paper

\$2 Buy-In (Level 1) \$6 Buy-In (Level 2) \$12 Buy-In (Level 3)

<https://www.casinoarizona.com/casino/bingo/>

Entertainment

[Home](#) / [Entertainment](#)

Petty and the Heartshakers

Enjoy an incredibly organic tribute to Tom Petty and the Heartbreakers with hits like "Free Fallin'," "Breakdown" and "I Won't Back Down." Friday & Saturday, January 18th & 19th, 2019.

[MORE INFO](#)

Strange Days: Tribute to The Doors

Friday & Saturday, January 25th & 26th, 2019.

[MORE INFO](#)

\$1,000 Sports Trivia Night

In 7 hours 45 minutes

[CAZ Sports Bar >>](#)

[MORE INFO](#)

Trivia Tuesdays

In 7 hours 45 minutes

Tuesday, Jan 15 @ 7 PM

Tuesday, Jan 22 @ 7 PM

Tuesday, Jan 29 @ 7 PM

[CAZ Sports Bar >>](#)

[MORE INFO](#)

Petty and The Heartshakers

Friday, Jan 18 @ 7:30 PM

Saturday, Jan 19 @ 7:30 PM

[The Showroom >>](#)

[MORE INFO](#)

Strange Days - A Tribute to The Doors

Friday, Jan 25 @ 7:30 PM

Saturday, Jan 26 @ 7:30 PM

[The Showroom >>](#)

[MORE INFO](#)

BUY BINGO TICKETS



High Stakes Bingo

Grab your good luck charm and head to the Foxwoods Bingo Hall. With over 3,600 available seats, it's easily one of the biggest bingo halls in the world. As New England's one and only home to high-stakes bingo, Foxwoods makes following the bouncing ball a truly unique experience.

EVENT CALENDAR

JANUARY

FEBRUARY

MARCH

REGULAR GAMES TWICE A DAY, EVERYDAY

MATINEE: Doors open at 8am / Games begin at 10:30am

EVENING: Doors open at 4pm / Games begin at 6:30pm

[BUY TICKETS](#)

Sign up for [Foxwoods Rewards](#) now. The more you play, the more points you earn toward dining, entertainment, spa, retail and more.

[SIGN UP](#)

[ADMISSION PACKAGE DISCLOSURE](#)

[Bingo Special Games](#)

[Lingo](#)

[Rules](#)

Bingo Winners

7/7	SARI FIRECRACKER BINGO \$1,000,000	3/31	DIANE CAR SPECIAL \$17,650	3/19	DIANA SUPER JACKPOT \$10,000
3/18	CAROL CRAZY T SPECIAL \$5,000	3/17	VANESSA ST. PATRICK'S DAY BINGO \$56,667	3/17	CHRIS ST. PATRICK'S DAY BINGO \$56,667
3/17	AUNE ST. PATRICK'S DAY BINGO \$56,667	2/24	JOYCE FREE GAME \$5,000	2/24	BARBARA CAR SPECIAL \$5,000
2/24	DELLA CAR SPECIAL	2/23	LAURA GUIDED JACKPOT	2/19	MARIA ST. PATRICK'S DAY JACKPOT

<https://www.foxwoods.com/bingo/>

12:10:16 PM 1/8/2019

Entertainment

Foxwoods draws the A-list of the entertainment world to our incomparable venues. See musicians, comedians and top-ranked athletes in the Fox and Grand Theaters. Or catch the hottest DJs in one of our top-rated nightclubs. No matter what kind of entertainment you're into, it's always better at Foxwoods.

To book tickets directly through the Box Office, please call 800.200.2882.

SCHEDULE OF EVENTS

GENRE

-- All Genres --

VENUE

-- All Venues --

DATE RANGE

-- All Dates --



Karaoke Tuesday

12/18 -
3/26



Scooter & Lavelle

1/8
9:00PM



Branded Country

1/9
8:30PM



The Big Smoke

12/26 -
2/27



Three 57

1/10
8:30PM



DJ KG

1/10 -
1/24



Scott Rogowsky Live! An
Evening of Trivia & Comedy

1/11
8:00PM



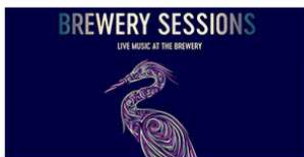
Billy Pilgrim

1/11
9:30PM



Vic DiBitetto

1/12
7:30PM



Stony Creek Brews & Tunes

12/1 -
2/23



DJ E.L.

1/12
9:00PM



Vic DiBitetto

1/12
10:30PM



Tokyo Nights

12/17 -
3/25



Sultan & Shepard

1/15
9:00PM



Avenue Groove

1/16
8:30PM





Tournament Registration & Payout Policies

Revised 1/01/19

Event Information (Buy-in/P.C. Fee/Entry Fee/Bounty)				
\$60 NLH Cost:(\$42/\$3/\$15) Starting Chip Stack:15,000 Time Per Level: 15 Min	\$100 NLH Semi Turbo Cost:(\$77/\$3/\$20) Starting Chip Stack: 20,000 Time Per Level: 15 Min / 1-16 • 20 Min / 17+	\$120 NLH Super Stack Turbo Cost:(\$97/\$3/\$20) Starting Chip Stack:30,000 Time Per Level: 15 Min	\$160 NLH Cost:(\$132/\$3/\$25) Starting Chip Stack:20,000 Time Per Level: 20 Min / 1-12 • 25 Min / 13+	\$120 NLH Cost:(\$97/\$3/\$20) Starting Chip Stack:20,000 Time Level: 20 Min Wednesday Nights • 25,000 Chips
\$120 NLH Double Green Bounty Turbo Cost:(\$47/\$3/\$20/\$50) Starting Chip Stack:20,000 Time Per Level: 15 Min	\$100 NLH Bounty Cost:(\$52/\$3/\$20/\$25) Starting Chip Stack:15,000 Time Per Level: 15 Min	\$120 NLH Super Stack Turbo Bounty Cost:(\$72/\$3/\$20/\$25) Starting Chip Stack:30,000 Time Per Level: 15 Min	\$160 NLH Bounty Cost:(\$82/\$3/\$25/\$50) Starting Chip Stack:20,000 Time Per Level: 20 Min / 1-12 • 25 Min / 13+	Saturdays \$300 NLH Special Cost:(\$257/\$3/\$40) Starting Chip Stack:30,000 Time Level: 30 Min
Sit & Go Events offered daily from 10am-8:00pm \$65 (\$47/\$15/\$3) • \$120 (\$97/\$20/\$3) • \$230 (\$197/\$30/\$3) 4,000 in chips/15 min levels 1st-50%, 2nd-30%, 3rd-20%				
Tournament High Hand: On all daily events for the first level of play only, highest hand dealt (minimum 3 of a kind) will receive one full buy-in of the event, including entry fee and bounty.				

STRUCTURE		
	Ante (From BB)	Blinds
1		100 ~ 100
2		100 ~ 200
3	200	100 ~ 200
4	300	200 ~ 300
5	400	200 ~ 400
6	600	300 ~ 600
Registration Closed		
7	800	400 ~ 800
8	1,000	500 ~ 1,000
9	1,200	600 ~ 1,200
10	1,600	800 ~ 1,600
11	2,000	1,000 ~ 2,000
12	2,400	1,200 ~ 2,400
10 Min. Break / Remove 100 Chips		
13	3,000	1,500 ~ 3,000
14	4,000	2,000 ~ 4,000
15	6,000	3,000 ~ 6,000
16	8,000	4,000 ~ 8,000
10 Min. Break / Remove 500 Chips		
17	12,000	6,000 ~ 12,000
18	16,000	8,000 ~ 16,000
19	20,000	10,000 ~ 20,000
20	30,000	15,000 ~ 30,000
10 Min. Break / Remove 1,000 Chips		
21	40,000	20,000 ~ 40,000
Additional levels will be added as needed		

WED. NIGHT STRUCTURE			
Level	Time	Ante (From BB)	Blinds
1	20		100 ~ 100
2	20		100 ~ 200
3	20	200	100 ~ 200
4	20	300	200 ~ 300
10 Minute Break			
5	20	400	200 ~ 400
6	20	600	300 ~ 600
7	20	800	400 ~ 800
8	20	1,000	500 ~ 1,000
Registration Closed			
9	20	1,200	600 ~ 1,200
10	20	1,600	800 ~ 1,600
11	20	2,000	1,000 ~ 2,000
12	20	2,400	1,200 ~ 2,400
13	20	3,000	1,500 ~ 3,000
Remove 100 & 500 Chips			
14	20	4,000	2,000 ~ 4,000
15	20	6,000	3,000 ~ 6,000
16	20	8,000	4,000 ~ 8,000
17	20	10,000	5,000 ~ 10,000
18	20	12,000	6,000 ~ 12,000
19	20	16,000	8,000 ~ 16,000
Remove 1,000 Chips			
20	20	20,000	10,000 ~ 20,000
21	20	30,000	15,000 ~ 30,000
22	20	40,000	20,000 ~ 40,000
Additional levels will be added as needed			

SUPER STACK TURBO STRUCTURE			
Level	Time	Ante (From BB)	Blinds
1	15		100 ~ 100
2	15		100 ~ 200
3	15	200	100 ~ 200
4	15	300	200 ~ 300
5	15	400	200 ~ 400
6	15	600	300 ~ 600
7	15	800	400 ~ 800
8	15	1,000	500 ~ 1,000
Registration Closed			
9	15	1,200	600 ~ 1,200
10	15	1,600	800 ~ 1,600
11	15	2,000	1,000 ~ 2,000
12	15	2,400	1,200 ~ 2,400
13	15	3,000	1,500 ~ 3,000
14	15	4,000	2,000 ~ 4,000
Remove 100 & 500 Chips			
15	15	6,000	3,000 ~ 6,000
16	15	8,000	4,000 ~ 8,000
17	15	12,000	6,000 ~ 12,000
18	15	16,000	8,000 ~ 16,000
19	15	20,000	10,000 ~ 20,000
20	15	30,000	15,000 ~ 30,000
Remove 1,000 Chips			
21	15	40,000	20,000 ~ 40,000
22	15	60,000	30,000 ~ 60,000
23	15	80,000	40,000 ~ 80,000
24	15	120,000	60,000 ~ 120,000
Additional levels will be added as needed			

PLAY

STAY

EAT

ENTERTAIN

INDULGE

MEET

JOIN



PLAY FREE ONLINE



HIGH-STAKES HIGH-CLASS

We welcome you to play the games you know and love in a classy, comfortable environment.

BINGO JACKPOTS

BINGO DETAILS

HOURS

Sunday-Friday: 9AM-11PM

Saturday: 9AM-2AM

CONTACT

(877) 711-2WIN

LOCATION

Second Level, next to the Poker Room



FEELING LUCKY?

Pechanga's ultra-modern facility offers a winning experience for every bingo enthusiast, with comfortable seating for up to 700, and all the most modern amenities. Play anytime with Matinee and Evening sessions, and a Sunday Mega Matinee. Or join the action for fun theme nights like the popular Taco Tuesdays.

BINGO SCHEDULE

PROGRAM	DAYS	SALES	START-UPS	EARLY BIRD	BINGO	DOWNLOAD/VIEW
NEW YEARS EVE	Monday, December 31	1PM	8PM	8:30PM	9PM	
MINI MATINEE	Monday - Sunday	9AM			10AM	



ENTERTAIN

Watch later Share

EXPERIENCE THE THRILLING PERFORMANCES

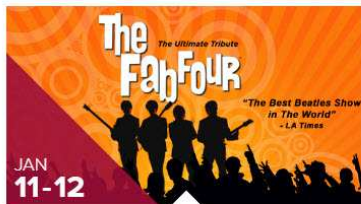
From rock to pop and jazz to country, and the best of stand-up, you can be sure that Pechanga will keep you entertained.

Filter By:

ALL

EVENT

DATE



THE FAB FOUR - THE ULTIMATE TRIBUTE

Jan 11 - Jan 12 | 8PM | Starting at \$25

MORE DETAILS

BUY TICKETS



HONG JIN YOUNG

Jan 12 | 6PM | Starting at \$70

MORE DETAILS

BUY TICKETS

PECHANGA VENUES

MORE DETAILS

EAT, DRINK, ENJOY

MORE DETAILS



THE PRICE IS RIGHT LIVE!

Jan 19 | 4PM & 8PM | Starting at \$40

MORE DETAILS

BUY TICKETS



PBN LIVE SHOW

Jan 26 | 2:30PM & 7:30PM |

MORE DETAILS



LUCKY LION DANCERS

Feb 02 | 3PM | Free

MORE DETAILS





POKER

WELCOME TO ACTION

Come discover the winning feeling of all your favorite games inside Southern California's finest Poker Room.

JANUARY POKER SPECIALS

POKER DETAILS

HOURS

Open 24 Hours Daily

CONTACT

(877) 711-2WIN

LOCATION

Second Floor of Casino

TOURNAMENTS

Club Cards are required



WINNING HAPPENS

Play all your favorite games like No Limit Texas Hold'em and Omaha Hi-Lo. Check out all of the promotions and jackpots paid this year!

- **\$2,017,325** Promotions and Jackpot Paid This Year
- **\$4,823** Current Omaha Jackpots
- **\$15,400** Current Hold'em Jackpots

PROMOTIONS & TOURNAMENT

Pechanga's Poker Room is home to thrilling tournaments and live play, every day, all year round. To join the action and register for our tournaments, you'll need a Club Card. Show up early, as tournament



BOOK A ROOM

Harrah's Ak-Chin Hotel An...

My Dates Are Flexible

Check In Check Out

1 Room

Room 1 (4 guests max per room)

2 Adults 0 Children

Add Promo Or Package Code

Additional Discounts for Military, First Responders, Students, & Teachers

CHECK BEST RATES

Existing Reservation

BEST RATE GUARANTEE

DOORS 9:30AM
TUESDAY -
SUNDAY

MATINEE
SESSION

EARLY BIRD 11:30AM

SESSIONS Immediately
follow

MID DAY

SESSION 1 2:30PM

SESSION 2 3:45PM

EVENING
SESSION

TUESDAY -
SATURDAY
ONLY

EARLY BIRD 6:30PM

SESSIONS Immediately
follow

PLAY FOR FUN



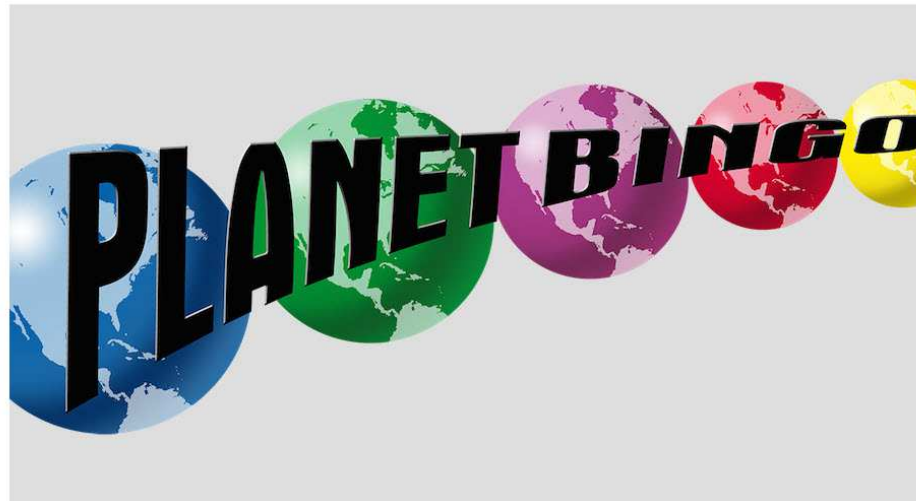
LEARN MORE

LOOKING FOR A
GAME?

CAESARS ENTERTAINMENT > HARRAH'S AK CHIN > CASINO > BINGO

559

BINGO



OUR BRAND NEW BINGO HALL IS OPEN

The new Bingo hall features easier access to parking and the main casino floor, an updated modern look, Planet Bingo Blue & Green Jackpots and several new games!

PLUS, RIDE THE BUS AND GET \$5 OFF A BINGO PACKAGE!

Questions? Call the Bingo Hotline at 480-802-5058.

MENUS

Matinee
Evening
Midday
Sunday Extravaganza
Sunday Midday

BINGO MUST GO

FRIDAY, JANUARY 11, 2019 | DOORS • 9AM | SALES • 9:30AM

WIN YOUR SHARE OF \$11,000 CASH!

MATINÉE 11:30AM

BONANZA

1ST BINGO • \$2,000

<https://www.caesars.com/harrahs-ak-chin/casino/bingo#>

12:10:34 PM 1/8/2019

BOOK A ROOM

Harrah's Ak-Chin Hotel An...

My Dates Are Flexible

Check In Check Out

1 Room

Room 1 (4 guests max per room)

2 Adults 0 Children

Add Promo Or Package Code

Additional Discounts for Military,
First Responders, Students, &
Teachers

CHECK BEST RATES >

Existing Reservation

BEST RATE GUARANTEE

CAESARS ENTERTAINMENT > HARRAH'S AK-CHIN > SHOWS

SHOWS

SHOWS & ENTERTAINMENT AT HARRAH'S AK-CHIN

Experience our bar and lounge! Featuring a variety of performances from local acts to great tribute bands and national headliners, there's something for everyone. Plus, our concert venue will be opening in 2019.

LEARN MORE



THE LOUNGE

SHOW

LIVE AT THE LOUNGE

Check out a full list of our upcoming shows in The Lounge!

LEARN MORE



CALENDAR

FULL EVENT CALENDAR

Find out the performance dates and times of our Ak-Chin events!

VIEW NOW



SHOW

THE RIGHTEOUS BROTHERS: BILL MEDLEY & BUCKY HEARD

THE RIGHTEOUS BROTHERS: BILL MEDLEY & BUCKY HEARD will be live at the all new Events Center at Harrah's Ak-Chin Casino on Saturday, March 23rd! With a string of #1 classics, including the most played song in radio history, 'You've Lost That Lovin' Feelin', the Rock &... [More](#)

BUY TICKETS



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SIGN UP

Harrah's
AK-CHIN

15406 Maricopa Road
Maricopa, AZ 85139
Tel: (480)802-5000
[Hotel Information](#)

HARRAH'S AK-CHIN HOTEL AND CASINO

Hotel
Casino
Shows
Restaurants
Things to Do

Golf
Local Attractions
Pool
Shopping
Nightlife
LGBT Pride

Group Getaways
Company Info
Mobile
Ak-Chin Indian
Community
Careers
Copy of my Bill
Lost and Found

Maps & Information
Investor Relations
Groups & Meetings
Travel Agents
E-Mail Offers
Become an Affiliate
Responsible Gaming

STAY CONNECTED

Facebook
Twitter
Foursquare
YouTube



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REWARD CREDITS ®

SECURE ONLINE PAYMENT SYSTEM

SECURE PURCHASE

To: Oneida Nation (tmdocketing@andruslaw.com)
Subject: U.S. TRADEMARK APPLICATION NO. 88129469 - ONEIDA DOWNS - 6363-00008
Sent: 1/9/2019 8:35:12 PM
Sent As: ECOM120@USPTO.GOV
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

**IMPORTANT NOTICE REGARDING YOUR
U.S. TRADEMARK APPLICATION**

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED
ON **1/9/2019** FOR U.S. APPLICATION SERIAL NO. 88129469

Please follow the instructions below:

(1) TO READ THE LETTER: Click on this [link](#) or go to <http://tsdr.uspto.gov>, enter the U.S. application serial number, and click on "Documents."

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

(2) TIMELY RESPONSE IS REQUIRED: Please carefully review the Office action to determine (1) how to respond, and (2) the applicable response time period. Your response deadline will be calculated from **1/9/2019** (*or sooner if specified in the Office action*). A response transmitted through the Trademark Electronic Application System (TEAS) must be received before midnight **Eastern Time** of the last day of the response period. For information regarding response time periods, see <http://www.uspto.gov/trademarks/process/status/responsetime.jsp>.

Do NOT hit "Reply" to this e-mail notification, or otherwise e-mail your response because the USPTO does NOT accept e-mails as responses to Office actions. Instead, the USPTO recommends that you respond online using the TEAS response form located at http://www.uspto.gov/trademarks/teas/response_forms.jsp.

(3) QUESTIONS: For questions about the contents of the Office action itself, please contact the assigned trademark examining attorney. For *technical* assistance in accessing or viewing the Office action in the Trademark Status and Document Retrieval (TSDR) system, please e-mail TSDR@uspto.gov.

WARNING

Failure to file the required response by the applicable response deadline will result in the ABANDONMENT of your application. For more information regarding abandonment, see <http://www.uspto.gov/trademarks/basics/abandon.jsp>.

PRIVATE COMPANY SOLICITATIONS REGARDING YOUR APPLICATION: Private companies **not** associated with the USPTO are using information provided in trademark applications to mail or e-mail trademark-related solicitations. These companies often use names that closely resemble the USPTO and their solicitations may look like an official government document. Many solicitations require that you pay "fees."

Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the "United States Patent and Trademark Office" in Alexandria, VA; or sent by e-mail from the domain "@uspto.gov." For more information on how to handle private company solicitations, see http://www.uspto.gov/trademarks/solicitation_warnings.jsp.

EXHIBIT C

To: Oneida Nation (tmddocketing@andruslaw.com)
Subject: U.S. Trademark Application Serial No. 88129469 - ONEIDA DOWNS - 6363-00008
Sent: July 23, 2019 02:14:50 PM
Sent As: ecom120@uspto.gov
Attachments:

United States Patent and Trademark Office (USPTO)
Office Action (Official Letter) About Applicant's Trademark Application

U.S. Application Serial No.
88129469

Mark: ONEIDA DOWNS

Correspondence Address:
CHRISTOPHER R.
LIRO
ANDRUS
INTELLECTUAL
PROPERTY LAW, LLP
100 E WISCONSIN
AVE SUITE 1100
MILWAUKEE, WI
53202

Applicant: Oneida Nation

Reference/Docket No.
6363-00008

**Correspondence Email
Address:**

tmddocketing@andruslaw.com

SUSPENSION NOTICE
No Response Required

Issue date: July 23, 2019

Refusal and requirement resolved: The following refusal and requirement are withdrawn/satisfied:

- Section 2(d) Refusal – Likelihood of Confusion – Registration No. 3016505
- Issue Regarding Applicant's Entity Type

See TMEP §713.02.

Refusals maintained and continued: Applicant has provided an amendment and arguments regarding the remaining outstanding 2(d) refusals, but they are insufficient to withdraw the refusals and therefore the following refusals are maintained and continued:

- Section 2(d) Refusal – Likelihood of Confusion – All Other Registrations

See id.

These refusals will be made final once this application is removed from suspension, unless a new issue arises. *See* TMEP §716.01.

The application is suspended for the reason specified below. *See* 37 C.F.R. §2.67; TMEP §§716 *et seq.*

Application is suspended until the legal proceeding involving the applied-for mark is resolved. The legal proceeding below involves a registered mark that conflicts with applicant's mark under Trademark Act Section 2(d). 15 U.S.C. §1052; *see* 37 C.F.R. §2.83; TMEP §§716.02(a), (c)-(d), 1208 *et seq.* Because the outcome of this proceeding could directly affect whether applicant's mark can register, action on this application is suspended until proceeding is resolved. *See* 37 C.F.R. §2.67; TMEP §§716.02(a), (c)-(d).

- Cancellation No. 92066411

Suspension process. The USPTO will periodically check this application to determine if it should remain suspended. *See* TMEP §716.04. As needed, the trademark examining attorney will issue a letter to applicant to inquire about the status of the reason for the suspension. TMEP §716.05.

No response required. Applicant may [file a response](#), but is not required to do so.

/benjaminrosen/
Benjamin Rosen
Examining Attorney
Law Office 120
(571) 272-8425
benjamin.rosen@uspto.gov

To: Oneida Nation (tmdocketing@andruslaw.com)
Subject: U.S. Trademark Application Serial No. 88129469 - ONEIDA DOWNS - 6363-00008
Sent: July 23, 2019 02:14:51 PM
Sent As: ecom120@uspto.gov
Attachments:

United States Patent and Trademark Office (USPTO)

USPTO OFFICIAL NOTICE_

Office Action (Official Letter) has issued
on **July 23, 2019** for

U.S. Trademark Application Serial No. 88129469

Your trademark application has been reviewed by a trademark examining attorney. As part of that review, the assigned attorney has issued an official letter. Please follow the steps below.

- (1) [Read the official letter](#). No response is necessary.
- (2) **Direct questions** about the contents of the Office action to the assigned attorney below.

/benjaminrosen/
Benjamin Rosen
Examining Attorney
Law Office 120
(571) 272-8425
benjamin.rosen@uspto.gov

Direct questions about navigating USPTO electronic forms, the USPTO [website](#), the application process, the status of your application, and/or whether there are outstanding deadlines or documents related to your file to the [Trademark Assistance Center \(TAC\)](#).

GENERAL GUIDANCE

- [Check the status](#) of your application periodically in the [Trademark Status & Document Retrieval \(TSDR\)](#) database to avoid missing critical deadlines.
- [Update your correspondence email address](#), if needed, to ensure you receive important USPTO notices about your application.
- [Beware of misleading notices sent by private companies about your application](#). Private companies not associated with the USPTO use public information available in trademark registrations to mail and email trademark-related offers and notices – most of which require fees. All **official USPTO correspondence** will only be **emailed from the domain “@uspto.gov.”**