

TTAB

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April 27, 2007

Jyll Taylor, Administrative TM Judge
US Patent & Trademark Office
Trademark Trial & Appeal Board
P.O. Box 1461
Alexandria, VA 22313-1461

RE: Opposition No. 91164295
Cash Processing Services v. Ambient Entertainment, Inc.

Dear Ms. Taylor:

Attached you will find a copy of the Complaint filed on March 12, 2007 in the matter of Cash Processing Services, LLC v. Ambient Entertainment, Inc. in the US District Court, District of Nevada.

We will keep you advised of the progress in this civil litigation.

Sincerely,

JAHN & ASSOCIATES, LLC


Kathleen Garcia
Paralegal

kg
Enclosure



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 10 Attorneys for Plaintiff
 11 CASH PROCESSING SERVICES, LLC

12
 13 IN THE UNITED STATES DISTRICT COURT
 14 DISTRICT OF NEVADA

15 CASH PROCESSING SERVICES, LLC,
 16 a Nevada limited liability company

Case No. CV- N -

17 Plaintiff,

**COMPLAINT FOR
 TRADEMARK INFRINGEMENT,
 UNFAIR COMPETITION AND
 CANCELLATION OF TRADEMARK
 REGISTRATION**

18 v.

19 AMBIENT ENTERTAINMENT, INC.,
 20 a Nevada corporation

21 Defendant,

22 Plaintiff, CASH PROCESSING SERVICES, LLC ("CPS") as and for its Complaint against
 23 Defendant AMBIENT ENTERTAINMENT, INC. ("Ambient") alleges the following:

JURISDICTION AND VENUE

- 24 1. This is a trademark infringement action arising under 15 U.S.C. §§ 1125.
 25 Jurisdiction is proper under 15 U.S.C. § 1121, 28 U.S.C. §§ 1331, 1367 and 1338.
- 26 2. Venue is proper under 28 U.S.C. § 1391 in the District of Nevada because all of the
 27 parties are located in this District.

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THE PARTIES

3. CPS is a Nevada limited liability company with a principal place of business in Sparks, Nevada.

4. Upon information and belief, Defendant has a principal place of business in Reno, Nevada.

FACTS

A. History of the MUSTANG RANCH trademark

5. The MUSTANG RANCH trademark ("Mark") along with the design of the Mark (Exhibit A) have been used in Nevada for legal brothel services since at least 1971.

6. Since at least 1971 to the present the MUSTANG RANCH trademark has become famous throughout the United States for use with prostitution services by Joseph and Sally Conforte.

7. Joseph and Sally Conforte owned and operated the brothel and sold various goods with the Mark until approximately 1990, when they both filed bankruptcy proceedings and all of the assets were disposed of by the Internal Revenue Service ("IRS") through a public auction on or about November of 1990.

8. The highest bid at the IRS auction was Mustang Properties, Inc. who purchased the property and assets of the Mustang Ranch. Mustang Properties, Inc. sold the business, property and assets to AGE Corporation, Inc. and AGE Enterprises, Inc. who operated the Mustang Ranch brothel and sold various goods using the Mark at least between 1990 and 1999.

B. Forfeiture of Business, Assets and Mark

9. On or about November of 1995, a superceding indictment was filed against Conforte, AGE Enterprises, Inc., AGE Corporation, Inc., and others for bankruptcy fraud, wire fraud, money laundering, and RICO violations among others.

10. A Preliminary Order of Forfeiture issued on July 12, 1999, granting the United States twenty million dollars, all the stock, interest in and assets, including accounts receivable and several parcels of real property owned by AGE Corporation, Inc. and AGE Enterprises, Inc.

1 11. Any person with an interest in the property listed in the Preliminary Order of
2 Forfeiture had thirty days from the final publication of the notice to petition the Court for a hearing
3 to adjudicate the validity of the U.S. Government's interest in the property.

4 12. After disposition on all notices of interest in the AGE entities' assets, the U.S.
5 Government applied for a Final Order of Forfeiture to earn clear title to the property and warrant
6 good title to any subsequent purchaser or transferee.

7 13. On March 9, 2001, the United States District Court, District of Nevada, issued a
8 Final Order of Forfeiture directing that, among other things, all stock, interests in and assets,
9 including accounts receivable and certain real property of AGE Corporation, Inc. and AGE
10 Enterprises, Inc. be forfeited to the United States Government.

11 14. The Final Order of Forfeiture was stayed pending an Appeal to the Ninth Circuit
12 Court of Appeals on March 8, 2001. The Ninth Circuit Court of Appeals affirmed the convictions
13 on June 29, 2001. Although the case was appealed to the U.S. Supreme Court, certiorari was
14 denied on April 29, 2002.

15 **C. U.S. Government's Ownership Of The Mark**

16 15. The U.S. Government worked very quickly to begin disposing of the assets and on
17 December 14, 2002, held an auction to dispose of the personal property located at the Mustang
18 Ranch. Upon information and belief, among some of the items sold at the auction which contained
19 use of the Mark were the following: matches; menus; bar lights; clothing, including tank tops,
20 sweatshirts, jackets, sweatpants, sweat tops, t-shirts, and polo shirts; furniture; bottle openers;
21 collectibles; wine; glassware; signs; souvenirs; bumper stickers; postcards; cameras; business cards;
22 letterhead and envelopes.

23 16. On or about September 24, 2003, the U.S Department of Interior ("DOI") received a
24 letter from Attorney Mark Litwak asserting claims to the Mark on behalf of Ambient
25 Entertainment, Inc.

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1 17. The DOI readily responded to this claim on October 3, 2003, by advising Mr. Litwak
2 that the U.S. Government owned the rights to the Mark, that the rights were not abandoned and that
3 the U.S. Government would continue to defend its rights in the Mark.

4 18. DOI did not receive any response back from Mr. Litwak or his client.

5 19. On or about October 7, 2003, the Bureau of Land Management ("BLM") and DOI
6 placed the Mustang Ranch buildings, business and trademark up for auction on eBay.

7 20. Bidding closed on the auction on October 13, 2003 and the building, business and
8 trademark were awarded to the highest bidder, who was initially identified as Lance Gilman. The
9 sale was then made directly with Cash Administrative Services, LLC ("CAS") and a Bill of Sale
10 and Assignment were entered into on December 22, 2003 between CAS and the U.S. Government.

11 **D. Current Ownership of the Mark**

12 21. On December 31, 2004, CAS assigned the Mustang Ranch business associated with
13 the MUSTANG RANCH trademark, including the goodwill and the Mustang Ranch I buildings, to
14 a company called TG Investments.

15 22. Shortly thereafter, on or about March 10, 2004, TG Investments assigned the
16 Mustang Ranch business associated with the MUSTANG RANCH trademark, including the
17 goodwill and the Mustang Ranch I buildings to Cash Processing Services, LLC ("CPS").

18 23. CPS and its predecessors in interest have engaged in a long and difficult battle to
19 move the original Mustang Ranch buildings to their new location as required by the purchase
20 agreement and have expended a great deal of resources, experience, hard work, marketing and
21 commitment of capital to reopen the Mustang Ranch with the same look and feel as the original
22 Mustang Ranch as soon as practicable.

23 24. CPS and its predecessors in interest defended against several frivolous claims by
24 third parties which prevented them from moving the original Mustang Ranch buildings and from
25 constructing the buildings on the new site. The court vacated all the injunctions and, as soon
26 thereafter as practicable, CPS resumed moving the original buildings from their original location.

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