

iTunes Legal
Apple Inc.
1 Infinite Loop
Cupertino CA
95014

July 15, 2014

Re: APP38085

This letter is in response to allegations from Mr. Kevin S. Currie regarding my APP38085. The app exists in the App Store under the title "Kaiser: The Card Game."

In an e-mail dated June 20, 2014, Mr. Currie alleged that my app infringes his intellectual property rights because its use of the term "Kaiser" violates his registered trade-mark (Canadian Trademarks Database No. TMA299319).

I contend that Mr. Currie's Kaiser trade-mark does not satisfy the requirements set-out in the Canadian *Trade-marks Act*, and is thus invalid. Specifically, I contend that the alleged trade-mark does not satisfy the distinctiveness requirement of section 2 of the *Trade-marks Act*, which holds that a valid trade-mark must "distinguish the wares or services in association with which it is used by its owner from the wares or services of others."

Mr. Currie's trade-mark is for the English word "Kaiser," which is a non-distinctive, generic term referring to the card game Kaiser which has been played since before 1900, and has been referred to as Kaiser as early as World War I. Consequently, there is nothing distinctive about the alleged trademark; it is simply a generic term which in no way distinguishes the wares provided by Mr. Currie from those of others. In this sense, the English term Kaiser is no different from the non-distinctiveness terms "poker" or "chess."

When deciding whether to register a proposed trade-mark, the Canadian Intellectual Property Office often does not perform any factual investigation or background research. If research had been performed in this instance, Mr. Currie would not have been granted his Kaiser trademark for the reasons described above.

Since the trade-mark at question is invalid, my app in no way infringes the intellectual property rights of Mr. Currie. As such, I will not remove my app from the App Store as requested by Mr. Currie.

Sincerely,

A handwritten signature in black ink, appearing to read "Tod Boudais", with a stylized, cursive script.

Tod Boudais