

Tod Baudais
PO Box 847
Dundurn, Sask
S0K 1K0

July 3, 2014

Demand Letter

I am writing to inform you that your product Kaiser the Card Game app for IOS is in infringing of my Protected Trade mark Kaiser the Card Game. I am DEMANDING that you pull all apps from the Apple Store that contain the name Kaiser and any app that uses the Rules and Regulations to Kaiser the Card Game immediately and any webpages or links that use my copyright material.

Kaiser the card game was Trade marked in 1984 and put into production as a packaged Card Game with copyright rules and regulations included. There were over 50,000 Kaiser Decks with Rules and Regulations sold since then. There has been over 20,000 software copies sold by me since 1996.

<http://www.cipo.gc.ca/app/opic-cipo/trdmrks/srch/>

APPLICATION NUMBER: 0502052

REGISTRATION NUMBER: TMA299319

You have obviously been aware of this since June 20, 2014. The email you responded to me with shows that you were aware of this infringement. I also filed with Apple regarding this Trade Mark and they made you aware of it as well. As of the above date you are still continuing to market, advertise and sell Kaiser with out any permission from me, the owner.

I will quote the Trade-mark Acts of Canada:

"trade-mark" means:

- (a) a mark that is used by a person for the purpose of distinguishing or so as to distinguish wares or services manufactured, sold, leased, hired or performed by him from those manufactured, sold, leased, hired or performed by others,*
- (b) a certification mark*
- (c) a distinguishing guise, or*
- (d) a proposed trade-mark"*

"According to section 19 of the Act the owner of a valid registered trade mark has the exclusive right to the mark's use throughout Canada in respect of the wares or services for which it is registered. Section 20 provides that no unapproved person may sell, distribute, or advertise wares or services in association with a confusing trademark or trade name and section 22 further prohibits a non-owner from using a registered mark in any manner likely to deteriorate the value of the goodwill attached to the mark."

"The common law protects marks by recognizing the owner's right to exclusive uses, subject to the geographical and market boundaries of the owner's established trade reputation. Registration also allows the owner to register in other countries"

Changing the name will fall under "Passing off"

"Section 7(b) and 7(c) of the Trade-marks Act also codifies the tort of passing off into federal law"

"Remedies for trademark infringement

Under the Trade-marks Act, the remedies for passing off are the same as those for having a confusingly similar mark. A party who engages in these torts faces a number of liabilities, including:

- 1. An interim/interlocutory injunction*
- 2. A permanent injunction*
- 3. Damages or an accounting of profits*
- 4. Legal costs*
- 5. Pre- and post-judgment interest**
- 6. compensation for pre-grant sales*
- 7. Delivery of and destruction of infringing advertising materials*

**Interest is payable on the amount of the awarded judgment and is calculated from when litigation began until payment is received."*

"The remedies under common law are practically the same, which may lead you to question why you should register your mark. The answer lies in the fact that trademark registration provides prima facie evidence of ownership. Registration aids in a dispute because the registered owner does not need to prove ownership; the onus is on the challenger. Equally important is that registration puts others on notice of your intention to defend your mark."

"trademark registration provides prima facie evidence of ownership. Registration aids in a dispute because the registered owner does not need to prove ownership; the onus is on the challenger. Equally important is that registration puts others on notice of your intention to defend your mark."

In conclusion, I have spent a good portion of my life investing time and money into Kaiser the card game and I will inform you now that I will do what ever it takes at whatever expense to continue to protect my rights with the Kaiser game.

Included are copies of the Kaiser Trademark and the Copyright rules as they were included with the 50,000 decks of Kaiser cards sold since 1985 and with every copy of the software sold since 1996.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kevin Currie', with a stylized, cursive script.

Kevin Currie

OPIC
OFFICE DE LA PROPRIÉTÉ
INTELLECTUELLE DU CANADA



CIP O
CANADIAN INTELLECTUAL
PROPERTY OFFICE

Marques de commerce
Certificat de renouvellement

Trade-marks
Certificate of Renewal

La présente atteste que
l'enregistrement de cette
marque de commerce est
renouvelé pour une période
de quinze ans,
conformément à l'article
46 de la *Loi sur les marques de
commerce*.



This is to certify that this
trade-mark registration is
renewed for a period of
fifteen years, in
accordance with section 46
of the *Trade-marks Act*.

KAISER

Numéro d'enregistrement
Registration Number

TMA299,319

Numéro de dossier
File Number

502052

Registraire des marques de commerce
Registrar of Trade-marks

Date d'échéance **18 janv/Jan 2015**
Expiry Date

Date **8 mars/Mar 2000**



Industrie Canada Industry Canada

Canada



Consumer and
Corporate Affairs Canada

Consommation
et Corporations Canada

Trade Marks

Marques de commerce

**Certificate of
Registration**

**Certificat
d'enregistrement**

SCHEDULE "A"

299319

I hereby certify that the trade mark identified in the attached extract from the register of trade marks has been registered as appears therefrom, and that the said extract is a true copy of the record of its registration.

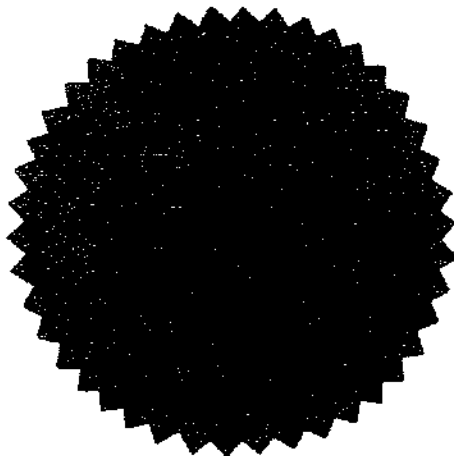
Je certifie par les présentes que la marque de commerce identifiée dans l'extrait ci-joint, tiré du registre des marques de commerce, a été enregistrée ainsi qu'il en appert, et que ledit extrait est une copie conforme de l'inscription de son enregistrement.

In accordance with the provisions of the Trade Marks Act, this trade mark is subject to renewal every 15 years from the registration date shown on the attached extract.

Conformément aux dispositions de la Loi sur les marques de commerce, cette marque de commerce est renouvelable tous les quinze ans à compter de la date d'enregistrement indiquée sur l'extrait ci-joint.

In testimony whereof I have hereunto set my hand and caused the seal of the Trade Marks Office to be affixed at the city of Hull, Canada.

En foi de quoi j'ai apposé aux présentes mon seing et fait apposer le sceau du Bureau des marques de commerce, en la cité de Hull, Canada.



JAN 18 1985

Date

Registrar of Trade Marks
Le registraire des marques de commerce

Attesting Officer
Certificateur

Canada

APPL'N/DEM. NO 502 052 REGISTRATION/ENREGISTREMENT NO TMA299,319

FILING DATE/DATE DE DEPOT:

20 APR/AVR 1983

REGISTRATION DATE/DATE D'ENREGISTREMENT:

18 JAN/JANV 1985

REGISTRANT/PROPRIETAIRE ORIGINAL:

SYLVESTER GAYOWSKI,
100 ROYAL BANK BUILDING,
PRINCE ALBERT,
Saskatchewan
S6V 4V7

TRADE MARK/MARQUE DE COMMERCE:

KAISER

WARES/MARCHANDISES:

Playing card game, playing card game rules and regulations.

Declaration of use filed 31 OCT/OCT 1984

SEE AUXILIARY REGISTER FOR REGISTERED USER
USAGER INSCRIT - VOIR REGISTRE AUXILIAIRE

Introduction

The origins of this Canadian game are somewhat of a mystery. The Ukrainian communities of Saskatchewan and neighboring provinces are hotbeds of Kaiser playing. The game has been around in this region for at least 40 years and believes that it has its origins in the Ukrainian culture, possibly being brought over by immigrants to Canada. It is typically played when families visit or get together, especially over Christmas.

Kaiser is played by four people - two against two as partners sitting across from each other. The first team to get 52 points wins the game or -52 will lose the game.

Pack

This game is played with 32 cards - 7 through ace in each suit, but with the ♠7 replaced by the ♠3 and the ♥7 replaced by the ♥5. The cards in each suit rank from high to low: **A, K, Q, J, 10, 9, 8, 7 or 5 or 3.**

Idea of the Game

This is a trick taking game, in which each trick is worth one point. In addition the ♥5 is worth **plus 5** points and the ♠3 is worth **minus 3** points to the side which takes them in their tricks. The team which bids higher chooses the trump suit and tries to take at least as many points as they bid.

Deal

Deal and play are clockwise. The first dealer is chosen at random and after each hand the turn to deal passes to the left. The dealer deals out all the cards to the players, one at a time, so that everyone has eight.

Bidding

Each player in turn, beginning with the player at the dealer's left has one opportunity to bid. He may pass or bid a number; the possible bids are from seven to twelve, either with a trump suit or in "no trumps". The trump suit is not specified in the bid, but a player who wants to play no trumps must say so in the bid - for example "eight no". A bid in no trumps outranks an equal bid in a suit, so the possible bids in ascending order are: 7, 7 no, 8, 8 no, 9, 9 no, etc. The maximum possible bid is 12 no.

If a player bids, his bid must be higher than the previous bid, except that the dealer has the special privilege that he only needs to **equal** the previous bid in order to win the bidding.

Example:

Player A passes (isn't sure how many tricks he can make)

Player B bids 7 no (believes he can make 7 tricks without a trump)

Player C bids 8 (believes he can make 8 with a trump)

Player D bids 8 no (8 tricks without a trump)

Player D wins the bidding. Player D could also bid 8, equal to C's bid, and would then choose a trump suit.

If all four players pass, the dealer is forced to bid.

Play of the cards

The highest bidder names trumps (unless the bid was no trumps) and leads a card to the first trick. Play is clockwise. Each subsequent player must play a card of the same suit as the led card, if able to; if unable to, they may play any other card they wish. If any trumps are played, the player of the highest trump wins the trick; if no trumps are in the trick, the highest card of the suit led wins it. The winner of the trick leads to the next trick.

When all the cards have been played, the tricks are counted and scores written down.

Scoring

The score is depends on the bid, the number of tricks taken, and who took the ♥5 and the ♠3 in their tricks. The first team to reach a cumulative score of 52 or more points wins the game. Each team counts how many points they have taken as follows:

- **One point** for each trick won
- **Plus five points** for winning a trick containing the ♥5
- **Minus three points** for winning a trick containing the ♠3

The bidding team's score

If the team, which chose trumps, took at least as many points as they bid, they add to their score the number of points they took. If they took fewer points than their bid they subtract their bid from their score.

If the team which won the bidding played with no trumps, and took at least as many points as they bid, they add **double** the number of points they took to their score. If they do not make their bid then they subtract **double** their bid from their score. At the end of the hand the bidding team will count points before the non-bidding team.

The opponents' score

If the opponents of the team, which won the bidding have a cumulative score of less than 47, they simply score the points they took, irrespective of whether the bid was won or lost. It is possible for this team to score less than zero (if they took the ♠3 with fewer than 3 tricks); in this case their cumulative score will go down.

If the opponents of the bidding team have a cumulative score of 47 or more, they cannot add any points taken to their score, but they still lose points if they took less than zero in tricks.

Variations

Some play that if you are dealt no aces, no picture cards and no 3 or 5, you can throw in the hand for a misdeal.

Some play with a minimum bid of five or six, rather than seven (Cover 3) option

Some play that a team which takes the ♠3 require three tricks to erase the 3 point penalty. If the team with the ♠3 take just one or two tricks, their score for the whole hand is minus 3 points.

With three tricks their score would be zero, and additional tricks count one further point each as normal. The ♥5 can also be counted for plus 5 points provided that the team has at least three tricks.

Some play with a bid of **Kaiser 40**, by which the bidder undertakes to win all eight tricks alone (partner does not take part in the play). This scores 40 points if successful and loses 40 otherwise.

If a team has a cumulative score of minus 52 or less, they lose the game and the other team wins. This helps prevent the opposing team from preventing the bidding team from bidding out.

Another version in which each player passes one card face down to partner before the bidding takes place. This variation adds to the game, in that a player can get rid of a lone card in a suit, such as a lone 5 of hearts etc.

An interesting variation played with an extra two cards (the missing sevens) in the deck, so that there are 34 cards. Eight cards are dealt to each player, plus a kitty of two cards face down. The winning bidder must pick up the kitty and discard any two cards except the 5 & 3.