

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

/R/GAYMERS SUBREDDIT, an
unincorporated association,

Petitioner,

and

CHRIS VIZZINI, an individual,

Registrant.

In the matter of Registration No.
3,400,949

For the mark GAYMER

Registered on March 25, 2008

Cancellation No. _____

PETITION TO CANCEL

Petitioner, /r/gaymers subreddit, an unincorporated association (hereinafter “Petitioner”), believes that it will be damaged by the continued registration of the mark GAYMER (hereinafter “Mark”) shown in U.S. Registration No. 3,400,949 (hereinafter “Registration”), registered on March 25, 2008, by Chris Vizzini, an individual (hereinafter “Registrant”). Petitioner hereby petitions to cancel the Registration pursuant to Section 14 of the Lanham Act, 15 U.S.C. § 1064.

The grounds for the cancellation of the Registration are as follows:

I. INTRODUCTION

1. The term "gamer" is commonly used to refer to a person who has an active interest in games, primarily video games, and the online video game community. The term "gaymer" is commonly used to refer to a gamer who, in addition to considering him or herself a member of the gamer community, also self-identifies with the lesbian, gay, bisexual, and transgendered community (hereinafter “LGBT Community”). (*See also* Exhibit A, which includes true and correct printouts of resources defining the term gaymer.)

2. Public use of the word gaymer dates back to at least the early 1990s, when a growing group of individuals within the gaming community began to use it to identify themselves.

3. As video gaming culture grew, so too did the prevalence of the use of the term gaymer. Today, the term gaymer identifies a large subset of video game enthusiasts.

4. Due to this long period of widespread, generic use, the relevant public has come to recognize gaymer as a common term for individuals within the LGBT community who have an active interest in video games and the online video game community.

5. Reddit, Inc., commonly known as “reddit,” is an online social news and entertainment website. Users visit reddit to participate in its sub-groups, which offer online forums, also referred to as “subreddits.” Within these subreddits, reddit’s members can upload content in the form of text posts and website links. Subreddits are often created to appeal to and support specific communities of individuals.

6. Reddit’s users frequently “subscribe” to subreddits to participate in groups of those who share common interests in a particular topic. Subreddits offer their subscribers access to forums for discussions, coordination of both online and in-person events, and other community activities and interaction.

7. Petitioner is an association of gaymers who subscribe to the subreddit located at: [reddit.com/r/gaymers](http://www.reddit.com/r/gaymers) (<http://www.reddit.com/r/gaymers>).

8. Petitioner uses the term gaymers to describe its subreddit and to identify to the public the types of topics discussed within this online community.

9. Petitioner identifies itself as a group of gaymers - individuals who identify themselves as lesbian, gay, bisexual, transgendered, or allies of the LGBT Community, and who have an active interest in the gaming community - who regularly participate in this subreddit.

10. Petitioner actively promotes the gaymer community and frequently hosts voice and/or video chats and coordinates multi-player video games for its members.

11. Petitioner's membership includes more than 21,000 individuals who subscribe to Petitioner's subreddit.

II. THE REGISTRATION

12. The application that matured into the Registration was filed by Registrant on April 23, 2007.

13. The services identified in the Registration are "computer services, namely, creating an online community for registered users to participate in competitions, showcase their skills, get feedback from their peers, form virtual communities, engage in social networking and improve their talent; computer services, namely, hosting and maintaining an online website for others to discuss, receive and disseminate information concerning video games; computer services, namely, hosting on-line web facilities for others for organizing and conducting online meetings, gatherings, and interactive discussions" in International Class 42 (hereinafter "Registrant's Services").

14. In the application for the Registration, Registrant claimed to have used gaymer in connection with Registrant's Services since May 26, 2005. (A copy of the specimens submitted by the Registrant in support of the corresponding application are attached hereto as Exhibit B.)

15. In the application for the Registration, Registrant did not claim that the word gaymer had acquired distinctiveness for Registrant's Services.

III. REGISTRANT'S LETTER TO REDDIT

16. On or about August 31, 2012, reddit received a letter from Registrant, alerting reddit to its ownership of the Registration.

17. Registrant requested that reddit cease and desist any further use of gaymer in association with reddit's services and requested that reddit respond to the letter by assuring Registrant of reddit's compliance with the terms of the letter.

18. Shortly after receipt of the letter from Registrant, reddit provided the letter to Petitioner.

19. For Petitioner's members, many of whom have been politically and/or socially marginalized, the term gaymer represents a community based on a common purpose and activity. They are proud to be members of that community, and were surprised that Registrant claimed ownership of the common term that describes it.

20. Petitioner has the right to continue to use the generic term gaymer to identify the topic and membership of its online community.

IV. THE MARK IS GENERIC

21. Registrant's Services include services relating to building an online community: (1) creating an online community for users to participate in competitions, (2) hosting a website for others to discuss information concerning video games, and (3) hosting a website for online meetings, gatherings, and discussions.

22. On information and belief, and based on the specimen submitted with the application for the Registration, the genus of Registrant's Services is providing a website and related services for the "gay gaming community."

23. Third parties use the term gaymer as a generic term for members of the LGBT community who have an interest in video games and the online video game community.

24. On information and belief, the relevant public, which consists primarily of members of the LGBT and gaming communities, understands gaymer to refer to a member of the LGBT community who has an interest in video games and the online video game community.

25. Continued registration of the term gaymer is and will be a source of damage to Petitioner and others who are entitled to use the generic term, as it confers upon Registrant a presumption that gaymer is distinctive for Registrant's Services.

26. Pursuant to Section 23 of the Lanham Act, 15 U.S.C. § 1091, the term gaymer fails to function as a trademark and the Registration should be cancelled.

V. THE MARK IS MERELY DESCRIPTIVE

27. As used in connection with Registrant's Services, gaymer immediately conveys to the relevant public the intended consumers for, as well as a feature and purpose of, Registrant's Services.

28. The term gaymer, as used with Registrant's Services, is merely descriptive.

29. Petitioner and numerous third parties have used the term gaymer as a descriptive or generic term since before Registrant used or sought registration for the term. Petitioner and third parties are entitled to continued use of the term gaymer as a descriptive or generic term.

30. Registrant has not acquired distinctiveness in gaymer in connection with Registrant's Services.

31. Continued registration of the term gaymer for Registrant's Services is a source of injury to both Petitioner and to numerous third parties who currently use, and are entitled to continue to use, the term gaymer, as it confers upon Registrant the presumptions that gaymer is distinctive for Registrant's Services and that Registrant enjoys the exclusive right to use the term gaymer in association with such services.

WHEREFORE, Petitioner respectfully requests that the Registration be canceled and that this Petition to Cancel be sustained.

A fee of \$300 is submitted herewith.

DATED: January 22, 2013

PERKINS COIE LLP

By: /s/ Judith B. Jennison

Judith B. Jennison
William C. Rava
Nicola C. Menaldo

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**ELECTRONIC FRONTIER
FOUNDATION**

By: /s/ Corynne McSherry

Corynne McSherry

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San Francisco, CA 94110-1914
Telephone: 415.436.9333

**ATTORNEYS FOR /R/GAYMERS
SUBREDDIT**

CERTIFICATE OF SERVICE

I certify that on January 22, 2013, this **PETITION TO CANCEL** is being deposited with the United States Postal Service, with sufficient postage, as first class mail in an envelope addressed to the owner for the Registration:

Chris Vizzini
Apartment 4
673 Boulevard NE
Atlanta, Georgia 30308
United States

By: /s/ Nicola C. Menaldo
Nicola C. Menaldo

Exhibit A

[Wordnik](#)

- [Community](#)
- [Word of the day](#)
- [Random word](#)


[Log in or Sign up](#)

gaymer

- › [Define](#)
- › [Relate](#)
- › [List](#)
- › [Discuss](#)
- [See](#)
- [Hear](#)
- [Love](#)

Definitions

Wiktionary

1. n. *slang, video games* A [homosexual gamer](#).

Examples

- “It was a link via a link, about some problems a **gaymer** is having with Blizzard telling her that she can’t advertise her lgbt-friendly guild because it “violates” the TOS — ostensibly by using offensive/inflammatory language.”

[i can rant for a really long time « Love | Peace | Ohana](#)

- “If you’re a gay gamer (a **gaymer**), you might have wished from time to time to find a game or two with some gay/lesbian content.”

[Jonathan Handel: Video Games with Gay Content](#)

- “zone_info”: “huffpost. entertainment/blog; entertainment = 1; featured-posts = 1; nickname = jonathan-handel; entry_id = 148903; gamers = 1; **gaymer** = 1; gays = 1; gays-and-lesbians = 1; video-games = 1”;

[Jonathan Handel: Video Games with Gay Content](#)

- “HPConfig. blog_id = 0; var ads_page_type = 'bpage'; var zone_info = "huffpost. entertainment/blog; entertainment = 1; featured-posts = 1; nickname = jonathan-handel; entry_id = 148903; gamers = 1; **gaymer** = 1; gays = 1; gays-and-lesbians = 1; video-games = 1"; if (top!”

[Jonathan Handel: Video Games with Gay Content](#)

- “I’ll take that information to develop guidelines the industry can use when trying to make **gaymer**-inclusive games that don’t become offensive or insulting to any gamer regardless of sexual orientation.”

[Queer Sighted](#)

Related Words

[Log in](#) or [sign up](#) to add your own related words.

- **reverse dictionary**

Words that contain this word in their definition

- [gaymers](#)

Lists

‘gaymer’ hasn’t been added to any lists yet.

Comments

No comments yet...

[Log in](#) or [sign up](#) to get involved in the conversation. It’s quick and easy.

Tweets

- Idk Gaymer.

[kidrauhlfx](#)

- Cid Highwind > #Gaymer

[LegallyB0ned](#)

- #ArcherFX looking sexy as always lol #Gaymer #ohSorry

[Benji_G](#)

- #FACT I own every #FinalFantasy game! #**gaymer**

[pinche_sam](#)

- Vos no sos GAMER sos GAYmer

[Rodrigo_Dice](#)

- I actually really hate the word **gaymer**

[JimmyLang](#)

- J'pose un copyright sur Gaymer c'est moi qui l'ai trouvé. Vous me devez 10€ à chaque fois que vous l'utilisez. #OUT

[Yeunhee_TL2](#)

- YES I'M A GAYMER. NOT A GAMER.

[Yeunhee_TL2](#)

- BAH NAN T'ES UNE GAYMER

[irea80moTL](#)

- I'm a Kyuhyun's Gaymer. .trollface:

[Yeunhee_TL2](#)

Visuals



Sounds

Pronunciations

No pronunciations (yet).

Sound Effects

No sound effects (yet).

[Log in](#) or [sign up](#) to record your own pronunciations and sound effects.

‘gaymer’ has been looked up 178 times, and is not a valid [Scrabble](#) word.



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 - [Press](#)

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 - [Word of the day](#)
 - [Community](#)
 - [@wordnik](#)

- **[Dev](#)**
 - [API](#)
 - [@wordnikapi](#)
 - [#wordnik on IRC](#)
 - [github.com/wordnik](#)

- **[Et Cetera](#)**
 - [Feedback](#)
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gaymer

Definition from Wiktionary, the free dictionary

Contents

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 - 1.2 Noun
 - 1.3 References
 - 1.4 Anagrams

English

Etymology

Blend of *gay* and *gamer*.

Noun

gaymer (*plural* **gaymers**)

- (slang, video games)* A homosexual gamer. [quotations ▼]

References

- Gaymer** on Wikipedia.

Anagrams

- meagry

Retrieved from "http://en.wiktionary.org/w/index.php?title=gaymer&oldid=19037701"

Categories: English blends | English nouns | English slang | en:Video games | en:LGBT

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Exhibit B

Welcome to Gaymer.org



Why a site for Gay Gamers?



"Why do you need a 'Gay Gamers' site?"

GAYMER.ORG



ALTER-NATIVES

News of Gaymer.org

XBOX 360

system & game previews

PGR3
Perfect Dark Zero & Kameo

plus more on the way...

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PGR3
Perfect Dark Zero
& Kameo



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gaymer

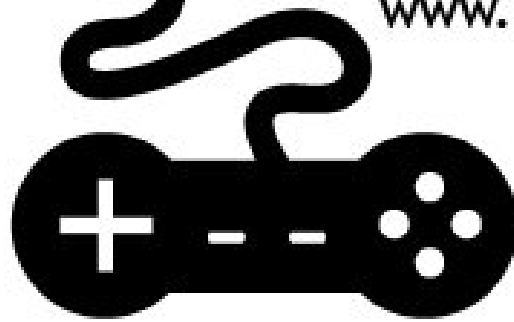


Gaymer.org

a gay gaming community

gaymer

www.gaymer.org



The Reviews



Video games reviews >

a look back >



News of Gaymer.org

 XBOX 360

system &
game
previews

PGR3
Perfect Dark Zero
& Kameo



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