To: The Gaming Goat Inc (<u>nathan.brown@brownpatentlaw.com</u>)

Subject: U.S. Trademark Application Serial No. 88788453 - FRIENDLY LOCAL GAME STORE - 2020FLGS0206

Sent: May 05, 2020 04:17:49 PM

Sent As: ecom128@uspto.gov

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

U.S. Application Serial No.

88788453

Mark: FRIENDLY LOCAL

GAME STORE

Correspondence Address:

NATHAN BROWN BROWN PATENT LAW 15100 N 78TH WAY SUITE 203 SCOTTSDALE, AZ 85260

Applicant: The Gaming Goat Inc

Reference/Docket No. 2020FLGS0206

Correspondence Email Address:

nathan.brown@brownpatentlaw.com

NONFINAL OFFICE ACTION

The USPTO must receive applicant's response to this letter within <u>six months</u> of the issue date below or the application will be <u>abandoned</u>. Respond using the Trademark Electronic Application System (TEAS). A link to the appropriate TEAS response form appears at the end of this Office Action.

Issue date: May 05, 2020

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

SEARCH OF OFFICE'S DATABASE OF MARKS

The trademark examining attorney searched the USPTO database of registered and pending marks and found no conflicting marks that would bar registration under Trademark Act Section 2(d). 15 U.S.C. §1052(d); TMEP §704.02.

SUMMARY OF ISSUES

• Refusal: Section 2(e)(1) – Merely Descriptive

REFUSAL: SECTION 2(e)(1) - MERELY DESCRIPTIVE

Registration is refused because the applied-for mark merely describes a feature of applicant's services. Trademark Act Section 2(e)(1), 15 U.S.C. §1052(e)(1); see TMEP §§1209.01(b), 1209.03 et seq.

A mark is merely descriptive if it describes an ingredient, quality, characteristic, function, feature, purpose, or use of an applicant's services. TMEP §1209.01(b); see, e.g., In re TriVita, Inc., 783 F.3d 872, 874, 114 USPQ2d 1574, 1575 (Fed. Cir. 2015) (quoting In re Oppedahl & Larson LLP, 373 F.3d 1171, 1173, 71 USPQ2d 1370, 1371 (Fed. Cir. 2004)); In re Steelbuilding.com, 415 F.3d 1293, 1297, 75 USPQ2d 1420, 1421 (Fed. Cir. 2005) (citing Estate of P.D. Beckwith, Inc. v. Comm'r of Patents, 252 U.S. 538, 543 (1920)).

The determination of whether a mark is merely descriptive is made in relation to an applicant's services, not in the abstract. *DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 1254, 103 USPQ2d 1753, 1757 (Fed. Cir. 2012); *In re The Chamber of Commerce of the U.S.*, 675 F.3d 1297, 1300, 102 USPQ2d 1217, 1219 (Fed. Cir. 2012); TMEP §1209.01(b). Whether consumers could guess what the product [or service] is from consideration of the mark alone is not the test." *In re Am. Greetings Corp.*, 226 USPQ 365, 366 (TTAB 1985). The question is not whether someone presented only with the mark could guess what the goods and/or services are, but "whether someone who knows what the goods and[/or] services are will understand the mark to convey information about them." *DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 1254, 103 USPQ2d 1753, 1757 (Fed. Cir. 2012) (quoting *In re Tower Tech, Inc.*, 64 USPQ2d 1314, 1316-17 (TTAB 2002)); *In re Mueller Sports. Med., Inc.*, 126 USPQ2d 1584, 1587 (TTAB 2018).

In this case, the applied-for mark is **FRIENDLY LOCAL GAME STORE** for use in connection with "On-line retail store services featuring downloadable electronic books; On-line retail store services featuring downloadable games; On-line retail store services featuring games; On-line retail store services featuring table games; On-line retail store services featuring trading cards; On-line retail store services featuring gaming merchandise; On-line retail store services featuring gaming supplies; On-line retail store services featuring entertainment supplies; On-line retail store services featuring trading card supplies; On-line retail store services featuring amusements; On-line retail store services featuring role playing items; On-line retail store services featuring role playing items; On-line retail store services featuring in-store order pickup; Online retail trading cards store services featuring in-store order pickup; Retail store services featuring green and eco-friendly products in the nature of gaming; Retail store services featuring gaming provided via wireless communications; Retail book store services; Retail store services featuring virtual goods, namely, merchandise for use in online virtual worlds; Retail store services featuring virtual goods, namely, supplies for use in online virtual worlds; Retail gaming stores; Retail entertainment stores; Retail board games stores; Retail virtual reality stores; Retail role playing stores; Retail role playing merchandise stores; Retail trading cards stores; Retail trading cards merchandise stores; Computerized on-line retail store services featuring amusements; Mobile retail store services featuring board games" in International Class 35.

The attached dictionary evidence from Merriam-Webster® defines "FRIENDLY" as "showing kindly interest and goodwill," "not hostile," "cheerful, comforting" and "serving a beneficial or helpful purpose;" "LOCAL" as "primarily serving the needs of a particular limited district; ""GAME" as "activity engaged in for diversion or amusement;" and "STORE" as "a business establishment where usually diversified goods are kept for retail sale." Taken together, consumers familiar with applicant's services would immediately understand the applied-for mark to describe applicant's "cheerful [and] comforting" "business establishment[s]" "primarily serving the needs of a particular limited district" and featuring the "retail sale" of "activities engaged in for diversion or amusement."

Generally, if the individual components of a mark retain their descriptive meaning in relation to the services, the combination results in a composite mark that is itself descriptive and not registrable. *In re Fat Boys Water Sports LLC*, 118 USPQ2d 1511, 1516 (TTAB 2016) (citing *In re Tower Tech, Inc.*, 64 USPQ2d 1314, 1317-18 (TTAB (2002)); TMEP §1209.03(d); *see, e.g., Apollo Med. Extrusion Techs., Inc. v. Med. Extrusion Techs., Inc.*, 123 USPQ2d 1844, 1851 (TTAB 2017) (holding MEDICAL EXTRUSION TECHNOLOGIES merely descriptive of medical extrusion goods produced by employing medical extrusion technologies); *In re Cannon Safe, Inc.*, 116 USPQ2d 1348, 1351 (TTAB 2015) (holding SMART SERIES merely descriptive of metal gun safes); *In re King Koil Licensing Co.*, 79 USPQ2d 1048, 1052 (TTAB 2006) (holding THE BREATHABLE MATTRESS merely descriptive of beds, mattresses, box springs, and pillows). Only where the combination of descriptive terms creates a unitary mark with a unique, incongruous, or otherwise nondescriptive meaning in relation to the services is the combined mark registrable. *See In re Colonial Stores, Inc.*, 394 F.2d 549, 551, 157 USPQ 382, 384 (C.C.P.A. 1968); *In re Positec Grp. Ltd.*, 108 USPQ2d 1161, 1162-63 (TTAB 2013).

In this case, both the individual components and the composite result are descriptive of applicant's services and do not create a unique, incongruous, or nondescriptive meaning in relation to the services. Specifically, the attached Internet evidence from ManaverseSaga establishes that **FRIENDLY LOCAL GAME STORE** is an established, definable concept in the retail gaming industry. According to ManaverseSaga, a

FRIENDLY LOCAL GAME STORE is a "special label[] we use to identify something specific about a business." Specifically, such a store is "friendly," sells table top games, and "creates their community by providing a space for [customers] to play in" through the provision of tables and/or the organization of events. The additional attached Internet evidence from Kickstarter®, Friendly Local Game Store Directory, Reddit®, and Rewire establishes that businesses in applicant's industry utilize the applied-for mark to describe their own business. For example, the attached evidence from Kickstarter® contains the language "[w]e are a friendly local game store looking to bring excellent coffee, cakes and the love of boardgames to everyone!" Further, the attached screenshot from the Friendly Local Game Store Directory allows users to search specifically for a FRIENDLY LOCAL GAME STORE. The attached evidence from Reddit® contains language from a user stating that "[m]y town doesn't have a friendly local game store and I've been considering the possibility of opening one." Finally, the attached evidence from Rewire states that "[i]n the board game world, stores like Dice Dojo are called friendly local game stores, or FLGS for short. For these stores, it's about more than just selling games, it's about being a part of the community."

Accordingly, a **FRIENDLY LOCAL GAME STORE** refers to a particular type of game store in the retail gaming industry. Applicant provides retail store services in International Class 35 relating to a wide variety of gaming goods. Accordingly, consumers familiar with applicant's services will immediately understand the applied-for mark to describe applicant's services as opposed to identifying a particular source and differentiating applicant's services from those of others.

Conclusion. Considering the above, registration is refused pursuant to Trademark Act Section 2(e)(1) as the applied-for mark merely describes applicant's services. Although applicant's mark has been refused registration, applicant may respond to the refusal by submitting evidence and arguments in support of registration.

RESPONSE GUIDELINES

For this application to proceed, applicant must explicitly address the requirement in this Office Action. For a requirement, applicant should set forth the changes or statements. Please see "Responding to Office Actions" and the informational video "Response to Office Action" for more information and tips on responding.

Please call or email the assigned trademark examining attorney with questions about this Office Action. Although an examining attorney cannot provide legal advice, the examining attorney can provide additional explanation about the requirement in this Office Action. *See* TMEP §§705.02, 709.06.

The USPTO does not accept emails as responses to Office Actions; however, emails can be used for informal communications and are included in the application record. *See* 37 C.F.R. §§2.62(c), 2.191; TMEP §§304.01-.02, 709.04-.05.

How to respond. Click to file a response to this nonfinal Office action.

/Nathan C. Ranns/
Trademark Examining Attorney
United States Patent & Trademark Office
Law Office 128

Phone: (571) 270-3776 Nathan.Ranns@uspto.gov

RESPONSE GUIDANCE

- Missing the response deadline to this letter will cause the application to <u>abandon</u>. A response or notice of appeal must be received by the USPTO before midnight Eastern Time of the last day of the response period. TEAS and ESTTA maintenance or <u>unforeseen circumstances</u> could affect an applicant's ability to timely respond.
- Responses signed by an unauthorized party are not accepted and can cause the application to abandon. If applicant does not have an attorney, the response must be signed by the individual applicant, all joint applicants, or someone with legal authority to bind a juristic applicant. If applicant has an attorney, the response must be signed by the attorney.
- If needed, find contact information for the supervisor of the office or unit listed in the signature block.

https://www.merriam-webster.com/dictionary/friendly



friendly adjective



friend·ly | \ 'fren(d)-le 🕥 \

friendlier; friendliest

Definition of friendly (Entry 1 of 3)

- 1 : of, relating to, or befitting a friend: such as
 - a : showing kindly interest and goodwill

 // friendly neighbors
 - b : not hostile
 - II a friendly merger offer

 also : involving or coming from actions of one's own forces II $\mathit{friendly}$ fire

- c : CHEERFUL, COMFORTING

 // the friendly glow of the fire
- 2 : serving a beneficial or helpful purpose
 // A friendly breeze finally drove the boat into harbor.
- 3 a : easy to use or understand
 - II friendly computer software
 - —often used in combination // a reader-friendly layout
 - ${\bf b}$ $\,$: designed or intended to accommodate particular needs, users, etc. usually used in combination

// a kid-friendly restaurant

// ... providing a more business-friendly and professional environment ...

- Matt Miller
- see also <u>USER-FRIENDLY</u>
- 4 : not causing or likely to cause harm

 If environmentally friendly packaging [=packaging that does not damage the
 - —often used in combination // an eco-friendly vehicle

friendly adverb

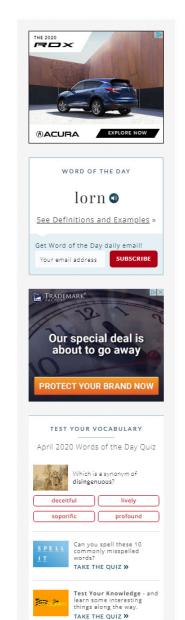
Definition of friendly (Entry 2 of 3)

: in a friendly manner : AMICABLY

friendly noun

plural friendlies

Definition of friendly (Entry 3 of 3)



X

https://www.merriam-webster.com/dictionary/game



game noun



∖ 'gām 💿 ∖

Definition of game (Entry 1 of 4)

- 1 a (1): a physical or mental competition conducted according to rules with the participants in direct opposition to each other
 - (2): a division of a larger contest
 - (3) : the manner of playing in a contest
 - (4): a particular aspect or phase of play in a game or sport // a football team's kicking game
 - (5) : the set of rules governing a game
 - (6) : the number of points necessary to win
 - (7) : points scored in certain card games (as in all fours) by a player whose cards count up the highest
 - b games plural: organized athletics
 - c (1): a field of gainful activity: LINE
 - // the newspaper game
 - (2) : any activity undertaken or regarded as a contest involving rivalry, strategy, or struggle

// the dating game

// the game of politics

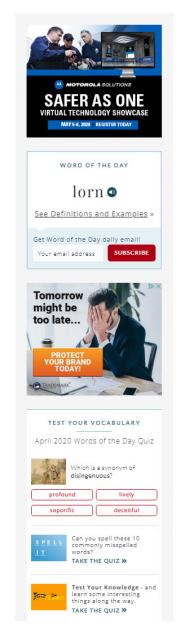
also: the course or period of such an activity
II got into aviation early in the game

- (3) : area of expertise : SPECIALTY sense 3
 // comedy is not my game
- 2 a (1) : activity engaged in for diversion or amusement : PLAY
 - (2) : the equipment for a game
 - **b** : often derisive or mocking jesting : <u>FUN</u>, <u>SPORT</u>

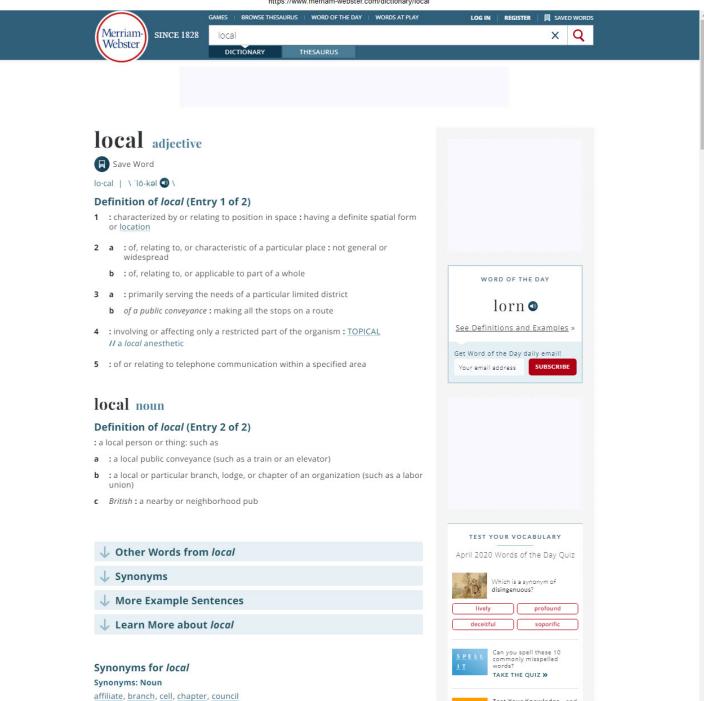
 // make *game* of a nervous player
- **3** a : a procedure or strategy for gaining an end: <u>TACTIC</u>
 - **b** : an illegal or shady scheme or maneuver : <u>RACKET</u>
- 4 a (1): animals under pursuit or taken in hunting especially: wild animals hunted for sport or food
 - (2) : the flesh of game animals
 - \mathbf{b} : a target or object especially of ridicule or attack —often used in the phrase fair game
 - c archaic: PLUCK

game adjective (1)

Definition of game (Fntry 2 of 4)



https://www.merriam-webster.com/dictionary/local

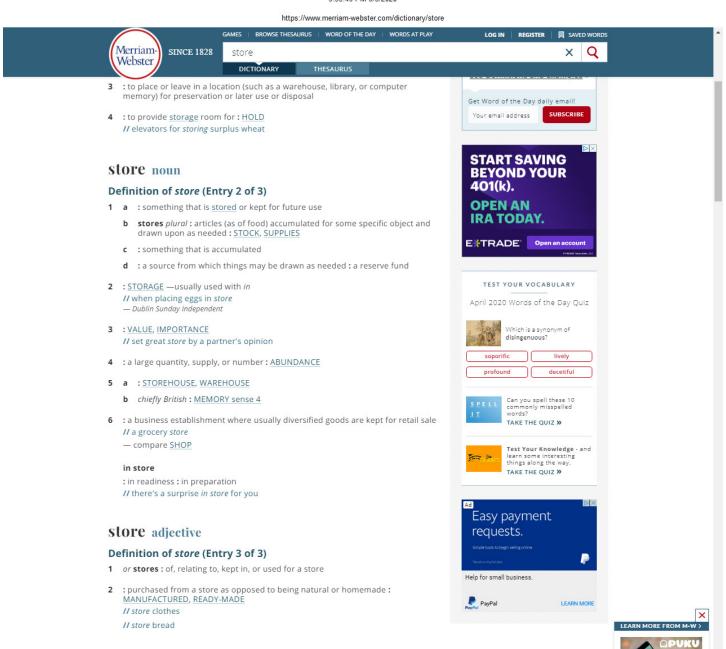


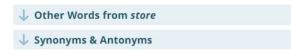
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3:53:49 PM 5/5/2020







Help Your Kids Build Their Vocabulary At Home https://www.manaversesaga.com/friendly-local-game-store-definition/

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Before we can figure out what make a friendly local game store successful, we need to define what makes a game store a game store in the first place.

What defines your friendly local game store?

Friendly local game stores come in many shapes and sizes. Some are big, some are small.

Some sell board games, others might sell miniatures or collectible card games, and still others comics, video games, or Japanese anime.

Some stores have a large play space to organize their events with and some stores are purely retail space.

The definition of a game store is an open ended question that I've been pondering for a while and I would like to take a stab at answering it today. I'm be curious if my definition lines up with yours, let me know if you agree or disagree in the comments.

I feel that calling a business a friendly local game store signifies something very special about it. FLGS and LGS are special labels we use to identify something specific about a business, it's something that most businesses *don't have*.

The first key here is "friendly"

I think the essence of a friendly local game store is the community. Chances are, when you think of a local game store in your area, you don't imagine a Toys'R'Us even though a typical Toys'R'Us has 10x as many board games the business you thought of has.



Strategy For Game Stores in 2019

The 7 Immutable Rules of Running Magic Tournaments

Streaming Magic: the Gathering On Twitch.tv – The LGS Tech Guide

The End Of The Panini DBZ TCG Era, The Beginning Of A New One

Adding A Viral Component To Your Events

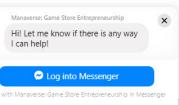
Check out some recent posts

ØMVP085: Resources and Advice For Staying In Business During The Covid-19 Pandemic

Announcing The Manaverse Network

MVP084: Get In Front of More Customers with WeTabletop

Game Stores in the Era of Covid-19





https://www.manaversesaga.com/friendly-local-game-store-definition/



Not a friendly local game store, not really

And chances are you didn't think of a Game Stop even though Game Stop most certainly sells games.

You probably thought of a place like Little Shop of Magic or Dueling Grounds or Nerd Haven.

The difference being the community associated with the last three. Each of these places has a large group of customers that will go out of their way to spend money and time at their respective shops. A friendly local game store is a hub for hobby gamers to gather around. A place to spend money on their favorite hobbies but to also enjoy the company of others like themselves. People who are passionate about their particular game of choice.

An FLGS creates their community by providing a space for them to play in, and to me this means tables and organizing events. An FLGS without tables and play space is just another retail store.

The four major categories

The other major distinction is in the second half of the name "friendly local *game store*". You aren't talking about a game store if the place doesn't sell games, obviously. The difference is that we're talking about table top games here. And virtually every single FLGS sells one or more the four major categories of table top games.

Miniatures

Warhammer, Warhammer 40K, Warmachine, Flames of War, and a huge variety of others.

CCG's

Magic, Pokemon, Yugioh, Force of Will, etc.

RPG's

Dungeons and Dragon's, Pathfinder, etc.

Board Games

Euro games like Settlers of Catan and mainstream games like Monopoly.

If the core of a business involves one or more of these categories and focuses on building a community around them with play space and organizing, to me that's the definition of a friendly loc game store. That isn't to say that a game store can't also sell comics, but rather that a comic store that sells booster packs of Magic wouldn't qualify as an FLGS. And that's what I think makes an FLGS so special and unique.

I would love to hear your opinion on what defines an FLGS, is there more to it? Let me know in th comments or yell at me on Twitter, @tomtraplin.



definitions, figs, lgs



Explore Start a project **KICKSTARTER** Search Q. Log in

Warcraft Games Cafe: Unplug, sit down and reconnect.



We are a friendly local game store looking to bring excellent coffee, cakes and the love of boardgames to everyone!

Created by

Matthew Walsh

62 backers pledged CA\$ 13,182 to help bring this project to life.

Last updated October 30, 2019

Campaign

FAQ

Updates 10

Comments 6

Community



Support

Pledge CA\$ 2 or more

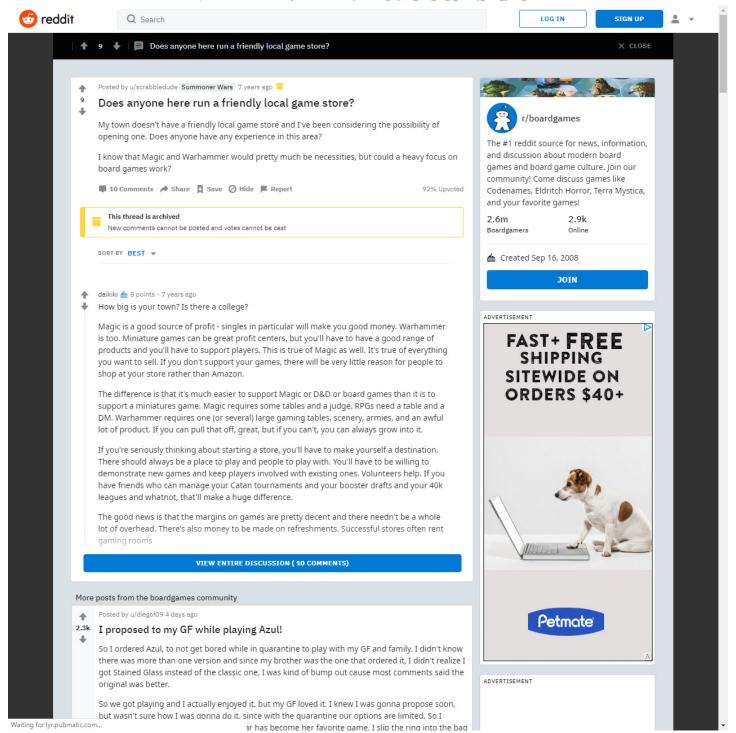
Low Roller: Hey ... it happens!

Thank you for your donation, every dollar counts and we certainly appreciate your help! Without any thought of reward you have helped back our project and I commend you!

ESTIMATED DELIVERY
Nov 2019

0 backers

 $https://www.reddit.com/r/boardgames/comments/tj1uw/does_anyone_here_run_a_friendly_local_game_store/reddit.com/r/boardgames/comments/tj1uw/does_anyone_here_run_a_friendly_local_game_store/reddit.com/r/boardgames/comments/tj1uw/does_anyone_here_run_a_friendly_local_game_store/reddit.com/r/boardgames/comments/tj1uw/does_anyone_here_run_a_friendly_local_game_store/reddit.com/r/boardgames/comments/tj1uw/does_anyone_here_run_a_friendly_local_game_store/reddit.com/r/boardgames/comments/tj1uw/does_anyone_here_run_a_friendly_local_game_store/reddit.com/reddit.c$











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Get More Than Games at Your Friendly Local Game Store

by Brian Nordli







January 16, 2018 | Living

It's Wednesday night and the crowd has just started to arrive at Chicago's local game store, Dice Dojo.

Customers stream in with six-packs and soda, take-out Vietnamese and potato chips, alone and with friends. Some are regulars, but others are newbies just looking for an inexpensive night out. Inside, the store's playroom is stocked with about 20 tables and a game wall composed of nearly 2,000 titles—from Settlers of Catan to Takenoko to card games like The Resistance—that spans the length of the store, and all of it free to play.



A group of friends and siblings sell each other nonsensical objects like the "Junk Brush" in the game Snake Oil at Chicago's Dice Dojo in January 2018. They're regular attendees of the store's open game nights. Photo by Brian Nordli.

"It's what people look forward to all week long," said the store's co-owner, Lexx Dunning.

Soon the store is bustling like a local bar, with 50-plus gamers laughing, joking and strategizing. One group of friends try to save an island, while another attempts to escape a haunted mansion. Pink cones with "Players Wanted" written on them are set up at tables to invite gamers to fill out a game. A group of family and close friends erupt into hysterical laughter as they try to sell each other nonsensical goods in the game Snake Oil.

At another table, James Moulds sets up his hand for a game of Arkham Horror with two friends he met at the store. He has been coming to Wednesday game night for the past















cone is designed to help fill out games without awkward interactions. Photo by Brian Nordli.

comparison to that. It's like owning the bar you want to drink in."

In the board game world, stores like Dice Dojo are called friendly local game stores, or FLGS for short. For these stores, it's about more than just selling games, it's about being a part of the community. As board games become more mainstream at retail stores and online, it's also a way to stand out.

Getting friendly

At its core, an FLGS should be a place where customers can go for advice and support, said Beth Heile, who organizes Chicago's Saturday Strategy board game meetup and is on the convention press crew for the website Board Game Geek. She looks for places that can provide recommendations for new games, but can also be a place to hang out.

Board gaming has never been more popular, but the popularity has increased competition for small businesses from big box stores like Target and Toys 'R' Us as well as online retailers like Amazon. Still, friendly local game stores have an edge that those chains lack—they can connect with individuals. Heile said.

From the very beginning, Dunning and co-owner J.P. Nery have focused on cultivating a space for gamers to gather.



Dice Dojo co-owner Lexx Dunning stands in front of his store's demo game wall, which contains more than 2,000 games. Dice Dojo opened in Chicago in 2008 and is considered a Friendly Local Game Store. Photo by Brian Nordli.

They opened in 2008 after several chain game stores around the city had closed. None had embraced the community aspect of board games, Dunning said. Much like movies, games can be a point of reference, a shared experience that can cultivate aficionados and hobbyists alike, but also casual players.

So Dunning and Nery launched their store on Halloween night with a tournament of tabletop miniatures (a tactical battle with mini figurines) before they had any stock. They emphasized free games to demo, a knowledgeable staff to help customers find the perfect game, daily events and a welcoming atmosphere.

To: The Gaming Goat Inc (<u>nathan.brown@brownpatentlaw.com</u>)

Subject: U.S. Trademark Application Serial No. 88788453 - FRIENDLY LOCAL GAME STORE - 2020FLGS0206

Sent: May 05, 2020 04:17:49 PM

Sent As: ecom128@uspto.gov

Attachments:

United States Patent and Trademark Office (USPTO)

USPTO OFFICIAL NOTICE

Office Action (Official Letter) has issued on May 05, 2020 for

U.S. Trademark Application Serial No. 88788453

Your trademark application has been reviewed by a trademark examining attorney. As part of that review, the assigned attorney has issued an official letter that you must respond to by the specified deadline or your application will be <u>abandoned</u>. Please follow the steps below.

- (1) Read the official letter.
- (2) Direct questions about the contents of the Office action to the assigned attorney below.

/Nathan C. Ranns/ Trademark Examining Attorney United States Patent & Trademark Office Law Office 128 Phone: (571) 270-3776 Nathan.Ranns@usp

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

(3) Respond within 6 months (or earlier, if required in the Office action) from May 05, 2020, using the Trademark Electronic Application System (TEAS). The response must be received by the USPTO before midnight Eastern Time of the last day of the response period. See the Office action for more information about how to respond

GENERAL GUIDANCE

- <u>Check the status</u> of your application periodically in the <u>Trademark Status & Document Retrieval (TSDR)</u> database to avoid missing critical deadlines.
- · <u>Update your correspondence email address</u>, 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."