

September 22, 2008

Mr. Robert Mitchell
Big Shu Advantage, Inc.
5330 50th Street
Kenosha, WI 53144

Re: Legal Opinion on Coupon and Sweepstakes Dispensing System

Dear Mr. Mitchell:

You asked me to review, research and render a legal opinion with respect to whether state officials may interfere with your method of doing business, which is a coupon and sweepstakes dispensing system, as a “method of business use”, **under Federal Law and Constitutional standards.**

I am an attorney who has practiced law for 34 years and, among other things, have reviewed business methods and business dispensing products to determine the legality of these systems. I have had good fortune and have had success in rendering opinions to businesses that have held up to public scrutiny and have held up to prevent unlawful interference by state agents, whether these agents are the Attorney General or Courts.

Your program, as best stated in the Trademark, is “a coupon and sweepstakes dispensing system or method of use.” The issue here is whether or not any state official may interfere with your rights or the right of wholesalers and retailers when using this method of doing business. Simply stated, a consumer will place a dollar into a machine and will receive coupons which provide a minimum of \$5 redemption at the store where the machine is placed or directly to the advertiser. The consumer does not have to use any of the coupons for redemption, and is automatically placed in the free sweepstakes. There is no purchase necessary in order to participate in the sweepstakes, in that, there are forms to fill out to participate in the sweepstakes without purchasing a coupon. The coupon itself is not tangible property, only a right to be redeemed by the customer, at the dispensing store or to the advertiser and receives at least \$5 of benefits for the purchase of third party products and services.

The coupon and sweepstakes dispensing system is a method of doing business protected by three patents and six separate trademarks. The patents are issued by the United States Patent Agency and the registered trademarks are also issued by the same Agency. It might be helpful to distinguish patents and trademarks. A patent is a device that protects inventors by obtaining exclusive use of a product or “method of doing business”, which also provides the inventor with the right to assign, mortgage and lease such right.

A patent is protected under the United States Constitution, Article I Section VIII, which provides that Congress has the authority to issue patents “to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.” Congress has provided

authority, under Article I, Section VIII, the right to pass laws that are necessary and proper for carrying out the right of the patent office to issue patents and trademarks. Article I, Section VIII of the Constitution reads as follows: Congress has authority “to make all laws which will be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution and the government of the United States, or in any department or office thereof.”

The most important principle stated in the United States Constitution is commonly referred to as **the Supremacy Clause in Article VI, Clause II**. The Supremacy Clause reads as follows: “This constitution and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made under the authority of the United States, shall be **the supreme law of the land; and the judges in other states shall be bound thereby and anything in the Constitution or laws of any state to the contrary notwithstanding.**” **The Supremacy Clause states unequivocally that states cannot interfere with laws passed by Congress, the laws providing the issuance of patents, the methods of doing business, or trademarks.** This right is protected for 20 years from the filing date requesting a patent.

With respect to trademarks, a trademark is a word, symbol, or phrase identifying a manufacturer or seller and identifying them from the products of another. Most trademarks and some patents can be protected by infringement lawsuits, if anyone uses the trademark or patent without the consent of the individual holding the patent or trademark. Title 35 of the United States Code created these United States Patent and Trademark Offices. **The fact that the business method for the above activities has been protected by these three patents and six trademarks creates rights pursuant to the Supremacy Clause to prevent state officials, including judges, from interfering with these rights, by prosecution or any other method.**

There have been times when state officials, usually state Attorney Generals, or members of the state Attorney General’s staff, who prevent this method of doing business by using state laws to gain an injunction, preventing such activities, or seeking fines and forfeitures with respect to this “method of doing business.” It is significant here that the patent and trademarks were not issued by the departments handling gaming or gambling, but were issued from the division of the U.S. Patent and Trademark law in the area of “business methods.”

A patent must be an invention and the invention must be something new and useful. The term useful means lawful and helpful to the citizens of this Country, businessmen of this country, and the holder of the patent.

Unfortunately, certain state officials and courts have followed the “touchy feely” view of the law. They were arbitrary, capricious and prejudice in that they had no proof that the coupons were not being redeemed for value, nor anyone not receiving free chances to win! Some state officials have concluded that this method of doing business is simply gambling or gaming and hence illegal. They exceeded their statutory jurisdiction, authority and limitations. Some even attacked the third party advertisers prior to court proceedings, thus nullifying contracts. Fortunately, the law is not “touchy feely” but is based upon facts and the statements of the law itself. Just because something looks or appears to be something else does not mean it is unlawful. In this

Case, the issuance as to the three patents and the six registered trademarks, and the statement that the coupon and sweepstakes dispensing system is a “method of doing business”, **is lawful and may be used by the supplier, the wholesaler, the customer and the retailer.** There is nothing touchy or feely about the U. S. Constitution or the laws passed in pursuance to the constitutional grant of authority.

There is no way to prevent state agents and courts from attempting to interfere with the “method of doing business” by calling this activity gambling or gaming. **This opinion states that the method of doing business is lawful and is not something that could be interfered with, modified or amended by a state. Sweepstakes conducted by McDonalds® and 100’s of other businesses are left alone, which is grossly discriminatory.**

Thank you for requesting that I issue a written opinion with respect to the legality of this “method of doing business” described above. If I can be of further assistance to your customers, I would be happy to present a seminar with respect to the opinions expressed in this letter.

Yours truly,

A handwritten signature in dark ink, appearing to read "Walter W. Stern". The signature is written in a cursive, somewhat stylized font.

Walter W. Stern
Attorney at Law
State No: 01014060