

TTAB

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February 6, 2017

Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

Re: Notice of Opposition DFC Expo LLC v. Brian Coyle
Serial No. 87086860

To Whom It May Concern:

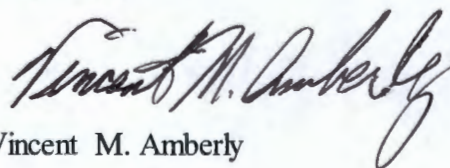
Today was the last day that I could file a Notice of Opposition to registration of Serial No. 87086860, due to the extension of time that I filed earlier.

I went on the ESTTA website, and tried five different times to file the Notice of Opposition; however, the website would not provide me access to make payment for the Notice of Opposition. I have filed dozens of actions through ESTTA before, and I have never had this problem before.

I spoke to someone from the TTAB, and was told that I could mail the pleading, so please find it attached. I am actually out of town now and travelling to a court hearing tomorrow, so I do not have any extra business checks with me. I will contact the TTAB this Wednesday when I get back in town, and make payment at that time.

Please let me know if you should have any additional questions that I could address. Thank you for your consideration in this matter.

Very truly yours,



Vincent M. Amberly



02-09-2017

U.S. Patent & TMO/c/TM Mail Rpt Dt. #11

The PTO did not receive the following
listed item(s). *No fee*
Enclosed

In the matter of trademark Serial No. 87086860
For the mark **SODA CITY FIRE DEPT.**
Date Published December 6, 2016

Opposition No. _____

1. Opposer, its members and predecessors in interest, have been using the mark SODA CITY FIRE DEPT. for several years prior to any date of first use by Applicant, and this use was prior to any claimed first use by Applicant of his trademark.

2. Opposer has adopted and used the trademark SODA CITY FIRE DEPT for mobile beverage cart services featuring self-serve gourmet soda under the name SODA CITY FIRE DEPT since well prior to Applicant's alleged date of first use in interstate commerce of June 1, 2012, and has provided these goods and services to thousands of third parties without any interference from the Applicant or confusion with the Applicant.

3. Opposer has significant common law trademark rights in and to the term and mark SODA CITY FIRE DEPT for mugs for beverages and for mobile beverage cart services featuring self-serve gourmet soda, which has been used in interstate commerce by Opposer since well prior to any alleged use by Applicant.

4. Applicant is not the owner of the SODA CITY FIRE DEPT mark, as it is the sole property of Opposer under the United States Copyright Act, as set forth in 17 USC § 201.

5. Applicant Brian Coyle took the SODA CITY FIRE DEPT trademark from the owners of Opposer who actually developed and first used the SODA CITY FIRE DEPT trademark.

6. On information and belief, Applicant obtained the federal registration for the SODA CITY FIRE DEPT mark fraudulently by representing that he was using the mark, when in fact Applicant was not using the SODA CITY FIRE DEPT trademark as he fraudulently claimed in the Statement of Use filed with the United States Patent and Trademark Office.

7. Given Opposer's prior trademark rights in and to the SODA CITY FIRE DEPT mark for mugs used for beverages and for mobile beverage cart services featuring self-serve gourmet soda, any federal trademark registration for the SODA CITY FIRE DEPT mark, conferring exclusive, nationwide rights, would interfere with Opposer's prior trademark rights.

8. Opposer has expended considerable effort and expense in promoting its trademark SODA CITY FIRE DEPT goods and services sold under the mark, with the result that the purchasing public has come to know, rely upon, and recognize the products of Opposer by such mark. Opposer has also developed valuable goodwill established in its trademark.

9. If the Applicant is permitted to obtain the registration sought of the mark, and thereby the prima facie exclusive right to use in commerce the mark SODA CITY FIRE DEPT on virtually identical goods and services sold by Opposer, confusion in the trade is likely to result from any concurrent use of Opposer's mark and that of the Applicant all to the great detriment of Opposer, who has expended considerable sums and effort promoting its mark.

10. Purchasers are likely to consider the goods of Applicant sold under the SODA CITY FIRE DEPT mark as emanating from Opposer, and purchase such goods as those of the Opposer, resulting in loss of sales to Opposer.

11. Concurrent use of the mark by the Applicant and Opposer may result in irreparable damage to Opposer's reputation and goodwill, if the goods sold by the Applicant are inferior, since purchasers are likely to attribute the source of the Applicant's goods to the Opposer.

12. If the Applicant is permitted to obtain a registration for the mark at issue here, a cloud will be placed on Opposer's title in and to its trademark SODA CITY FIRE DEPT., and on its right to enjoy the free and exclusive use thereof in connection with the sale of its goods and

services, all to the great injury of Opposer.

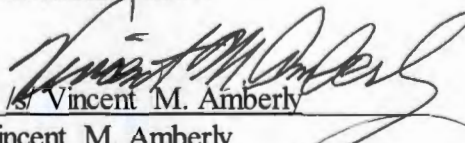
13. Registration of the above-identified mark SODA CITY FIRE DEPT will injure and damage Opposer.

WHEREFORE, Opposer submits that Opposer has been and/or will be damaged by registration of the mark SODA CITY FIRE DEPT., and respectfully requests that the application for registration of the mark "SODA CITY FIRE DEPT." bearing Serial No. 87086860 be denied. registration, and also requests that the Opposer be granted whatever other appropriate relief that the Board may grant.

Respectfully submitted,
AMBERLY LAW

Date: February 6, 2017

By:


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