

ESTTA Tracking number: **ESTTA22298**

Filing date: **12/29/2004**

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

### Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

#### Opposer Information

<b>Name</b>	Helen B. Chenery
<b>Granted to Date of previous extension</b>	12/29/2004
<b>Address</b>	309 Holiday Road Lexington, KY 40502 UNITED STATES

<b>Attorney information</b>	Steven L. Snyder WYATT, TARRANT & COMBS, LLP 500 West jefferson Street, Suite 2800 Louisville, KY 40202-2898 UNITED STATES ssnyder@wyattfirm.com Phone:502.562.7334
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#### Applicant Information

<b>Application No</b>	76205570	<b>Publication date</b>	08/31/2004
<b>Opposition Filing Date</b>	12/29/2004	<b>Opposition Period Ends</b>	12/29/2004
<b>Applicant</b>	Golf Club of Nevada, Inc. 5500 E. Flamingo Road Las Vegas, NV 89121		

UNITED STATES
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**Goods/Services Affected by Opposition**

Class 041.

All goods and services in the class are opposed, namely: Golf course services

**Attachments**

secretariat notice of opposition.pdf ( 3 pages )  
Secretariat website pages.pdf ( 3 pages )

**Signature**

/steven l snyder/

**Name**

Steven L. Snyder

**Date**

12/29/2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD  
In the Matter of Application Serial No. 76205570  
Published in the Official Gazette on 8/31/2004

HELEN B. CHENERY, )  
 )  
Opposer )  
 )  
v. ) Opposition No. \_\_\_\_\_  
 )  
GOLF CLUB OF NEVADA, INC., )  
 )  
Applicant. )

**NOTICE OF OPPOSITION**

Helen B. Chenery, an individual residing in Lexington, Kentucky, hereby opposes the registration of the SECRETARIAT and Design mark for "golf course services." The application to register this service mark was filed by the Golf Club of Nevada, Inc. on February 5, 2001, assigned serial no. 76205570, and published in the *Official Gazette* on August 31, 2004. An extension of time to file this opposition was granted through December 29, 2004. As grounds for opposition, it is alleged that:

1. In 1973, the horse named Secretariat won the Triple Crown of Racing in record time and became an international celebrity. Even today, many decades after his historic accomplishment and many years since his death, Secretariat remains one of the most famous and beloved horses in the world.

2. Since Secretariat's historic accomplishment, his owner, Ms. Chenery, has carefully guarded the use of Secretariat's name and likeness. Over the years, Ms. Chenery has licensed the use of Secretariat's name and likeness for various products, with the proceeds benefiting various charities.

3. Ms. Chenery currently has an agreement with Commemorative Derby Promotions, Inc. ("CDPI"), under which CDPI has a license to use the SECRETARIAT trademark on a wide variety of products. CDPI operates the website WWW.SECRETARIAT.COM. Through this website, CDPI sells SECRETARIAT-brand T-shirts, caps, books, artwork, collectibles and other merchandise. True and accurate screen shots of the website are attached.

4. It is well known in the racing industry that the name and likeness of Secretariat may not be used without Ms. Chenery's permission. Through Ms. Chenery's efforts, and those of her licensees, she has gained common-law trademark rights in the SECRETARIAT mark.

5. Long after Ms. Chenery's horse became famous, and long after Ms. Chenery gained trademark rights in the SECRETARIAT mark, the Golf Club of Nevada, Inc. applied to register the SECRETARIAT and Design mark, for "golf course services." This application was filed on February 5, 2001, and assigned serial no. 76205570.

6. Applicant's mark is clearly designed to evoke an association between Applicant and Ms. Chenery's famous racehorse. This is amply demonstrated by the fact the design portion of the mark is a horse's head. In its application, the Applicant describes the mark as such: "The mark consists of a stylized depiction of a horse forming the letter "S" in "Secretariat."

7. The public knows and loves only one horse named Secretariat -- and that is the great racehorse whom Ms. Chenery owned.

8. Registration by Applicant of the SECRETARIAT and Design mark in connection with its services is likely to cause confusion, or to cause mistake, or to deceive

purchasers, in that they are likely to believe Applicant's services are in some way legitimately connected with, sponsored by, or approved by Ms. Chenery. Use of Applicant's SECRETARIAT and Design mark is also likely to dilute the distinctive significance of Ms. Chenery's famous SECRETARIAT mark, lessening its capacity to identify and distinguish goods and services approved by Ms. Chenery and blurring the unique association which has heretofore existed between Secretariat and Ms. Chenery.

9. For the reasons stated above, Ms. Chenery believes that she would be seriously damaged and injured if Applicant's SECRETARIAT and Design mark is registered.

10. This notice of opposition is filed pursuant to 15 U.S.C. §1063, and is based on 15 U.S.C. §1125(a) and (c).

WHEREFORE, Ms. Chenery requests that its Opposition be sustained and that registration of Applicant's SECRETARIAT and Design mark be denied.

Dated this 29th day of December 2004.

Respectfully submitted,

/steven l snyder/

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Counsel for Helen B. Chenery

Secretariat Throughbred racing legend, Penny Toney Chesson's dream came to life. KentuckyDerby.com

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