

TTAB

ATTORNEY DOCKET NO: BUNTE-008M
MARK: CABO AZUL

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Box TTAB – No Fee
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

on March 30, 2006



(Signature)

Kimberly Carlsen

(Typed name of person signing certificate)

Note: Each paper must have its own certificate of mailing, or this certificate must identify each submitted paper.

1. Certificate of Mailing;
2. Transmittal Form (in triplicate);
3. Answer to Notice of Opposition, with Proof of Service (in triplicate);
and
4. Return Postcard.



04-03-2006

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #25

LAW OFFICES
Stetina Brunda Garred & Brucker
A PROFESSIONAL CORPORATION
PATENT, TRADEMARK, COPYRIGHT AND UNFAIR COMPETITION CAUSES

75 ENTERPRISE, SUITE 250
ALISO VIEJO, CALIFORNIA 92656

KIT M. STETINA
BRUCE B. BRUNDA
WILLIAM J. BRUCKER
MARK B. GARRED
MATTHEW A. NEWBOLES
ERIC L. TANEZAKI
LOWELL ANDERSON

SEAN O'NEILL
JAMES C. YANG
NATHAN S. SMITH
SHUNSUKE S. SUMITANI
STEPHEN Z. VEGH

JESSIE WANG *
BENJAMIN N. DIEDERICH *

TELEPHONE (949) 855-1246
FACSIMILE I (949) 855-6371
FACSIMILE II (949) 716-8197

www.stetinalaw.com
Writer's Direct E-mail:
bbrunda@stetinalaw.com

March 30, 2006

Box TTAB – No Fee
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

RE: Red Head, Inc. dba Cabo Wabo Enterprises, Inc. v. Brady Bunte
Serial No.: 78/468,893
Opposition No.: 91168862
Mark: CABO AZUL
Our Reference: BUNTE-008M

Dear Sir/Madam:

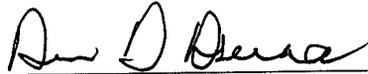
Enclosed for filing are the following:

1. Certificate of Mailing;
2. Transmittal Form (in triplicate);
3. Answer to Notice of Opposition, with Proof of Service (in triplicate); and
4. Return Postcard.

Please charge any additional cost to our Deposit Account Number 19-4330. This letter is enclosed herewith in triplicate.

Respectfully submitted,

STETINA BRUNDA GARRED & BRUCKER

By: 
Bruce B. Brunda, Reg. No. 28,497
Counsel for Applicant

Customer No.: 007663

Case: BUNTE-008M

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No. 78/468,593

Red Head Inc. dba Cabo Wabo)	Opposition No. 91168862
Enterprises, Inc.,)	
)	
Opposer,)	
)	
vs.)	
)	
Brady Bunte,)	
)	
Applicant.)	

ANSWER TO NOTICE OF OPPOSITION

BOX TTAB - NO FEE
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Sir/Madam:

Applicant, Brady Bunte (Applicant) hereby responds to the Notice of Opposition as follows:

1. Applicant is without sufficient information to form a belief as to matters set forth in this paragraph and, on that basis, denies those allegations.
2. Applicant admits the allegations of this paragraph.

3. Applicant admits that Hagar is a well known and successful singer, song writer, and performer. Applicant has no specific knowledge of the number or success of Hagar's album or the artists associated with each album.

4. Applicant is without sufficient information to form a belief as to matters set forth in this paragraph and, on that basis, denies those allegations.

5. Applicant is without sufficient information to form a belief as to matters set forth in this paragraph and, on that basis, denies those allegations.

6. Applicant is without sufficient information to form a belief as to matters set forth in this paragraph and, on that basis, denies those allegations.

7. Applicant is without sufficient information to form a belief as to matters set forth in this paragraph and, on that basis, denies those allegations.

8. Applicant is without sufficient information to form a belief as to matters set forth in this paragraph and, on that basis, denies those allegations.

9. Applicant is without sufficient information to form a belief as to matters set forth in this paragraph and, on that basis, denies those allegations.

10. Applicant is without sufficient information to form a belief as to matters set forth in this paragraph and, on that basis, denies those allegations.

11. Applicant is without sufficient information to form a belief as to matters set forth in this paragraph and, on that basis, denies those allegations.

12. Applicant is without sufficient information to form a belief as to matters set forth in this paragraph and, on that basis, denies those allegations.

13. Applicant is without sufficient information to form a belief as to matters set forth in this paragraph and, on that basis, denies those allegations.

14. Applicant is without sufficient information to form a belief as to matters set forth in this paragraph and, on that basis, denies those allegations.

15. Applicant is without sufficient information to form a belief as to matters set forth in this paragraph and, on that basis, denies those allegations.

16. Applicant admits the allegations of this paragraph.

17. Applicant admits the allegations of this paragraph.

18. Applicant admits the allegations of this paragraph.

19. Applicant admits the allegations of this paragraph.

20. Applicant admits the allegations of this paragraph.

21. Applicant admits the allegations of this paragraph directed to Registration No. 2,830,521 and Application Serial Nos. 78/547,568 and 78/334,484. Applicant has insufficient information to form a belief as to the remaining allegations of this paragraph and, on that basis, denies those allegations.

22. Applicant denies the allegations of this paragraph.

23. Applicant admits that Opposer has made use of the term CABO WABO prior to Applicant's filing of the subject application.

24. Applicant is without sufficient information to form a belief as to matters set forth in this paragraph and, on that basis, denies those allegations.

25. Applicant denies the allegations of this paragraph.

26. Applicant denies the allegations of this paragraph.

27. Applicant denies the allegation of this paragraph.

28. Applicant admits that registration of the CABO AZUL mark would provide evidence of its validity and Applicant's exclusive right therein. Applicant denies the remaining allegations of this paragraph.

29. Applicant admits that Opposer has a right to use certain CABO derivative marks, e.g. CABO WABO, in relation to certain goods, without interference by Applicant.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Opposer has failed to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Opposer has no standing to assert the claims set forth in the Notice of Opposition.

THIRD AFFIRMATIVE DEFENSE

Opposer's claim is precluded by the Doctrine of Estoppel.

FOURTH AFFIRMATIVE DEFENSE

Opposer's claim is precluded by the Doctrine of Acquiescence.

FIFTH AFFIRMATIVE DEFENSE

Opposer will not be damaged by registration of Applicant's Mark.

///

///

///

///

///

///

WHEREFORE, Applicant prays that this opposition be dismissed, and that the subject application proceed to registration and for such other and further relief as may be appropriate.

This Request is filed herewith in triplicate along with the Proof of Service by mail to Opposer's counsel.

Respectfully submitted,

Dated: March 30, 2006

By:



Bruce B. Brunda, Reg. No. 28,497
Stetina Brunda Garred & Brucker
75 Enterprise, Suite 250
Aliso Viejo, California 92656
Tel: (949)855-1246
Fax: (949)855-6371
Counsel for Applicant, Brady Bunte

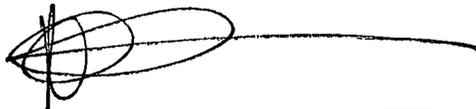
PROOF OF SERVICE

State of California)
) ss.
County of Orange)

I am over the age of 18 and not a party to the within action; my business address is 75 Enterprise, Suite 250, Aliso Viejo, California 92656. On **March 30, 2006**, the attached **ANSWER TO NOTICE OF OPPOSITION** was served on all interested parties in this action by U.S. Mail, postage prepaid, at the address as follows:

Janet Shih Hajek
Greenberg Traurig, LLP
1750 Tysons Boulevard, Suite 1200
McLean, VA 22102

Executed on **March 30, 2006** at Aliso Viejo, California. I declare under penalty of perjury that the above is true and correct. I declare that I am employed in the office of STETINA BRUNDA GARRED & BRUCKER at whose direction service was made.



Kimberly Carlsen