

BLAKELY SOKOLOFF TAYLOR & ZAFMAN

A LIMITED LIABILITY PARTNERSHIP INCLUDING LAW CORPORATIONS

TELEPHONE (310) 207-3800

FACSIMILE (310) 820-5988
(310) 820-5270

BSTZ_MAIL@BSTZ.COM
WWW.BSTZ.COM

INTELLECTUAL PROPERTY LAW

12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CALIFORNIA 90025-1030

OTHER OFFICES

ORANGE COUNTY/COSTA MESA, CA
SILICON VALLEY/SUNNYVALE, CA
DENVER, CO
PORTLAND/BEAVERTON, OR
SEATTLE, WA

June 20, 2006

VIA MAIL

MAIL STOP TTAB
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

TTAB

Re: Keith Donald Marriott v. Quincy Dillard and Steven Cross
Mark: GO HARD XTREME
Serial No.: 76/636,649
Our File No.: 037261.M005

Dear Sir/Madam:

In the normal monitoring of our open files, it was revealed that the United States Trademark Trial and Appeal Board ("TTAB") has failed to institute a timely filed Notice of Opposition to U.S. Application Serial No. 76/636,649 for the mark GO HARD XTREME owned by Quincy Dillard and Steven Cross. A copy of the Notice of Opposition as filed with the TTAB on March 16, 2006, a copy of the check addressed to the Director of the United States Patent and Trademark Office in the amount of \$300.00, and a copy of the postcard enclosed with the Notice of Opposition is attached for your review and convenience. As further evidence of the Opposer's timely filed Notice of Opposition, Opposer encloses a cancelled check evidencing the USPTO's receipt and acceptance of the filing fee for the subject Notice of Opposition dated March 27, 2006. As reflected in the enclosed Notice of Opposition, a "courtesy copy" of the Notice of Opposition was served on the Applicant Steven Cross by first class mail on March 16, 2006. Accordingly, the Applicant is aware of the Notice of Opposition.

Due to the fact that the TTAB failed to institute the timely filed Notice of Opposition, Application Serial No. 76/636,649 achieved registration on May 30, 2006. Accordingly, Opposer Keith Donald Marriott ("Opposer") immediately requests the TTAB withdraw Registration No. 3,097,217 and institute Opposer's previously filed Notice of Opposition. We look forward to receiving the order



06-22-2006

U.S. Patent & TMO/TM Mail Rcpt Ct #:

BLAKELY SOKOLOFF TAYLOR & ZAFMAN

A LIMITED LIABILITY PARTNERSHIP INCLUDING LAW CORPORATIONS

June 20, 2006

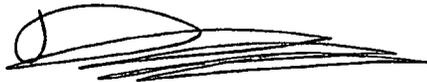
Page 2

instituting the opposition and setting discovery and testimony deadlines at your earliest convenience.

If you have any questions or require additional information, please contact the undersigned attorney via telephone.

Very truly yours,

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP



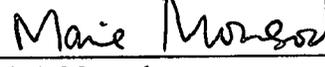
Dax Alvarez

DA:mm
Enclosures

- 1) Copy of Notice of Opposition
- 2) Copy of Check and Cancelled Check
- 3) Copy of Postcard Stamped by PTO
- 4) Postcard

CERTIFICATE OF MAILING:

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: MAIL STOP TTAB, Commissioner for Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451 on June 20, 2006.



Marie Monsod

June 20, 2006

June 20, 2006

Page 3

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the forgoing document addressed to the Trademark Trial and Appeal Board was served on counsel for Applicant by first class mail, postage prepaid, in a sealed enveloped addressed as follows:

Steven Cross
Federal Medical Center
3301 Leestown Road, BG Unit
Lexington, KY 45011

Executed on June 20, 2006, at Los Angeles, California.



Marie Monsod

RECEIVED

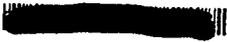
MAR 30 2006

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
LOS ANGELES

Don

Serial/Reg No.: _____ Filing/Reg. Date: _____
Client: Don Hopkins
Title: MARK: GO HARD XTREME 76/636,649
Notice of Opposition
BSTZ File No.: 037221-1 MODS Atty/Secty Initials: DA/mm
Date Mailed: 3/16/06 Docket Due Date: 3/18/06

The Following has been received in the U.S. Patent & Trademark Office on the date stamped hereon:

- Amendment/Response (# of pages: _____) Notice of Opposition (Original & Copy) Check No. 2029
- Answer to Cancellation (# of pages: _____) (# of pages: 4) Amt: \$300.00
- Answer to Opposition (# of pages: _____) # of TM/SM Specimens Check No. _____
- Appointment of Domestic Representation Postcard Amt: _____
- Assignment (# of pages: _____) Power of Attorne: _____
- Cancellation Petition (Orig & Copy) (# of pgs: _____) Proof of Service 
- Certification of Mailing Section 8 & 15 A
- Cert./Express Mail # _____ Statement of Use
- Declaration (# of pages: _____) Trademark/Servi **03-20-2006**
- Drawings page Trademark/Servi U.S. Patent & TMOc/TM Mail Rcpt Dt. #72
- Extension of Time (Request # _____) *attach request* Trademark/Service Mark Renewal Application (# of pages: _____)
- Notice of Appeal Transmittal Letter (original & copy)
- Other: Exhibit A (1pg.)

Previously Docketed
for ~~Notice of Opposition~~
Notice of Opposition

California Bank & Trust
18730 Ventura Blvd.
Encino, CA 91436

2029

18-339/1220
380

002029

March 16, 2006

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP
12400 WILSHIRE BLVD., 7TH FLOOR
LOS ANGELES, CALIFORNIA 90025
(310) 207-3800

PAY TO THE
ORDER OF

Director of the United States Patent and Trademark Office

\$ ***\$300.00**
DOLLARS

THREE HUNDRED & NO/100

Director of the United States
Patent and Trademark Office



MEMO

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⑆0000030000⑆

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

Trademark: GO HARD XTREME
Serial No.: 76/636,649
Filed: April 20, 2005
Published: January 17, 2006

Keith Donald Marriott)	
)	Opposition No. _____
Opposer,)	
)	
v.)	Serial No.: 76/636,649
)	
Quincy Dillard and Steven Cross,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Opposer, Keith Donald Marriott (hereinafter "Opposer"), having a business address of 7 Fountain Court, Palmerston North, New Zealand, believes that he would be damaged by registration of the mark GO HARD XTREME shown in United States Trademark Application Serial No. 76/636,649, filed by Joint Applicants Quincy Dillard having a business address of 11842 S. Wallace, Chicago, Illinois 60628 and Steven Cross having a business address of Federal Medical Center, 3301 Leestown Rd., BG Unit, Lexington, Kentucky 40511 (hereinafter "Applicant") published for opposition in the *Official Gazette* dated January 17, 2006, and therefore Opposer opposes such application for registration. The application as published in the *Official Gazette* may be summarized as follows:

In re trademark application: 76/636,649

Filed: April 20, 2005
Joint Applicants: Quincy Dillard and Steven Cross
For: Plastic water bottles sold empty in International Class 21
International Class: 21
Published: January 17, 2006

The grounds for this opposition are as follows:

1. Opposer is an individual and citizen of New Zealand.
2. Upon information and belief, Joint Applicants are individuals and citizens of the United States.
3. Applicant seeks to register the mark GO HARD XTREME (hereinafter "Applicant's Mark") for "plastic water bottles sold empty" (hereinafter "Applicant's Goods").
4. On July 13, 2004, well prior to the April 20, 2005 filing date of the Applicant's application, Opposer achieved registration of the mark GO HARD for a wide variety of beverages and related products in International Classes 32 and 33 (hereinafter "Opposer's Goods"), namely, U.S. Registration No. 2,862,206 attached hereto as Exhibit A and incorporated herein by reference.

5. When applied to the Applicant's Goods, Applicant's Mark incorporates the entire Opposer's mark and as such is likely to be confused therewith and mistaken therefore.

6. Due to the incorporation of the entire Opposer's mark in the Applicant's Mark and due further to the closely related nature of the goods offered under the Applicant's Mark and those of the Opposer's Goods allege that the Applicant's Mark so resembles the Opposer's mark as to be likely to cause confusion or to cause mistake or to deceive.

7. If the Applicant is permitted to use and register Applicant's Mark for Applicant's Goods, confusion, deception, or mistake in the trade would likely occur thereby causing damage and injury to Opposer. Persons familiar with Opposer's mark would be likely to believe that Applicant's Goods are sponsored by or associated therewith.

8. Furthermore, any defect, objection, or fault found with Applicant's Goods marketed under Applicant's Mark would necessarily reflect upon and seriously injure the reputation of Opposer.

WHEREFORE the Opposer prays that Application Serial No. 76/636,649 be rejected and that the mark sought for the Applicant's Goods be denied and refused.

Opposer herewith submits this Notice of Opposition in duplicate along with the requisite filing fee in the amount of \$300. *Please charge any fees or credit any overpayment to our Deposit Account No. 02-2666.*

Respectfully submitted,

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP

Dated: March 16, 2006

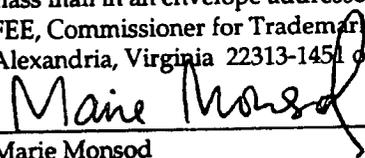
By: 

Dax Alvarez
Counsel for Opposer

12400 Wilshire Boulevard
Seventh Floor
Los Angeles, California 90025-01026
(310) 207-3800

CERTIFICATE OF MAILING:

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop TTAB - FEE, Commissioner for Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451 on March 16, 2006.


Marie Monsod

March 16, 2006

CERTIFICATE OF SERVICE

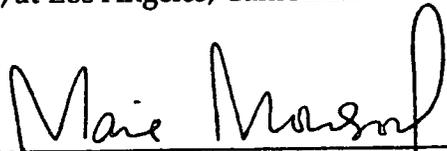
I hereby certify that a true and correct copy of the foregoing document entitled:

NOTICE OF OPPOSITION

was served on counsel for Applicant by first class mail, postage prepaid, in a sealed enveloped addressed as follows:

Steven Cross
Federal Medical Center
3301 Leestown Road, BG Unit
Lexington, KY 40511

Executed on March 16, 2006, at Los Angeles, California.



Marie Monsod

EXHIBIT A

Int. Cls.: 32 and 33

Prior U.S. Cls.: 45, 46, 47, 48 and 49

United States Patent and Trademark Office

Reg. No. 2,862,206

Registered July 13, 2004

**TRADEMARK
PRINCIPAL REGISTER**

GO HARD

**MARRIOTT, KEITH DONALD (NEW ZEALAND
INDIVIDUAL)**

7 FOUNTAIN COURT

**PALMERSTON NORTH, NEW ZEALAND AND
CREED, MICHAEL JAMES (NEW ZEALAND INDI-
VIDUAL)**

C/- HAY MCKAY & WHITE LIMITED

275 BROADWAY AVENUE

**PALMERSTON NORTH, NEW ZEALAND AND
SIMONSEN, ROGER MARTIN (NEW ZEALAND
INDIVIDUAL)**

C/- JACOBS FLORENTINE LAWYERS

**SINCLAIR SIMONSEN TRUST BUILDING 470 MAIN
STREET**

PALMERSTON NORTH, NEW ZEALAND

**FOR: BEERS; MINERAL AND AERATED WA-
TERS; SOFT DRINKS; FRUIT DRINKS AND FRUIT
JUICES; SYRUPS, POWDERS AND CONCEN-
TRATES FOR MAKING SOFT DRINKS, FRUIT**

**DRINKS AND FRUIT JUICES, IN CLASS 32 (U.S.
CLS. 45, 46 AND 48).**

**FOR: ALCOHOLIC BEVERAGES, NAMELY,
RUM, GIN, WHISKEY AND VODKA, IN CLASS 33
(U.S. CLS. 47 AND 49).**

**PRIORITY CLAIMED UNDER SEC. 44(D) ON
NEW ZEALAND APPLICATION NO. 667059, FILED
10-18-2002, REG. NO. 667059, DATED 7-7-2003, EX-
PIRES 10-18-2009.**

**PRIORITY CLAIMED UNDER SEC. 44(D) ON
NEW ZEALAND APPLICATION NO. 667057, FILED
10-18-2002, REG. NO. 667057, DATED 6-9-2003, EX-
PIRES 10-18-2009.**

SER. NO. 76-502,086, FILED 3-21-2003.

LINDA M. KING, EXAMINING ATTORNEY

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP
12400 WILSHIRE BLVD., 7TH FLOOR
LOS ANGELES, CALIFORNIA 90025
(310) 207-3900

California Bank & Trust
18150 Ventura Blvd
Encino, CA 91436

002029

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380

2029

March 16, 2006

TO THE
FR OF

Director of the United States Patent and Trademark Office

***THREE HUNDRED & NO/100**

\$ ***\$300.00**

DOLLARS

Director of the United States
Patent and Trademark Office

⑆002029⑆ ⑆122003395⑆ 380012510 ⑆⑆

BLV, SOKOLOFF, TAYLOR & ZAFMAN, LLP

CHECK NO: 002029

2029

DOR NO.: 000326

NAME: Director of the United States

CHECK DATE: 03/16/2006

Invoice:
261.M005

03/16/06 Amount:

300.00

in Hopkins and Patent and Trademark Office fee for Notice of Opposition

Serial/Reg No.: _____ Filing/Reg. Date: _____

Client: Don Hopkins Mark: GO HARD XTREME 76/1636,649

Title: Notice of Opposition Atty/Secy Initials: DA/ann

BSTZ File No.: 0372201, MODS Docket Due Date: 3/18/06

Date Mailed: 3/16/06

The Following has been received in the U.S. Patent & Trademark Office on the date stamped hereon:

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- Assignment (# of pages: _____)
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- Cert./Express Mail # _____
- Declaration (# of pages: _____)
- Drawings page _____
- Extension of Time (Request # _____) *attach request*
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- # of TM/SM Specimens _____
- Postcard
- Power of Attorney
- Proof of Service
- Section 8 & 15 Affidavits (# of pages: _____)
- Statement of Use (# of pages: _____)
- Trademark/Service Mark Application (# of pages: _____)
- Trademark/Service Mark Intent to Use Application (# of pages: _____)
- Trademark/Service Mark Renewal Application (# of pages: _____)
- Transmittal Letter (original & copy)

Check No. 2029
Amt: \$300.00

Check No. _____
Amt: _____