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

Proceeding	91181448
Party	Plaintiff Jeff Brown
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

**In the Matter of Application Serial No. 77040379 [
Published in the *Official Gazette* on October 30, 2007**

Jeff Brown Opposer, - against - Patriot Guard Riders, Inc., Applicant.	Opposition No. 91181448 July 31, 2009
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AMENDED NOTICE OF OPPOSITION

Jeff Brown, ("Opposer") opposes the grant of the application of Patriot Guard Riders, Inc. ("Applicant") to register the mark "PATRIOT GUARD RIDERS RIDING WITH RESPECT and design" for "Organizing and conducting support groups in the field of combat veterans and their families" in International Class 45.

COUNT ONE

1. Since November 9, 2005, Opposer has continuously used the mark PATRIOT GUARD RIDERS in interstate commerce, for a wide variety of goods and Services, and Opposer has been actively expanding its use of the mark. Opposer has been using its PATRIOT GUARD RIDER and design in connection with a variety of goods and services, namely Metal license plates, Ornamental pins, Cloth banners; Fabric flags, Hats; Short-sleeved or long-sleeved t-shirts; Embroidered patches for clothing and association services, namely, promoting the interests of families of deceased military members and families of deceased veterans as specified below:

2. Opposer is the owner of the following federal trademark application: (a) No. 77041061 filed on the Principal Register on November 9, 2006, for the trademark PATRIOT GUARD RIDER for:

International Class: 006

Metal license plates

First Use Date: 2005-12-09

First Use in Commerce Date: 2005-12-09

International Class: 014

Ornamental pins

First Use Date: 2005-12-14

First Use in Commerce Date: 2005-12-14

International Class: 024

Cloth banners; Fabric flags

First Use Date: 2005-11-29

First Use in Commerce Date: 2005-11-29

International Class: 025

Hats; Short-sleeved or long-sleeved t-shirts

First Use Date: 2005-12-08

First Use in Commerce Date: 2005-12-08

International Class: 026

Embroidered patches for clothing

First Use Date: 2005-12-23

First Use in Commerce Date: 2005-12-23

International Class: 035

Association services, namely, promoting the interests of families of deceased military members and families of deceased veterans

First Use Date: 2005-10-27

First Use in Commerce Date: 2005-11-09

3. Opposer and its licensees have used the PATRIOT GUARD RIDER trademarks in connection with the sale and provision of a variety of goods and Services in United States commerce since 2005.

4. As a result of the widespread use in interstate commerce by the Opposer and its licensees of the aforesaid trademarks in connection with a wide variety of goods and services, the marks have acquired extensive goodwill, have developed a high degree of distinctiveness and are well known and recognized as identifying high quality goods and services which have their origin with or have been authorized by the Opposer.

5. Applicant's mark PATRIOT GUARD RIDERS RIDING WITH RESPECT is essentially identical to Opposer's trademarks in sound, appearance and commercial impression, and in fact specimens submitted on August 23, 2007 in response to the Examiner's requirement are in fact photographs of Opposer's goods, as evidenced by the use of PATRIOT GUARD RIDER in the singular on the pins, rather than PATRIOT GUARD RIDERS as the mark appears in the drawing for Applicant's mark.

6. Applicant operated its association services by means of a license from Opposer and was aware of Opposer's use of the virtually identical mark in

connection with association services and a variety of goods at the time Application No. 77040379 for the mark PATRIOT GUARD RIDERS RIDING WITH RESPECT was filed, despite Applicant's declaration that declares that "he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true."

7. Applicant's use of the mark PATRIOT GUARD RIDERS were by way of a license.

8. Applicant's filings of 77/040379 and 77383586 were not authorized by the Opposer.

9. Applicant's services as identified in its PATRIOT GUARD RIDERS RIDING WITH RESPECT are related to the goods and Services sold and provided in connection with Opposer's PATRIOT GUARD RIDER mark and/or travel and/or be promoted through the same channels of trade for sale to, and use by, the same class of purchasers.

10. Applicant's later filed application, 77383586, for the mark PATRIOT GUARD RIDERS, which Applicant earlier sought to be considered in this proceeding and which application is now suspended pending the outcome of this opposition, identifies goods identical or closely related to those in Opposer's application 77041061.

11. Applicant's use of the mark PATRIOT GUARD RIDERS in connection with its proposed goods and Services is likely to cause confusion, mistake or deception as to the source of origin of Applicant's goods and Services in that the public, the trade and others are likely to believe that Applicant's goods and Services are: (a) the same goods and Services as Opposer's; or (b) provided by, sponsored by, approved by, licensed by, affiliated with or in some other way legitimately connected to Opposer and/or its goods, Services or licensed products.

COUNT TWO

12. Opposer repeats and realleges the allegations set forth in paragraphs 1 through 9 as though set forth herein.

13. Applicant's claims of ownership of the mark in Application No. 77/040379 were fraudulent, in that Applicant was aware of Opposer's use of the virtually identical mark and was aware of Opposer's claim of ownership.

14. Applicant's claims of use in Application No. 77383586 on:

Ornamental pins; commemorative coins. FIRST USE: 20051214. FIRST USE IN COMMERCE: 20051214

Cloth banners; fabric flags. FIRST USE: 20051129. FIRST USE IN COMMERCE: 20051129

Hats; short-sleeved and long-sleeved t-shirts; sweatshirts; do rags. FIRST USE: 20051208. FIRST USE IN COMMERCE: 20051208

Embroidered patches for clothing; armbands. FIRST USE: 20051223. FIRST USE IN COMMERCE: 20051223

Are fraudulent in that the Applicant had not used the mark on any of those goods as claimed in the application.

WHEREFORE, Opposer respectfully requests that this opposition be sustained and Applicant's application to register the marks PATRIOT GUARD RIDERS and PATRIOT GUARD RIDERS RIDING WITH RESPECT be denied in all respects.

Dated: August 4th, 2009

Respectfully submitted,

/RachelBlue/