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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

In accordance with the order of the TTAB dated March 1, 2010, Jeff Brown, ("Opposer") submits herewith the "clean copy" required by that order, and sets forth below the claims of priority and likelihood of confusion from his amended notice of opposition and the claims of fraud from his original notice of opposition, and further strikes any issues or references relating to Application No. 77383586 as ordered.

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 LIKELIHOOD OF CONFUSION

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.

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, as reflected by the specimens submitted therewith which reflect the mark as it is shown in the Opposer's application.¹ 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 filing of 77/040379 was 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 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.

¹ The Opposer acknowledges the statement by the board that the fact that the specimens filed by the Applicant do not match the mark identified in the application is an issue to be raised during examination. Opposer raises the issue of the specimen not to support the complaint of fraud, but rather to support the allegation that Applicant's actual use of the mark was through a license from the Opposer and is therefore likely to cause confusion as to source as that allegation was properly made in the amended notice of opposition.

COUNT TWO FRAUD

11. Opposer repeats and realleges the allegations set forth in paragraphs 1 through 10 as though set forth herein.

12. The opposed application and that of the opposer were filed on the same day². Opposer's application reflects his earlier use of the mark in commerce, at least as early as 2005. The application filed by PGR, INC. was initiated by an individual who is no longer an officer or member of the board of directors of that organization and who filed the application without authorization and with full knowledge of Mr. Brown's prior rights in the mark.

13. PGR, INC. was well aware that Mr. Brown had founded the organization, still in its infancy at that point, and that Mr. Brown had prior use of the mark not only on the organization's services, but also on the merchandise that he produced using the name. The affidavit that PGR, Inc. knew of no other party entitled to use the mark PATRIOT GUARD RIDERS was fraudulent.

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

Respectfully submitted,



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March 11, 2010

² Although the original notice of opposition indicated that the applications were filed "within minutes" of each other, Opposer concedes that while there is no doubt the applications were filed on the same day, the difference in time may more accurately be measured in hours.

CERTIFICATE OF MAILING

I hereby certify on this 11th day of March, 2010, that a true and correct copy of the above and foregoing document was sent via e-mail and via U.S. Mail, postage prepaid, to the following:

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