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

Proceeding	91181448
Party	Defendant Patriot Guard Riders, Inc.
Correspondence Address	James R. Foley Trexler, Bushnell, Giangiorgi, Blackston 105 West Adams St., 36th Floor Chicago, IL 60603 UNITED STATES dmarr@trexlaw.com, ptodocket@trexlaw.com
Submission	Answer
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Signature	/James A. O'Malley/
Date	03/31/2010
Attachments	AnswertoAmendedNoticeofOpposition.pdf (5 pages)(78696 bytes)

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

In the Matter of Application Serial No. 77/040,379
Published in the *Official Gazette* on October 30, 2007

JEFF BROWN,	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. 91181448
	)	
PATRIOT GUARD RIDERS, INC.,	)	
	)	
Applicant.	)	

APPLICANT'S ANSWER TO
OPPOSER'S AMENDED NOTICE OF OPPOSITION (CLEAN COPY)

Applicant, Patriot Guard Riders, Inc., by and through its undersigned counsel, hereby answers the Amended Notice of Opposition (Clean Copy) filed by Opposer, Jeff Brown, in the above-captioned matter, in accordance with 37 CFR §2.106(b), as follows:

1. Denied.

2. Denied.

3. Denied.

4. Denied.

5. Denied.

6. Denied.

7. Denied.

8. Applicant admits that Opposer did not "authorize" Applicant's filing of United States Trademark Application No. 77/040,379, but denies that Opposer has any prior, superior and/or exclusive rights in the United States in the mark identified in Application No. 77/040,379 *vis-a-vis* Applicant which would have required Applicant to seek Opposer's "authorization" prior to filing Application No. 77/040,379.

9. Denied.

10. Denied.

11. Applicant repeats its responses to the allegations set forth in paragraphs 1 through 10.

12. Denied.

13. Denied.

DEFENSES

FURTHERMORE, in accordance with 37 CFR §2.106(b), Applicant sets forth the following defenses: acquiescence; fraud; unclean hands; failure to plead fraud with particularity; Applicant has priority over Opposer, such that any rights Opposer may have with regard to the pleaded marks are inferior to Applicant's rights; Opposer's dates of first use in his trademark application are false; first use of both Opposer's pleaded mark and Applicant's pleaded mark was by, or on behalf of, Applicant; Opposer's use of the pleaded marks was done on behalf of Applicant in Opposer's capacity as a founder and leader of Applicant; Opposer never claimed individual ownership, acted as an individual owner, nor licensed use of the pleaded marks, either expressly or impliedly-in-fact, to Applicant; the first sale of goods bearing the pleaded marks was

after the first use of the pleaded marks in connection with services provided; Applicant authorized the filing of its trademark application for its pleaded mark; Applicant did not have any knowledge or belief that Opposer had any prior or superior rights in Applicant's pleaded mark at the time Applicant's trademark application was filed; and the Declaration forming part of Applicant's application for the pleaded mark was executed truthfully.

OBJECTIONS

In addition to the foregoing, Applicant objects to the form of Opposer's Amended Notice of Opposition (Clean Copy) on the following bases: Opposer's Amended Notice of Opposition (Clean Copy) is not double-spaced as specifically required in accordance with 37 CFR §2.126 and TBMP §309.02; Opposer's Amended Notice of Opposition (Clean Copy) does not include a description of the capacity in which the signing individual signed as specifically required in accordance with TBMP §309.02(a); and Opposer's Amended Notice of Opposition (Clean Copy) does not include either Opposer's entity type or Opposer's business address in accordance with TBMP §309.02(a).

WHEREFORE, Applicant prays that:

A. Judgment be entered herein in favor of Applicant and against Opposer on Opposer's Likelihood of Confusion claim and on Opposer's Fraud claim;

B. Opposer's Amended Notice of Opposition (Clean Copy) be dismissed with prejudice; and

C. Applicant's Federal Trademark Application be allowed to proceed toward registration.

Respectfully submitted,

PATRIOT GUARD RIDERS, INC.

By: _____

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Attorneys for Applicant

AM2376

CERTIFICATE OF MAILING

I hereby certify on this 31st day of March 2010, that a true and correct copy of *"Applicant's Answer to Opposer's Amended Notice of Opposition (Clean Copy)"* was sent via e-mail and via U.S. mail, postage prepaid, to the following:

Rachel Blue
McAfee & Taft
100 West 5th Street, Suite 500
Tulsa, Oklahoma 74103
Rachel.Blue@mcafeetaft.com

By: _____
One of Applicant's Attorneys