

ESTTA Tracking number: **ESTTA219397**

Filing date: **06/20/2008**

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

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Buffalo Brothers Inc. d/b/a Buffalo Brothers Pizza and Wings		
Entity	Corporation	Citizenship	North Carolina
Address	590 E. Chatham Street Suite 102 Cary, NC 27511 UNITED STATES		

Attorney information	Edward H. Green Coats & Bennett, PLLC 1400 Crescent Green Suite 300 Cary, NC 27518 UNITED STATES egreen@coatsandbennett.com, lmorey@coatsandbennett.com, vswanson@coatsandbennett.com Phone:(919) 854-1844		
----------------------	--	--	--

Applicant Information

Application No	77379383	Publication date	06/10/2008
Opposition Filing Date	06/20/2008	Opposition Period Ends	07/10/2008
Applicant	E & J Buffalo Brothers, LLC 3015 S. University Drive Fort Worth, TX 76109 UNITED STATES		

Goods/Services Affected by Opposition

Class 043. First Use: 2007/11/05 First Use In Commerce: 2007/11/05 All goods and services in the class are opposed, namely: restaurant and bar services
--

Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	77443516	Application Date	04/09/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BUFFALO BROTHERS		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 043. First use: First Use: 2002/02/06 First Use In Commerce: 2002/02/06 Bar and restaurant services

Attachments	77443516#TMSN.jpeg (1 page)(bytes) Notice of Opposition.pdf (3 pages)(26910 bytes)
-------------	--

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/s/ Edward H. Green
Name	Edward H. Green
Date	06/20/2008

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

**In the matter of trademark application Serial No. 77/379383
For the mark BUFFALO BROS
Published in the Official Gazette on June 10, 2008**

BUFFALO BROTHERS, INC. d/b/a)
BUFFALO BROTHERS PIZZA AND)
WINGS CO.,)
)
Opposer,)
)
v.)
)
E&J BUFFALO BROTHERS, LLC)
)
Applicant.)

Opposition No: _____

NOTICE OF OPPOSITION

Buffalo Brothers, Inc. d/b/a Buffalo Brothers Pizza and Wings Co. (“Opposer”) believes that it will be damaged by the registration of E&J Buffalo Brothers, LLC’s (“Applicant”) BUFFALO BROS mark in the trademark application Serial No.: 77/379383 and hereby opposes the same.

The grounds for opposition are as follows:

1. Opposer is a corporation in the State of North Carolina with its principal place of business in Raleigh, North Carolina.
2. Opposer has been in business as BUFFALO BROTHERS PIZZA AND WINGS CO. since 2002.
3. Opposer has used the BUFFALO BROTHERS trademark in connection with its bar and restaurant since February 6, 2002.
4. Opposer’s use of the BUFFALO BROTHERS mark in connection with its bar and restaurant has been sufficiently continuous and exclusive to confer upon it nationwide ownership of and common law rights in the BUFFALO BROTHERS mark.

5. Applicant submitted a U.S. trademark application for the BUFFALO BROS mark, Serial No.: 77/379383, which was published for opposition on June 10, 2008. Applicant's mark is used in conjunction with restaurant and bar services. Applicant's first use in commerce was November 5, 2007.

6. Opposer's rights to the BUFFALO BROTHERS mark are senior to any purported rights claimed by Applicant in its application.

7. Upon information and belief, Applicant's proposed registration of the BUFFALO BROS mark will damage Opposer on the following grounds:

- a. The proposed mark is likely to be confused with Opposer's prior common law marks;
- b. The proposed mark uses a name that falsely identifies Applicant with Opposer.

8. Applicant is not entitled to registration of the proposed BUFFALO BROS mark. Opposer respectfully requests that the proposed mark be denied.

Respectfully submitted, this the 20th day of June, 2008.

COATS & BENNETT, PLLC
Attorneys for Opposer

By: /s/ Edward H. Green
Edward H. Green
1400 Crescent Green, Suite 300
Cary, North Carolina 27518
Telephone: (919) 854-1844
Facsimile: (919) 854-2084

CERTIFICATE OF SERVICE

I hereby certify that on this the 20th day of June, 2008, a copy of the foregoing **NOTICE OF OPPOSITION** was served upon the correspondent of record for Applicant by placing a copy thereof in the United States mail, postage prepaid and addressed as follows:

Clark R. Cowley
David Childress
Whitaker, Chalk, Swindle & Sawyer, L.L.P.
301 Commerce Street
Suite 3500
Fort Worth, Texas 76102

/s/ Edward H. Green
Edward H. Green
Attorney for Opposer