

ESTTA Tracking number: **ESTTA258694**

Filing date: **01/05/2009**

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	The Susan G. Komen Breast Cancer Foundation, Inc.
Granted to Date of previous extension	01/14/2009
Address	5005 LBJ Freeway Suite 250 Dallas, TX 75244 UNITED STATES

Attorney information	Molly Buck Richard Richard Law Group 8411 Preston Road Suite 890 Dallas, TX 75225 UNITED STATES molly@richardlawgroup.com Phone:214-206-4301
----------------------	---

Applicant Information

Application No	77341034	Publication date	09/16/2008
Opposition Filing Date	01/05/2009	Opposition Period Ends	01/14/2009
Applicant	Covault, Andrew J 7615 Southwold Ct. Cumming, GA 30041 UNITED STATES		

Goods/Services Affected by Opposition

Class 021. First Use: 2005/02/16 First Use In Commerce: 2005/09/08 All goods and services in the class are opposed, namely: portable beverage dispensers, drinking vessels; waist pack and backpack-style containers sold empty, namely, drinking vessels which are made to fit in backpack compartments; insulation wraps and sleeves and clothing articles for drinking vessels and beverage dispensers, namely, insulating sleeve holders for beverage cans

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1593469	Application Date	11/25/1988
Registration Date	04/24/1990	Foreign Priority Date	NONE

Word Mark	RACE FOR THE CURE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1983/09/01 First Use In Commerce: 1986/04/01 ORGANIZING AND CONDUCTING FOOT RACES TO RAISE MONEY FOR BREAST CANCER RESEARCH AND LOCAL COMMUNITY BREAST HEALTH AWARENESS PROGRAMS		

U.S. Registration No.	2532389	Application Date	12/04/1997
Registration Date	01/22/2002	Foreign Priority Date	NONE

Word Mark	COOK FOR THE CURE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 2001/07/00 First Use In Commerce: 2001/07/00 CHARITABLE FUNDRAISING SERVICES FOR BREAST CANCER RESEARCH AND LOCAL COMMUNITY BREAST HEALTH AWARENESS PROGRAMS		

U.S. Registration No.	3406264	Application Date	03/01/2007
Registration Date	04/01/2008	Foreign Priority Date	NONE

Word Mark	BAKE FOR THE CURE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 2007/10/00 First Use In Commerce: 2007/10/00 Charitable fundraising services, namely, raising money for breast cancer research and breast health awareness programs		

U.S. Registration No.	2265471	Application Date	06/18/1997
Registration Date	07/27/1999	Foreign Priority Date	NONE

Word Mark	WORKOUT FOR THE CURE		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 036. First use: First Use: 1996/11/00 First Use In Commerce: 1996/11/00 charitable fundraising services for breast cancer research and local community breast health awareness programs

U.S. Registration No.	2265484	Application Date	07/03/1997
Registration Date	07/27/1999	Foreign Priority Date	NONE

Word Mark	RALLY FOR THE CURE
-----------	--------------------

Design Mark	RALLY FOR THE CURE
-------------	---------------------------

Description of Mark	NONE
---------------------	------

Goods/Services	Class 036. First use: First Use: 1996/04/00 First Use In Commerce: 1996/04/00 charitable fundraising services for breast cancer research and local community breast health awareness programs
----------------	---

Attachments	77119467#TMSN.jpeg (1 page)(bytes) 75319375#TMSN.gif (1 page)(bytes) Hydrate for the Cure.pdf (7 pages)(618602 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	/Molly Buck Richard/
Name	Molly Buck Richard
Date	01/05/2009

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

The Susan G. Komen)	
Breast Cancer Foundation, Inc.)	
)	
Opposer)	
)	
v.)	Opposition No. _____
Andrew Covault)	
)	
Applicant.)	

NOTICE OF OPPOSITION

The Susan G. Komen Breast Cancer Foundation, Inc., d/b/a Susan G. Komen for the Cure (hereinafter "Opposer" or "Komen") files this Notice of Opposition against Application Serial No. 77/341,034 filed by Andrew Covault (hereinafter "Applicant") and in support thereof would show as follows:

1. Applicant has filed an application based on alleged used in commerce since September 8, 2005 for the mark HYDRATE FOR THE CURE in connection with "portable beverage dispensers, drinking vessels; waist pack and backpack-style containers sold empty, namely drinking vessels which are made to fit in backpack compartments; insulation wraps and sleeves and clothing articles for drinking vessels and beverage dispensers, namely, insulating sleeve holders for beverage cans" in International Class 21, which application was filed on November 30, 2007.

2. Opposer was founded in 1982 for charitable fundraising services, namely, raising money for breast cancer research and raising money for breast health awareness and promoting breast health awareness programs.

3. Opposer is the owner of numerous trademarks that include the words "FOR THE CURE" in connection with charitable fundraising services and has been using these trademarks for many years. Of significance is Opposer's registration for the mark RACE FOR THE CURE which issued in November of 1988 under Registration No. 1,593,469 and is one of Opposer's most famous marks.

4. Many of Opposer's fundraising/awareness services are partnered with different companies' goods and services. For example, Opposer's mark COOK FOR THE CURE is used in conjunction with the sale of KitchenAid's stand mixers where a portion of its sales are donated to Opposer. The mark BAKE FOR THE CURE is used in connection with specially marked packages of cornstarch, yeast, syrup, cooking oil and vanilla with ACH Food Companies, and RALLY FOR THE CURE is used with Conde Nast Publications.

5. Opposer has had programs with well-known companies, including beverage companies such as Fuze Beverages and the consuming public would associate goods bearing the mark HYDRATE FOR THE CURE as benefiting Opposer's efforts in its global breast cancer movement.

6. As a result of offering its services under the family of "FOR THE CURE" trademarks, Opposer has built up substantial goodwill in the marks and the marks have come to signify goods and services originating with Opposer.

7. There is a likelihood of confusion that the general public and others familiar with Opposer's family of "FOR THE CURE" trademarks, upon seeing Applicant's goods sold under the mark HYDRATE FOR THE CURE mark, would be confused and would believe that such goods originated from Opposer or were offered in association or affiliation with, or under authorization by, Opposer.

8. Opposer was using its family of "FOR THE CURE" trademarks long prior to the filing date or the date of first use of Applicant's mark. If Applicant's mark is allowed to issue to registration in connection with its goods, Opposer will be damaged by the registration.

9. Additionally, Opposer's trademarks, including RACE FOR THE CURE, are famous marks that were famous prior to Applicant's filing date and Applicant's mark is likely to dilute Opposer's marks.

WHEREFORE, Opposer prays that this Opposition be granted and that Applicant be denied registration for the mark HYDRATE FOR THE CURE.

Respectfully submitted,

/Molly Buck Richard/
Molly Buck Richard
molly@richardlawgroup.com
RICHARD LAW GROUP, INC.
8411 Preston Road, Suite 890
Dallas, Texas 75225
Telephone: (214) 206-4300
Facsimile: (214) 206-4330

Counsel for Opposer

CERTIFICATE OF SERVICE

I hereby certify that on January 5, 2009, the foregoing document was served upon Applicant at 7615 Southwold Ct., Cumming, GA 30041 by U.S. mail, postage prepaid.

/Molly Buck Richard/
MOLLY BUCK RICHARD

KOMEN FOR THE CURE Trademarks

1/5/2009

TrademarkName	TrademarkStatus	AppNumber	FileDate	RegNumber	RegDate
SUSAN G. KOMEN FOR THE CURE and Design	Pending		27-Dec-2008		
RACE FOR THE CURE	Registered		19-Mar-2003	59,106	28-Oct-2004
RALLY FOR THE CURE	Pending	Unknown	03-Oct-2008		
CRUNCH FOR THE CURE	Allowed	78/777,719	20-Dec-2005	3,170,181	07-Nov-2006
NURSES FOR THE CURE	Registered	78/668,720	12-Jul-2005	3,109,295	27-Jun-2006
KNIT FOR THE CURE	Registered	78/668,697	12-Jul-2005	3,106,808	20-Jun-2006
GARDENS FOR THE CURE	Registered	78/688,740	09-Aug-2005	3,106,940	20-Jun-2006
CUISINE FOR THE CURE	Registered	78/712,861	14-Sep-2005	3,106,951	20-Jun-2006
DIG FOR THE CURE	Registered	78/791,088	13-Jan-2006	3,106,978	20-Jun-2006
ON DECK FOR THE CURE	Allowed	78/805,285	02-Feb-2006	3,399,816	18-Mar-2008
SUSAN G. KOMEN FOR THE CURE	Allowed	78/823,628	26-Feb-2006	3,309,531	09-Oct-2007
SUSAN G. KOMEN FOR THE CURE and Design	Allowed	78/823,630	26-Feb-2006	3,309,532	09-Oct-2007
BICYCLE FOR THE CURE	Registered	78/841,407	20-Mar-2006	3,194,062	02-Jan-2007
SKI FOR THE CURE	Registered	78/883,547	15-May-2006	3,183,918	12-Dec-2006
PINK FOR THE CURE	Allowed	78/899,645	02-Jun-2006		
PASSIONATELY PINK FOR THE CURE	Allowed	78/899,648	02-Jun-2006	3,309,806	09-Oct-2007
SUSAN G. KOMEN RACE FOR THE CURE and Design	Registered	78/942,503	01-Aug-2006	3,424,712	06-May-2008
PITCH FOR THE CURE	Registered	78/725,741	03-Oct-2005	3,236,109	01-May-2007
SOLD FOR THE CURE	Registered	77/079,996	10-Jan-2007	3,395,516	11-Mar-2008
READ FOR THE CURE	Registered	77/082,936	15-Jan-2007	3,395,524	11-Mar-2008
CATERING FOR THE CURE	Registered	77/099,006	05-Feb-2007	3,297,073	25-Sep-2007
TRY IT ON FOR THE CURE	Registered	77/113,590	22-Feb-2007	3,316,896	23-Oct-2007
BAKE FOR THE CURE	Registered	77/119,467	01-Mar-2007	3,406,264	01-Apr-2008
DVDS FOR THE CURE	Registered	77/145,854	02-Apr-2007	3,366,551	08-Jan-2008
NEWS FOR THE CURE	Registered	77/179,924	14-May-2007	3,368,929	15-Jan-2008
KHAKIS FOR THE CURE	Published	77/197,706	05-Jun-2007		
GO ALL IN FOR THE CURE	Registered	77/214,157	25-Jun-2007	3,365,542	08-Jan-2008
I VOTE FOR THE CURE	Allowed	77/273,304	06-Sep-2007	3,506,244	23-Sep-2008
DRIVE FOR THE CURE	Registered	75/248,137	26-Feb-1997	2,319,666	15-Feb-2000
SHOOT FOR THE CURE	Registered	75/282,187	28-Apr-1997	2,183,034	18-Aug-1998
WORKOUT FOR THE CURE	Registered	75/311,140	18-Jun-1997	2,265,471	27-Jul-1999
DOCTORS FOR THE CURE	Registered	75/311,136	18-Jun-1997	2,215,945	05-Jan-1999
RALLY FOR THE CURE	Registered	75/319,375	03-Jul-1997	2,265,484	27-Jul-1999

KOMEN FOR THE CURE Trademarks

1/5/2009

TrademarkName	TrademarkStatus	AppNumber	FillDate	RegNumber	RegDate
CARDS FOR THE CURE	Registered	75/443,386	02-Mar-1998	2,402,451	07-Nov-2000
ROW FOR THE CURE	Registered	75/362,336	24-Sep-1997	2,276,561	07-Sep-1999
COOK FOR THE CURE	Registered	75/399,870	04-Dec-1997	2,532,389	22-Jan-2002
HOOPS FOR THE CURE	Registered	75/417,457	13-Jan-1998	2,659,775	10-Dec-2002
RIDE FOR THE CURE	Registered	75/710,950	21-May-1999	2,332,900	21-Mar-2000
RACE FOR THE CURE	Registered	73/765,499	25-Nov-1988	1,593,469	24-Apr-1990
SWING FOR THE CURE	Registered	74/724,540	05-Sep-1995	2,082,936	29-Jul-1997
FRIENDS FOR THE CURE	Registered	75/081,429	01-Apr-1996	2,081,087	22-Jul-1997
MEN FOR THE CURE	Registered	75/081,427	01-Apr-1996	2,075,352	01-Jul-1997
GOLF FOR THE CURE	Registered	75/081,428	01-Apr-1996	2,109,850	28-Oct-1997
SHOP FOR THE CURE	Registered	75/081,474	01-Apr-1996	2,152,902	21-Apr-1998
CHAMPIONS FOR THE CURE	Registered	75/200,294	19-Nov-1996	2,276,329	07-Sep-1999
VOLLEY FOR THE CURE	Registered	75/472,950	23-Apr-1998	2,646,030	05-Nov-2002
DREAM FOR THE CURE	Registered	75/473,314	23-Apr-1998	2,365,099	04-Jul-2000
BOARD BREAKS FOR THE CURE	Registered	75/483,686	12-May-1998	2,264,720	27-Jul-1999
A CRUISE FOR THE CURE	Registered	75/483,688	12-May-1998	2,591,887	09-Jul-2002
KIDS FOR THE CURE	Registered	75/483,697	12-May-1998	2,406,792	21-Nov-2000
TEENS FOR THE CURE	Registered	75/588,239	13-Nov-1998	2,307,452	11-Jan-2000
BOWL FOR THE CURE	Registered	75/696,434	30-Apr-1999	2,456,100	29-May-2001
SING FOR THE CURE	Registered	75/698,531	04-May-1999	2,456,102	29-May-2001
FOR THE CURE	Registered	75/724,749	08-Jun-1999	2,362,027	27-Jun-2000
KICKS FOR THE CURE	Registered	75/774,138	12-Aug-1999	2,618,567	10-Sep-2002
TEAMING UP FOR THE CURE	Registered	75/883954	30-Dec-1999	2,502,991	30-Oct-2001
CHECKS FOR THE CURE	Registered	75/883955	30-Dec-1999	2,491,434	18-Sep-2001
STYLE FOR THE CURE	Registered	76/066,877	09-Jun-2000	2,461,720	19-Jun-2001
RESTAURANTS FOR THE CURE	Registered	76/066,879	09-Jun-2000	2,636,491	15-Oct-2002
CUT FOR THE CURE	Registered	76/066,880	09-Jun-2000	2,742,821	29-Jul-2003
SMILE FOR THE CURE	Registered	76/066876	09-Jun-2000	2,500,021	23-Oct-2001
PLANT FOR THE CURE	Registered	76/070,354	13-Jun-2000	2,455,414	29-May-2001
SAIL FOR THE CURE	Registered	76/070,372	13-Jun-2000	2,685,237	11-Feb-2003
CRUISIN' FOR THE CURE	Registered	76/094,117	21-Jul-2000	3,151,180	03-Oct-2006
MEET FOR THE CURE	Registered	76/205,423	05-Feb-2001	2,650,422	12-Nov-2002
BOUQUETS FOR THE CURE	Registered	76/246,238	25-Apr-2001	2,504,727	06-Nov-2001

KOMEN FOR THE CURE Trademarks

1/5/2009

TrademarkName	TrademarkStatus	AppNumber	FileDate	RegNumber	RegDate
PLEDGE FOR THE CURE	Registered	76/244,107	20-Apr-2001	2,567,202	07-May-2002
CHARGE FOR THE CURE	Registered	76/262,428	24-May-2001	2,689,275	18-Feb-2003
SCOOP FOR THE CURE	Registered	76/308,409	04-Sep-2001	2,573,596	28-May-2002
SEARCH FOR THE CURE	Registered	76/327,065	16-Oct-2001	2,573,702	28-May-2002
LACE UP FOR THE CURE	Registered	76/365,640	31-Jan-2002	2,694,111	04-Mar-2003
FIT FOR THE CURE	Registered	76/161,131	07-Nov-2000	2,560,355	09-Apr-2002
CLICK FOR THE CURE	Registered	76/332,403	25-Oct-2001	2,588,482	02-Jul-2002
DANCE FOR THE CURE	Registered	75/934,887	03-Mar-2000	2,548,209	12-Mar-2002
PINK TULIPS FOR THE CURE	Registered	76/205,015	02-Feb-2001	2,539,998	19-Feb-2002
BLUES FOR THE CURE	Registered	76/403,461	03-May-2002	2,889,701	28-Sep-2004
DO SOMETHING GOOD FOR THE CURE	Registered	76/403,462	03-May-2002	2,726,791	17-Jun-2003
DONATIONS FOR THE CURE	Registered	76/403,457	03-May-2002	2,731,631	01-Jul-2003
HEARTS FOR THE CURE	Registered	78/135,760	14-Jun-2002	2,709,504	22-Apr-2003
CLEAN FOR THE CURE	Registered	76/446,780	03-Sep-2002	2,734,577	08-Jul-2003
LAUGH FOR THE CURE	Registered	76/446,781	03-Sep-2002	2,734,578	08-Jul-2003
LUNCH FOR THE CURE	Registered	76/454,611	02-Oct-2002	2,758,586	02-Sep-2003
TEE IT UP FOR THE CURE	Registered	76/586,704	14-Apr-2004	2,956,799	31-May-2005
CHEF'S NIGHT OUT FOR THE CURE	Registered	76/586,706	14-Apr-2004	2,956,801	31-May-2005
KICKOFF FOR THE CURE	Registered	76/586,707	14-Apr-2004	2,956,802	31-May-2005
SLEEP IN FOR THE CURE	Registered	76/516,417	23-May-2003	2,857,552	29-Jun-2004
LIGHTS FOR THE CURE	Registered	76/455,280	03-Oct-2002	2,933,643	15-Mar-2005
DINE OUT FOR THE CURE	Registered	76/503,523	02-Apr-2003	2,816,730	24-Feb-2004
BUILD FOR THE CURE & Design	Registered	78/915,247	23-Jun-2006	3,211,475	20-Feb-2007
CROP FOR THE CURE	Registered	76/372,725	20-Feb-2002	2,976,863	26-Jul-2005
SERVE FOR THE CURE	Registered	76/011,298	27-Mar-2000	2,656,943	03-Dec-2002
SIP FOR THE CURE	Registered	76/161,132	07-Nov-2000	2,689,149	18-Feb-2003
DECORATE FOR THE CURE	Registered	76/389,376	28-Mar-2002	2,733,292	01-Jul-2003
PAINT FOR THE CURE	Registered	76/119,665	29-Aug-2000	2,560,284	09-Apr-2002
BUILD FOR THE CURE	Registered	76/308,408	04-Sep-2001	2,652,698	19-Nov-2002
CAROLING FOR THE CURE	Registered	76/176,144	05-Dec-2000	2,548,484	12-Mar-2002
FASHION FOR THE CURE	Allowed	76/351,796	21-Dec-2001	3,042,143	10-Jan-2006
MILES FOR THE CURE	Published	77/452,248	18-Apr-2008		
MASSAGE FOR THE CURE	Registered	77/205,620	13-Jun-2007	3,460,699	08-Jul-2008

KOMEN FOR THE CURE Trademarks

1/5/2009

TrademarkName	TrademarkStatus	AppNumber	FileDate	RegNumber	RegDate
MASSAGE FOR THE CURE and Design	Registered	77/262,061	22-Aug-2007	3,452,621	24-Jun-2008
CONCERT FOR THE CURE	Published	77/461,725	30-Apr-2008		
FLY FOR THE CURE	Published	77/479,480	20-May-2008		
POSE FOR THE CURE	Published	77/484,403	27-May-2008		
COUTURE FOR THE CURE	Published	77/517,365	08-Jul-2008		
SHARE YOUR JOURNEY FOR THE CURE	Published	77/511,745	30-Jun-2008		
ART FOR THE CURE	Published	77/509,043	26-Jun-2008		
INSPIRATION FOR THE CURE	Published	77/509,028	26-Jun-2008		
FIESTA FOR THE CURE	Pending	77/585,215	03-Oct-2008		
COMMUTE FOR THE CURE	Pending	77/585,226	03-Oct-2008		
MARATHON FOR THE CURE	Pending	77/594,941	17-Oct-2008		
SWEETS FOR THE CURE	Pending	77/594,925	17-Oct-2008		