

ESTTA Tracking number: **ESTTA342698**

Filing date: **04/16/2010**

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 parties oppose registration of the indicated application.

Opposers Information

Name	Bass Pro Intellectual Property, LLC
Granted to Date of previous extension	05/05/2010
Address	2500 East Kearney St. Springfield, MO 65803 UNITED STATES

Name	Bass Pro Outdoor World, LLC
Granted to Date of previous extension	05/05/2010
Address	2500 East Kearney St Springfield, MO 65803 UNITED STATES

Attorney information	Ariana Gallisa Pillsbury Winthrop Shaw Pittman LLP P.O. Box 7880Calendar/Docketing Dept. San Francisco, CA 94120-7880 UNITED STATES sftrademarks@pillsburylaw.com
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Applicant Information

Application No	77794337	Publication date	01/05/2010
Opposition Filing Date	04/16/2010	Opposition Period Ends	05/05/2010
Applicant	Hauser Jr., Wayne Lee 150 Pinnacle Shores Drive Mooresville, NC 28117 UNITED STATES		

Goods/Services Affected by Opposition

Class 041. First Use: 2009/07/01 First Use In Commerce: 2009/07/01 All goods and services in the class are opposed, namely: Entertainment services, namely, providing a web site featuring photographic, audio, video and prose presentations featuring bass fishing

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.	2207865	Application Date	03/01/1996
Registration Date	12/08/1998	Foreign Priority Date	NONE
Word Mark	BASS PRO SHOPS OUTDOOR WORLD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1995/11/00 First Use In Commerce: 1995/11/00 entertainment services in the nature of radio hunting, fishing, and camping programs		

U.S. Registration No.	2487746	Application Date	04/24/1996
Registration Date	09/11/2001	Foreign Priority Date	NONE
Word Mark	BASS PRO SHOPS OUTDOOR WORLD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1997/06/01 First Use In Commerce: 1997/06/01 advertising and promoting the goods and services of others via on-line computer and computer accessible networks		

U.S. Registration No.	3690318	Application Date	06/24/2008
Registration Date	09/29/2009	Foreign Priority Date	NONE
Word Mark	BASS PRO SHOPS		

Design Mark			
Description of Mark	The mark consists of an oval with a fish on the left side of the oval and the words "BASS PRO SHOPS" within the lines of the oval.		
Goods/Services	Class 012. First use: First Use: 2008/02/29 First Use In Commerce: 2008/02/29 All-terrain and off-road utility vehicles		

U.S. Registration No.	2081740	Application Date	09/27/1996
Registration Date	07/22/1997	Foreign Priority Date	NONE
Word Mark	BASS PRO SHOPS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1974/01/00 First Use In Commerce: 1974/01/00 clothing, namely, caps, coats, jackets, pants and shirts		

U.S. Registration No.	2193041	Application Date	09/27/1996
Registration Date	10/06/1998	Foreign Priority Date	NONE
Word Mark	BASS PRO SHOPS		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 028. First use: First Use: 1971/11/00 First Use In Commerce: 1972/03/00 fishing tackle

U.S. Registration No.	2193039	Application Date	09/27/1996
Registration Date	10/06/1998	Foreign Priority Date	NONE
Word Mark	BASS PRO SHOPS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1979/01/00 First Use In Commerce: 1979/01/00 retail store services in the field of hunting, fishing and outdoor gear		

U.S. Registration No.	2191778	Application Date	09/27/1996
Registration Date	09/29/1998	Foreign Priority Date	NONE
Word Mark	BASS PRO SHOPS		

Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1974/01/00 First Use In Commerce: 1974/01/00 mail order catalogs in the field of hunting, fishing, and outdoor gear		

U.S. Registration No.	2071417	Application Date	03/01/1996
Registration Date	06/17/1997	Foreign Priority Date	NONE
Word Mark	BASS PRO SHOPS SPORTSMAN'S WAREHOUSE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1995/01/02 First Use In Commerce: 1995/01/02 retail stores featuring clothing, fishing supplies and sporting goods		

U.S. Registration No.	2093520	Application Date	09/08/1995
Registration Date	09/02/1997	Foreign Priority Date	NONE
Word Mark	BASS PRO SHOPS OUTDOOR WORLD		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 016. First use: First Use: 1996/01/00 First Use In Commerce: 1996/01/00 magazines featuring articles on fishing, hunting, and camping

U.S. Registration No.	1952297	Application Date	04/04/1994
Registration Date	01/30/1996	Foreign Priority Date	NONE

Word Mark	BASS PRO SHOPS OUTDOOR WORLD
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 042. First use: First Use: 1982/06/16 First Use In Commerce: 1982/06/16 retail sporting goods store services
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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	/Ariana Gallisa/
Name	Ariana Gallisa
Date	04/16/2010

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

Bass Pro Intellectual Property, LLC and
Bass Pro Outdoor World, LLC,

Opposers,

vs.

Wayne Lee Hauser, Jr.

Applicant.

) OPPOSITION NO.

) NOTICE OF OPPOSITION

) Trademark: -



) Serial No. 77794337

) Goods: Entertainment services, namely,
) providing a web site featuring photographic,
) audio, video and prose presentations
) featuring bass fishing in class 41.

) Published: January 5, 2010

Opposer Bass Pro Intellectual Property, LLC is a Missouri limited liability company which owns and licenses intellectual property that Opposer, Bass Pro Outdoor World, LLC, a Missouri limited liability company, uses in its ordinary course of business. The Opposers (hereinafter, collectively "Bass Pro") are related companies. Bass Pro believes that it is or will be damaged by the registration of the mark shown in Serial No. 77794337 by Wayne Lee Hauser, Jr. ("Applicant"), and hereby opposes the registration of said mark.

The grounds for the opposition are as follows:

1. Bass Pro sells and renders the following goods and services (collectively "Opposers' Goods and Services"):

Retail services, including: retail store services in the field of hunting, fishing and outdoor gear, internet and mail order catalogs in the field of hunting, fishing, and outdoor gear, retail stores featuring clothing, home furnishings, fishing supplies, hunting supplies, camping supplies and sporting goods, retail sporting goods store services; and

Entertainment and Media Goods and Services, including: providing a web site featuring photographic, audio, video and prose presentations (including instructional videos and articles, buying guides, maintenance guides) on fishing, hunting, camping, and

boating; DVD instructional videos on Bass fishing and other sportsman topics; providing an online forum for exchanging ideas about hunting, fishing and other outdoor topics; organizing, sponsoring and conducting fishing tournaments; entertainment services in the nature of fishing tournaments; entertainment in the nature of fishing competitions; entertainment in the nature of on-going television programs in the field of hunting and fishing currently shown on the Versus network and the Outdoor channel; advertising and promoting the goods and services of others via on-line computer and computer accessible networks; entertainment services in the nature of radio hunting, fishing, and camping programs; magazines featuring articles on fishing, hunting, and camping; and

Apparel, including: shirts, T-shirts, sweatshirts, jackets and headwear; and

Sporting Goods, including: fishing rods and fishing reels; fishing tackle; fishing tackle for children; batteries, personal flotation devices, namely, swim floats for safety purposes and computer game software; all-terrain and off-road utility vehicles; lottery tickets; toy vehicles, inflatable toys, plush toys, toy guns, toy action figures, toy tents, toy animals, toy bows and arrows, radio controlled toy vehicles, electronic toys.

2. In connection with Opposers' Goods and Services, Bass Pro uses the trade names and marks BASS PRO, BASS PRO SHOPS, BASS PRO SHOPS and design, thus:



; the domain names basspro.com and bassproshops.com; and Bass Pro

Intellectual Property, LLC owns the following U.S. Patent and Trademark Office registrations

(collectively "Opposers' Marks):

Mark	Registration No. Filing/Registration Date	Goods and Services
 Outdoor World	Reg. No. 2207865 Filed: March 1, 1996 Registered: December 8, 1998	041: entertainment services in the nature of radio hunting, fishing, and camping programs.
 Outdoor World	Reg. No. 2487746 Filed: April 24, 1996 Registered: September 11, 2001	035: advertising and promoting the goods and services of others via on-line computer and computer accessible networks.

Mark	Registration No. Filing/Registration Date	Goods and Services
	Reg. No. 3690318 Filed: June 24, 2008 Registered: September 29, 2009	012: All-terrain and off-road utility vehicles
	Reg. No. 2081740 Filed: September 27, 1996 Registered: July 22, 1997	025: clothing, namely, caps, coats, jackets, pants and shirts.
	Reg. No. 2193041 Filed: September 27, 1996 Registered: October 6, 1998	028: fishing tackle
	Reg. No. 2193039 Filed: September 27, 1996 Registered: October 6, 1998	035: retail store services in the field of hunting, fishing and outdoor gear.
	Reg. No. 2191778 Filed: September 27, 1996 Registered: September 29, 1998	016: mail order catalogs in the field of hunting, fishing, and outdoor gear.
 Sportsman's Warehouse	Reg. No. 2071417 Filed: March 1, 1996 Registered: June 17, 1997	042: retail stores featuring clothing, fishing supplies and sporting goods.
	Reg. No. 2093520 Filed: September 8, 1995 Registered: September 2, 1997	016: magazines featuring articles on fishing, hunting, and camping
 Outdoor World	Reg. No. 1952297 Filed: April 4, 1994 Registered: January 30, 1996	042: retail sporting goods store services.

3. Bass Pro owns a family of marks featuring the BASS PRO SHOPS and design logo displayed above for Opposers' Goods and Services.

4. Applicant has applied to register the mark shown above for “Entertainment services, namely, providing a web site featuring photographic, audio, video and prose presentations featuring bass fishing” in class 41 (“Applicant’s Mark”).

5. On information and belief, no actual or constructive use was made of Applicant’s Mark prior to July 1st, 2009; Applicant’s claimed date of first use.

6. Opposers’ Marks and family of marks are distinctive and famous and were first used in commerce, used and recognized as a family, registered, and became famous long prior to the first actual or constructive use of Applicant’s Mark.

7. Applicant’s Mark comprises a mark that so resembles Opposers’ Marks, previously used in the United States, registered in the U.S. Patent and Trademark Office, and not abandoned, as to be likely, when used on or in connection with Applicant’s services, to cause confusion, or to cause mistake, or to deceive in violation of Section 2(d) of the Lanham Act.

8. Applicant’s Mark is likely to dilute Opposers’ Marks in violation of Section 43(c) of the Act.

WHEREFORE, the Board should sustain this opposition and Application 77794337 should be refused registration.

The official fee is submitted herewith. Please charge any missing fee to Account No.

033975 Order No. 021644/0000035.

Date: April 16, 2010

Respectfully submitted,

Attorneys for Bass Pro Intellectual Property, LLC
and Bass Pro Outdoor World, LLC.

By: 
RICHARD KIRKPATRICK
ARIANA GALLISA
PILLSBURY WINTHROP SHAW PITTMAN LLP

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CERTIFICATE OF SERVICE

I, Ariana Gallisa, hereby certify that a true and complete copy of the foregoing **NOTICE OF OPPOSITION** was served on Applicant by mailing said copy on April 16, 2010 via First Class Mail in a sealed envelope with postage thereon fully prepaid, addressed as follows:

Hauser Jr., Wayne Lee
150 Pinnacle Shores Drive
Mooreville, NC 28117

Executed: April 16, 2010


Ariana Gallisá

CERTIFICATE OF FILING

I, Ariana Gallisa, hereby certify that an electronic copy of Opposers' foregoing **NOTICE OF OPPOSITION** was electronically filed on April 16, 2010 in the United States Patent and Trademark Office Before the Trademark Trial and Appeal Board Electronic Filing System.

Executed: April 16, 2010


Ariana Gallisá