

ESTTA Tracking number: **ESTTA374132**

Filing date: **10/20/2010**

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 party opposes registration of the indicated application.

**Opposer Information**

Name	Gold Rush Brands, LLC
Granted to Date of previous extension	10/20/2010
Address	Box 146H Scarsdale, NY 10583 UNITED STATES
Correspondence information	Edmund J. Ferdinand, III Grimes & Battersby, LLP 488 Main Avenue Norwalk, CT 06851 UNITED STATES ferdinand@gandb.com Phone:2038498300

**Applicant Information**

Application No	77931658	Publication date	06/22/2010
Opposition Filing Date	10/20/2010	Opposition Period Ends	10/20/2010
Applicant	Pan Am World Airways, Inc. 44 Industrial Park Drive Dover, NH 03820 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 039. All goods and services in the class are opposed, namely: Air transportation of passengers and freight
---

**Grounds for Opposition**

Deceptiveness	Trademark Act section 2(a)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)

Attachments	PAN AM OPPOSITION.pdf ( 3 pages )(129042 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	/ejf/
Name	Edmund J. Ferdinand, III
Date	10/20/2010

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

In the Matter of Trademark Application Serial No. 77/931,658  
For the Mark PAN AM & Design

-----	X	
	:	
Gold Rush Brands, LLC,	:	
	:	
Opposer,	:	
	:	
v.	:	Opposition No.:
	:	
Pan Am World Airways, Inc.,	:	
	:	
Applicant	:	
-----	X	

**NOTICE OF OPPOSITION**

Gold Rush Brands, LLC (“Opposer”) believes that it will be damaged by registration of the mark shown in application number 77/931,658 and hereby opposes the same. The grounds for opposition are as follows:

1. Opposer is a corporation organized and existing under the laws of the State of New York, having an address at box 146H, Scarsdale, New York 10583. Opposer owns broad rights to the PAN AM mark internationally.

2. Upon information and belief, Applicant, Pan Am World Airways, Inc. (“Applicant”) filed Application Serial No. 77/931,658 for PAN AM & Design as a mark for use in connection with “air transportation of passengers and freight” in International Class 39 on February 12, 2010. The application was filed pursuant to Section 1(b) of the Trademark Act. Said application was published for opposition on June 22, 2010.

3. Opposer filed an application for the mark PAN AM & Design for use in connection with “transportation of goods, passengers and travelers by air” in International Class

39 on February 19, 2010. Opposer's application has been rejected pursuant to Section 2(d) of the Trademark Act by virtue of Applicant's application for PAN AM & Design.

4. Upon information, belief and due investigation, Opposer has not been able to confirm that Applicant exists as a legal entity. Applicant claims to be a Delaware corporation, but a search of the Division of Corporations of the State of Delaware does not reveal that Applicant exists as a legal corporation in that State. Moreover, Applicant has not been able to confirm the company's existence in New Hampshire either. Calls to a phone number purporting to belong to Applicant were answered by someone using a different company name. Opposer has not been able to find any evidence to suggest that Applicant exists as a company.

#### **FRAUD ON THE PTO**

5. Opposer re-alleges and incorporates by reference Paragraphs 1 through 4 of the Notice of Opposition as though fully stated herein.

6. Upon information, belief and due investigation, one or more statements made by Applicant in the original application were not true at the time when the original application was filed and are not true today.

7. In the original application, Applicant swore under penalty of perjury that the statements set forth in the application were true. Upon information, belief and due investigation, it does not appear that Applicant exists as a legal entity. Hence, the assertion of Applicant's address, status and state of incorporation are not true and were not true at the time of the filing of the original application.

8. Applicant's untrue statements and assertions worked a fraud on the PTO.

9. Allowance of the application to remain on the Principal Register would perpetuate a fraud on the PTO and is, therefore, contrary to law and equity.

WHEREFORE, Opposer respectfully requests that this Opposition be sustained and Applicant's application to register PAN AM & Design, Application Serial No. 77/931,658, be refused, and for such other and further relief as the Board deems just and proper.

Dated: October 20, 2010

Respectfully submitted,  
Gold Rush Brands, LLC

By: 

Edmund J. Ferdinand, <sup>III</sup>  
Grimes & Battersby, LLP  
488 Main Avenue  
Norwalk, CT 06851-1008  
(203) 849-8300  
Attorneys for Opposer

**CERTIFICATE OF SERVICE**

The undersigned certifies that a copy of this Notice of Opposition was served on the Applicant on this 20<sup>th</sup> day of October, 2010, by sending a copy of the document in an envelope via U.S. mail addressed to the Correspondent for Application Serial No. 77/931,658:

Robert B. Culliford  
Pan Am Railways  
400 Amherst Street, Suite 405  
Nashua, NH 03063-4225



Edmund J. Ferdinand, III