

ESTTA Tracking number: **ESTTA374535**

Filing date: **10/21/2010**

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	Darden Concepts, Inc.		
Entity	Corporation	Citizenship	Florida
Address	1000 Darden Center Drive Orlando, FL 32837 UNITED STATES		

Attorney information	Belinda J. Scrimenti Pattishall, McAuliffe, Newbury, Hilliard & Geraldson LLP 311 South Wacker Drive Suite 5000 Chicago, IL 60606 UNITED STATES bscrimenti@pattishall.com, jdavis@pattishall.com Phone:(312)554-8000		
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**Applicant Information**

Application No	85015374	Publication date	09/21/2010
Opposition Filing Date	10/21/2010	Opposition Period Ends	10/21/2010
Applicant	KAMAL KUMAR 1416 FLAGLER CT. LAWRENCEVILLE, GA 30044 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 003. First Use: 2007/04/20 First Use In Commerce: 2007/04/20 All goods and services in the class are opposed, namely: Cosmetics; perfumes; and skin care products, namely, hand, face, and body creams; oils, namely, bath oils, body oils, and massage oils; powders, namely, face powder and body powder; lotions, namely, hand lotion and body lotion; hair care preparations
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**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.	2086857	Application Date	08/25/1995
Registration Date	08/12/1997	Foreign Priority Date	NONE
Word Mark	BAHAMA BREEZE		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 042. First use: First Use: 1995/11/29 First Use In Commerce: 1996/02/19 restaurant services

U.S. Registration No.	2123169	Application Date	08/21/1996
Registration Date	12/23/1997	Foreign Priority Date	NONE

Word Mark	BAHAMA BREEZE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1996/02/19 First Use In Commerce: 1996/02/19 apparel, namely, T-shirts,[ tank tops, polo shirts, sweatshirts,] * and * hats [and jackets]		

U.S. Registration No.	2114359	Application Date	10/02/1995
Registration Date	11/18/1997	Foreign Priority Date	NONE

Word Mark	BAHAMA BREEZE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1996/02/19 First Use In Commerce: 1996/02/19 promotional newspapers		

U.S. Registration No.	2599052	Application Date	09/29/2000
Registration Date	07/23/2002	Foreign Priority Date	NONE

Word Mark	BAHAMA BREEZE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2001/05/01 First Use In Commerce: 2001/05/01 PRERECORDED AUDIO TAPES AND COMPACT DISCS FEATURING MUSIC AND VOCALS		

U.S. Registration	2525107	Application Date	05/14/2001
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No.			
Registration Date	01/01/2002	Foreign Priority Date	NONE
Word Mark	BAHAMA BREEZE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1998/09/00 First Use In Commerce: 1998/09/00 RESTAURANT SERVICES		

Attachments	76137422#TMSN.gif ( 1 page )( bytes ) 76256072#TMSN.gif ( 1 page )( bytes ) Darden Concepts, Inc. v. Kamal Kumar, Application Serial No. 85015374.pdf ( 6 pages )(38036 bytes )
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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	/Belinda J. Scrimenti/
Name	Belinda J. Scrimenti
Date	10/21/2010

UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD

In The Matter of Application Serial No. 85/015374: BAHAMA BREEZE  
Published in the *Official Gazette* of September 21, 2010, Page TM 377, in Class 3

Darden Concepts, Inc.,	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. _____
	)	
Kamal Kumar,	)	
	)	
Applicant.	)	

**NOTICE OF OPPOSITION**

Opposer, Darden Concepts, Inc., a Florida Corporation having a principal place of business at 1000 Darden Center Drive, Orlando, FL 32837, believes it will be damaged by the registration of the mark "BAHAMA BREEZE" shown in Application Serial No. 85/015374 and opposes the same.

The grounds for opposition are as follows:

1. Opposer, itself, and through its related companies, its predecessors and their licensees, and related companies (hereinafter collectively "Darden"), has been offering restaurant services under the mark BAHAMA BREEZE in interstate commerce in the United States since February 19, 1996.

2. Prior to the date Applicant claims to have made first use of his mark, and prior to the date Applicant filed his Application Serial No. 85/015374 herein, Darden has continuously advertised, marketed and offered restaurant and related goods and/or services under or in connection with the BAHAMA BREEZE mark ("BAHAMA BREEZE Mark"). Darden is the

largest casual dining restaurant company in the world, and in addition to its other brands, owns and operates over 20 Bahama Breeze restaurants.

3. Opposer owns several trademark registrations for its BAHAMA BREEZE Mark for restaurant services and related goods and services in the United States Patent and Trademark Office ("PTO"). These registrations include, but are not limited to, the following registrations:

<u>TRADEMARK</u>	<u>SERVICES/GOODS</u>	<u>REG. NO.</u>
BAHAMA BREEZE	Restaurant services	2,086,857
BAHAMA BREEZE	Apparel, namely, T-shirts and hats	2,123,169
BAHAMA BREEZE	Promotional newspapers	2,114,359
BAHAMA BREEZE	Prerecorded audio tapes and compact discs featuring music and vocals	2,599,052
BAHAMA BREEZE (Script) and Logo 	Restaurant services	2,525,107

These registrations are all valid, subsisting, and incontestable.

4. Prior to the first use by Applicant of his mark as reflected in the Application, Serial No. 85/015374, and filing thereof, Opposer's BAHAMA BREEZE Mark has identified Darden and its restaurant services. Darden has made substantial sales of its restaurant services in connection with its BAHAMA BREEZE Mark and has spent substantial sums of money advertising and promoting its restaurant services and related goods and/or services in connection with the BAHAMA BREEZE Mark in numerous locations throughout the United States.

5. The restaurant services and related goods and services sold under the BAHAMA BREEZE Mark have enjoyed great commercial success. As a result, the BAHAMA BREEZE Mark represents an enormously valuable goodwill which is owned by Opposer.

6. Applicant is applying to register the identical mark BAHAMA BREEZE for "cosmetics; perfumes; and skin care products, namely, hand, face, and body creams; oils, namely, bath oils, body oils, and massage oils; powders, namely, face powder and body powder; lotions, namely, hand lotion and body lotion; hair care preparations" in the Application Serial No. 85/015374. Additionally, specimens filed with the Application reflect that Applicant's use of his mark is made in a script font that is virtually identical to that registered by Opposer for its logo, Registration No. 2,525,107.

7. Applicant's use and attempted registration of the mark BAHAMA BREEZE is without Darden's consent or permission.

Count I: Likelihood of Confusion

8. Applicant incorporates herein the allegations of Paragraphs 1 through 7.

9. Applicant's use and registration of the mark BAHAMA BREEZE for cosmetic and other goods identified in Application Serial No. 85/015374 is likely to result in confusion, mistake or deception with Darden, its Bahama Breeze restaurant concept and/or the goods and/or services sold and offered by Darden under Opposer's BAHAMA BREEZE Mark, or to result in the erroneous belief that Applicant or its BAHAMA BREEZE cosmetic and other goods are in some way legitimately connected with, sold in connection with, licensed by or approved by Darden or the Bahama Breeze restaurant chain.

10. Registration of BAHAMA BREEZE for Applicant's cosmetic goods and other goods in Application Serial No. 85/015374 would damage Opposer.

Count II: Dilution

11. Applicant incorporates herein the allegations of Paragraphs 1 through 7.

12. Due to the distinctiveness of Darden's BAHAMA BREEZE Mark, the length of time and extent to which Darden has used its BAHAMA BREEZE Mark, Darden's aforesaid marketing and sale of its services, the trading area in which Opposer's BAHAMA BREEZE Mark is used, and the degree of consumer recognition of the BAHAMA BREEZE Mark, Opposer's BAHAMA BREEZE Mark has become famous among consumers and others. Opposer's BAHAMA BREEZE Mark achieved that fame and distinction prior to the date Applicant allegedly commenced use of his mark.

13. Prior to Applicant's use and application for his BAHAMA BREEZE mark, Opposer's BAHAMA BREEZE Mark had become distinctive and famous within the meaning of 15 U.S.C. §§ 1125(c)(1)-(c)(2).

14. Applicant's use and registration of his mark BAHAMA BREEZE for the cosmetic and other goods set forth above is likely to cause dilution of the distinctiveness of Darden's famous BAHAMA BREEZE Mark, and specifically, is likely to cause dilution by blurring of Opposer's BAHAMA BREEZE Mark.

15. Registration of BAHAMA BREEZE for Applicant's cosmetic goods and other goods in Application Serial No. 85/015374 would damage Opposer by diluting its BAHAMA BREEZE Mark.

**WHEREFORE**, Opposer respectfully prays that this opposition be sustained and that App. Ser. No. 85/015374 be denied registration.

Opposer submits the requisite filing fee in the amount of \$300.00. Please charge any deficiencies in fees to our Deposit Account, No. 16-0650. Please address all correspondence to



**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing NOTICE OF OPPOSITION has been served upon Applicant appearing on his own behalf:

Kamal Kumar  
1416 Flagler Ct.  
Lawrenceville, GA 30044

by United States first class mail, postage prepaid, on this 21st day of October 2010.

/Belinda J. Scrimenti/  
Belinda J. Scrimenti