

ESTTA Tracking number: **ESTTA381957**

Filing date: **12/03/2010**

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	Keen Entertainment LLC
Granted to Date of previous extension	12/04/2010
Address	16478 Beach Blvd., Suite 316 Westminster, CA 92683 UNITED STATES

Attorney information	Arash Samadani Samadani Law, APC 2070 N. Tustin Ave. Santa Ana, CA 92705 UNITED STATES as@samadanilaw.com Phone:714.285.1144
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Applicant Information

Application No	77896745	Publication date	10/05/2010
Opposition Filing Date	12/03/2010	Opposition Period Ends	12/04/2010
Applicant	Strandberg, Tamara Jane 422 1st Street Davis, CA 95616 UNITED STATES		

Goods/Services Affected by Opposition

Class 016. First Use: 2009/03/12 First Use In Commerce: 2009/03/12 All goods and services in the class are opposed, namely: (Based on Use in Commerce) Christmas cards; Greeting cards; Greeting cards having a Christian message; Holiday cards; Note cards; Occasion cards (Based on Intent to Use) Announcement cards; Coasters made of paper; Correspondence cards; Gift wrap paper; Gift wrapping paper; Gift-wrapping paper; Invitation cards; Printed invitations; Social note cards
Class 040. All goods and services in the class are opposed, namely: Letterpress printing

Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)

Marks Cited by Opposer as Basis for Opposition

U.S. Application No.		Application Date	
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services			

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	INK-N-IRON		
Goods/Services	<p>Conducting entertainment exhibitions in the nature of art, tattoo, motor vehicle, customization, live music, and culture shows and festivals; Entertainment, namely, production of an art, tattoo, motor vehicle, customization, and live music festival; Organization of cultural shows; Organizing community festivals featuring primarily art, tattoos, motor vehicles, customization, live music, and related culture and also providing vendors, tattoo artists, and contests; Organizing cultural and arts events; Organizing exhibitions for cultural and entertainment purposes. Opposer also produced/produces substantial clothing, art, artwork and printed materials both in connection with and apart from those services.</p>		

Attachments	Opposition to INK&IRON Application.pdf (5 pages)(18882 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	/Arash Samadani/
Name	Arash Samadani
Date	12/03/2010

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

In the Matter of Trademark Application Serial No.: **77896745**
Mark: **INK&IRON**
Filed: December 18, 2009
Published in the Official Gazette: October 5, 2010

KEEN ENTERTAINMENT LLC

Opposer,

v.

Tamara Jane Strandberg

Applicant.

Opposition No.: _____

NOTICE OF OPPOSITION

Opposer Keen Entertainment LLC (“Keen” or “Opposer”) believes that it will be damaged by registration on the Principal Register of the mark INK&IRON as applied for in Application Serial No. 77896745, filed December 18, 2009 under Sections 1(a) and 1(b) of the Lanham Act for goods and services in International Classes 016 and 040.

As grounds for their opposition, Opposers, by their attorneys, Samadani Law, APC, allege as follows:

BACKGROUND

1. Opposer, Keen Entertainment LLC, is a Delaware Limited Liability Company. Opposer has a place of business at 16478 Beach Blvd., Suite 316, in Westminster, California.
2. Opposer is in the business organizing, promoting and conducting of cultural, community and arts shows and festivals, including for entertainment purposes; and entertainment

exhibitions in the nature of art, tattoo, motor vehicle, customization, live music, and culture shows and festivals, including providing vendors, tattoo artists, and contests. Opposer also produces substantial amounts clothing, artwork and printed material in connection with, in support of, and apart from, its events. (collectively “Opposer’s Goods and Services”)

3. Opposer began utilizing its INK-N-IRON mark in connection with Opposer’s Goods and Services at least as early as April 2003.

4. Since 2003 and continuing to this day, Opposer utilized the INK-N-IRON in interstate and international comers. During that period, Opposer has invested great time and resources in establishing, enhancing and making famous the Senior Mark. Today, INK-N-IRON branded services, goods and events are famous throughout the world because of their outstanding and unique quality and their superior execution and design.

5. In 2003, Opposer extended the use of INK-N-IRON beyond its event related services into design, production and distribution of printed materials, including art and other printed materials related to the events. Again, the INK-N-IRON mark in connection with art and printed materials quickly gained recognition as connoting a source of quality and exceptional design exclusively associated with Opposer.

6. In 2005, Opposer extended the use of INK-N-IRON beyond its event and printed material related goods and services into design, production and distribution of clothing, including t-shirts, hats, bandanas, and belt buckles. Again, the INK-N-IRON mark in connection with art and printed materials quickly gained recognition as connoting a source of quality and exceptional design exclusively associated with Opposer.

7. Opposer has invested nearly a decade of effort and substantial sums in promoting and developing the INK-N-IRON mark. Opposer has acquired significant and exclusive trademark rights and interest in and to the *INK-N-IRON mark*, both under its federal application as well as at common law, for rights in and to the INK-N-IRON mark as used in connection with the Opposer’s Goods and Services. Further, Opposer’s INK-N-IRON mark has gained world-wide recognition, popularity and fame. This interest will be injured by Applicant's use and registration of the INK&IRON mark on goods and services that are the same as, similar to or confusingly similar to those offered by Opposer, over which Opposer has no control.

8. By virtue of Opposer’s continuous use of the INK-N-IRON mark for nearly a decade and its extensive promotion, the INK-N-IRON mark must be regarded as famous and as a strong source identifier, entitled to broad scope protection.

9. Opposer filed an actual use application, Serial No.: 85189804, for the mark INK-N-IRON in International Class 041 on December 2, 2010, with a first use in commerce date of April, 2003.

10. Applicant Tamara Jane Strandberg (“Strandberg” or “Applicant”) filed its mixed actual use and intent-to-use trademark application, Serial No: 77896745, for the mark INK&IRON in International Classes 016 and 040 on December 18, 2009, and was published for

opposition on Page No. TM 153 of the Official Gazette for October 5, 2010, for (Based on Use in Commerce) Christmas cards; Greeting cards; Greeting cards having a Christian message; Holiday cards; Note cards; Occasion cards (Based on Intent to Use) Announcement cards; Coasters made of paper; Correspondence cards; Gift wrap paper; Gift wrapping paper; Gift-wrapping paper; Invitation cards; Printed invitations; Social note cards (all in International Class 016); and Letterpress printing (in International Class 040.). Applicant's INK&IRON application was filed over six (6) years after Opposer's first use of the mark INK-N-IRON in commerce.

11. Applicant's INK&IRON mark is confusingly similar to Opposer's INK-N-IRON mark.

12. Applicant's INK&IRON mark utilizes an ampersand between the terms "INK" and "IRON", utilizing the ampersand to comprise an "and", giving the mark a confusingly similar sound, meaning and commercial impression confusingly similar to Opposer's INK-N-IRON mark, which utilizes an "-N-" between the terms "INK" and "IRON, utilizing the "-N-" to comprise an "and."

13. The goods and services set forth in the Application are related to the goods of or in connection with which Opposer uses and have applied for registration of its INK-N-IRON mark.

14. Applicant's application alleges that the mark INK&IRON was first used by a related company in connection with the goods in another form since as least as early as September 21, 2009, was first used in interstate commerce in another form as least as early as September 21, 2009 it is now in use in such commerce.

15. Upon information and belief, Opposer alleges that there was no bona fide use of Applicant's mark in commerce prior to the filing of the application for registration on December 18, 2009.

16. Upon information and belief, Opposer alleges that the alleged use of the mark was made in another form, if at all, and that such use does not provide a basis for Applicant to register the mark INK&IRON.

COUNT I

Likelihood of Confusion – 15 U.S.C.A. §1052(d)

17. Opposers repeat and reallege the allegations contained in Paragraphs 1 through 16 above, as if the same were set forth in full herein.

18. Upon information and belief, Applicant's goods and services would be offered to the same consumers as those who may also purchase Opposer's INK-N-IRON products and/or services or to whom Opposer markets and promotes its INK-N-IRON products.

19. The presumption of exclusivity that would arise from Applicant's registration of the mark INK&IRON is inconsistent with the prior rights of Opposer in the INK-N-IRON mark.

20. Use and registration of the mark INK&IRON by Applicant in connection with printed materials products and letterpress printing services is likely to cause confusion, cause mistake or deceive consumers, and cause them to believe that the goods offered by Applicant emanate from, or are sponsored by, endorsed by or otherwise connected with Opposer, in violation of Section 2(d) of the Lanham Act, 15 U.S.C.A. §1052(d).

21. Opposer will be damaged by the registration of Applicant's INK&IRON mark by reason of the foregoing, and because such registration will support and assist Applicant in causing confusion and misleading consumers by providing a color of exclusive statutory rights in Applicant in violation and derogation of Opposer's prior superior rights.

COUNT II
False Suggestion of Association – 15 U.S.C.A. §1052(a)

22. Opposer repeats and realleges the allegations contained in Paragraphs 1 through 21, above, as if the same were set forth in length herein.

23. Applicant's mark falsely suggests a connection with the Opposer and/or its goods and services.

24. Applicant's mark is deceptive as defined in Section 2 of the federal Trademark Act, 15 U.S.C.A. §1052(a), and should properly be refused registration.

COUNT III
APPLICANT'S MARK DILUTES OPPOSER'S MARK
15 U.S.C.A. §1112(c)(1)

25. Opposer repeats and realleges the allegations contained in Paragraphs 1 through 24, as if the same were set forth at length herein.

26. Opposer's INK-N-IRON mark is not only well known, but also famous as defined in Section 43(c) of the federal Trademark Act, 15 U.S.C.A. §1112(c)(1).

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