

ESTTA Tracking number: **ESTTA385080**

Filing date: **12/21/2010**

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	BJ's Restaurants, Inc.
Granted to Date of previous extension	01/08/2011
Address	7755 Center Avenue, Suite 300 Huntington Beach, CA 92647 UNITED STATES

Attorney information	JONATHAN A HYMAN KNOBBE MARTENS OLSON & BEAR, LLP 2040 MAIN ST, FL 14 IRVINE, CA 92614 UNITED STATES efiling@kmob.com, jhh@kmob.com Phone:3105513450
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Applicant Information

Application No	85048146	Publication date	11/09/2010
Opposition Filing Date	12/21/2010	Opposition Period Ends	01/08/2011
International Registration No.	NONE	International Registration Date	NONE
Applicant	PIRANHA INNOVATIONS `115a HADDINGTON ROAD, BALLSBRIDGE DUBLIN, DUBLIN4 IRELAND		

Goods/Services Affected by Opposition

Class 033. First Use: 2007/05/23 First Use In Commerce: 2007/10/05 All goods and services in the class are opposed, namely: (Based on Use in Commerce) Alcoholic beverages, namely, schnapps (Based on 44(e)) Alcoholic beverages, namely, schnapps
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)
Other	Priority and likelihood of confusion based on common law trademark rights

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3339856	Application Date	07/25/2006
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Registration Date	11/20/2007	Foreign Priority Date	NONE
Word Mark	PIRANHA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 1996/07/00 First Use In Commerce: 1996/07/00 Beer		

Attachments	78937411#TMSN.jpeg (1 page)(bytes) CPBINC.091TIS091M-NotOfOpp.pdf (8 pages)(584235 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 Overnight Courier on this date.

Signature	/jhh/
Name	JONATHAN A HYMAN
Date	12/21/2010

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

BJ'S RESTAURANTS, INC.,

Opposer,

v.

PIRANHA INNOVATIONS,

Applicant.

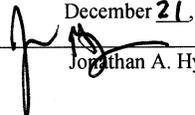
Opposition No.: _____

Mark: PIRANHA

Serial No.: 85048146

I hereby certify that this correspondence and all marked attachments are being deposited with the United States Patent and Trademark Office, Trademark Trial and Appeal Board via electronic filing through their website located at <http://estta.uspto.gov> on:

December 21, 2010


Jonathan A. Hyman

NOTICE OF OPPOSITION

United States Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

BJ's Restaurants, Inc., a California corporation, will be damaged by the registration of the mark PIRANHA, as shown in U.S. Trademark Application Serial No.: 85048146 ("Applicant's Application"), filed by Piranha Innovations ("Applicant"), and hereby opposes the same. A description of Applicant's Application is as follows:

Mark: PIRANHA
Serial No.: 85048146
Filing Date: May 26, 2010
Filing Basis: 1(a) and 44(e)
Alleged First Use Date: May 23, 2007
Alleged First Use In Commerce Date: October 5, 2007
Publication Date: November 9, 2010
Goods: Alcoholic beverages, namely, schnapps in Class 33

As grounds for opposition, it is alleged:

1. BJ's Restaurants, Inc. (hereinafter referred to as "BJ's") is a publically traded company with over 102 restaurants nationwide. BJ's is well known for its various food items and products, beverages, and, particularly, its beer.

2. Since prior to the filing date and alleged first use dates set forth in Applicant's Application, BJ's has sold beer under the mark PIRANHA. BJ's PIRANHA beer has won multiple awards, including, but not limited to, a Silver Medal in American-Style Pale Ales at the 2002 Great American Beer Festival; rated one of Portland's Top Ten Beers by the Oregonian in 1999; a Bronze Medal in American-Style Pale Ales at the 1998 Great American Beer Festival; a Silver Medal at the 1998 Colorado State Fair; and First Place at the 1998 California State Fair.

3. BJ's owns U.S. Trademark Registration No. 3339856 for its PIRANHA mark. A true and correct copy of printouts from the electronic database records of the PTO showing the current status and title of the registration, as well as a true and correct copy of the Certificate of Registration are attached hereto as Exhibit A.

4. Since prior to the filing date and alleged first use dates set forth in Applicant's Application, BJ's has continuously used its PIRANHA mark in connection with its beer.

5. Through its substantial use and promotion and at great expense and effort, BJ's has built up tremendous goodwill in its PIRANHA mark and brand. As a result of these efforts, BJ's PIRANHA mark has become famous in the minds of consumers.

6. By virtue of BJ's widespread and continuous use of its PIRANHA mark, BJ's has established extensive common law rights in the PIRANHA mark since prior to the filing date of and alleged first use dates set forth in Applicant's Application.

7. BJ's U.S. Trademark Registration No. 3339856 relied upon herein by BJ's is valid, subsisting, unrevoked, and uncanceled. BJ's registration constitutes *prima facie* evidence of the validity of this registered mark, the registration thereof, and of BJ's ownership of the mark shown therein as provided in Section 33(a) of the Trademark Act. BJ's registration relied on herein constitutes constructive use of BJ's PIRANHA mark, conferring a right of priority nationwide in effect, as of the filing dates of the application therefore as provided in Section 7(c) of the Trademark Act. The filing date of BJ's registration and the dates of actual first use of the PIRANHA mark relied on herein are all prior to the filing date of and alleged first use dates set forth in Applicant's Application.

8. If Applicant is permitted to register the mark shown in Applicant's Application, Applicant's corresponding *prima facie* exclusive right to use the PIRANHA mark in nationwide commerce will conflict with BJ's lawful and *prima facie* exclusive right to use BJ's PIRANHA mark nationwide.

9. Applicant's PIRANHA mark is identical to BJ's PIRANHA mark. Moreover, the goods identified in Applicant's Application are related to and complimentary with the goods offered and/or registered by BJ's under its PIRANHA mark, and the respective goods are marketed or will be marketed to the same consumers and potential consumers.

10. BJ's will be damaged by the registration of Applicant's Application for the PIRANHA mark in that the PIRANHA mark so resembles BJ's PIRANHA mark, registered in the PTO, and in which BJ's owns common law rights, as to be likely, when used on or in connection

with the goods identified in Applicant's Application, to cause confusion, or to cause mistake or to deceive within the meaning of Section 2(d) of the Trademark Act, 15 U.S.C. §1052(d).

11. In view of BJ's prior rights in the PIRANHA mark, Applicant is not entitled to registration of the PIRANHA mark, pursuant to Section 2(d) of the Trademark Act, 15 U.S.C. §1052(d).

12. Through extensive use, advertising, and success of the BJ's PIRANHA beer, the BJ's PIRANHA mark have become famous for BJ's goods since a date prior to the filing date of and alleged first use dates set forth in Applicant's Application.

13. Applicant's registration of the PIRANHA mark shown in Applicant's Application will cause or is likely to cause dilution of the distinctive quality of BJ's PIRANHA mark within the meaning of Section 43(c) of the Trademark Act, 15 U.S.C. §1125(c).

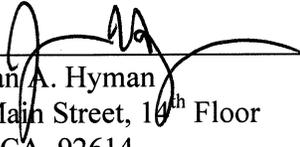
14. By reason of the foregoing, BJ's will be damaged by the registration of the mark shown in Applicant's Application.

WHEREFORE, BJ's prays that Applicant's Application Serial No. 85048146 be rejected and stricken, that no registrations be issued thereon to Applicant, and that this Opposition be sustained in favor of BJ's.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,
KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: December 21, 2010

By: 
Jonathan A. Hyman
2040 Main Street, 14th Floor
Irvine, CA 92614
(310) 551-3450
Attorneys for Opposer, BJ's Restaurants, Inc.

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing **NOTICE OF OPPOSITION** upon Applicant by depositing one copy thereof via Overnight Courier, first-class postage prepaid on December 21, 2010, addressed as follows:

Eunan Ryan, Anna McClure, and Sarah-Jane McClure
PIRANHA INNOVATIONS
115a Haddington Road, Ballsbridge
Dublin, Dublin 4
IRELAND

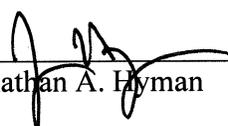

Jonathan A. Hyman

Exhibit A

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2010-12-21 17:35:39 ET

Serial Number: 78937411 Assignment Information Trademark Document Retrieval

Registration Number: 3339856

Mark

PIRANHA

(words only): PIRANHA

Standard Character claim: Yes

Current Status: Registered.

Date of Status: 2007-11-20

Filing Date: 2006-07-25

Transformed into a National Application: No

Registration Date: 2007-11-20

Register: Principal

Law Office Assigned: LAW OFFICE 105

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 650 -Publication And Issue Section

Date In Location: 2007-11-20

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. BJ's Restaurants, Inc.

Address:

BJ's Restaurants, Inc.
7755 Center Avenue Suite 300
Huntington Beach, CA 92647
United States
Legal Entity Type: Corporation
State or Country of Incorporation: California
Phone Number: 310-551-3450
Fax Number: 949-760-9502

GOODS AND/OR SERVICES

International Class: 032
Class Status: Active
Beer
Basis: 1(a)
First Use Date: 1996-07-00
First Use in Commerce Date: 1996-07-00

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2007-11-20 - Registered - Principal Register
2007-09-17 - Applicant/Correspondence Changes (Non-Responsive) Entered
2007-09-17 - TEAS Change Of Owner Address Received
2007-09-04 - Published for opposition
2007-08-15 - Notice of publication
2007-07-30 - Law Office Publication Review Completed
2007-07-27 - Approved for Pub - Principal Register (Initial exam)
2007-07-02 - Amendment From Applicant Entered

2007-07-02 - Communication received from applicant
2007-07-02 - Assigned To LIE
2007-06-21 - TEAS Response to Office Action Received
2006-12-28 - Non-final action e-mailed
2006-12-28 - Non-Final Action Written
2006-12-19 - Assigned To Examiner
2006-07-31 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Jonathan A. Hyman

Correspondent

JONATHAN A. HYMAN
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN ST FL 14
IRVINE CA 92614-7216
Phone Number: (310) 551-3450
Fax Number: (949) 760-9502

Int. Cl.: 32

Prior U.S. Cls.: 45, 46 and 48

Reg. No. 3,339,856

United States Patent and Trademark Office

Registered Nov. 20, 2007

**TRADEMARK
PRINCIPAL REGISTER**

PIRANHA

**BJ'S RESTAURANTS, INC. (CALIFORNIA COR-
PORATION)
7755 CENTER AVENUE
SUITE 300
HUNTINGTON BEACH, CA 92647**

**THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.**

SER. NO. 78-937,411, FILED 7-25-2006.

FOR: BEER, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 7-0-1996; IN COMMERCE 7-0-1996.

SHANNON TWOHIG, EXAMINING ATTORNEY