

ESTTA Tracking number: **ESTTA443047**

Filing date: **11/23/2011**

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	CR License, LLC
Granted to Date of previous extension	11/23/2011
Address	8600 E. Rockcliff Road Tucson, AZ 85750 UNITED STATES

Attorney information	Flavia Campbell Lewis and Roca LLP 40 North Central Avenue, Suite 1900 Phoenix, AZ 85004 UNITED STATES TRADEMARKS@LRLAW.COM Phone:(602) 262-5311
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Applicant Information

Application No	77905088	Publication date	07/26/2011
Opposition Filing Date	11/23/2011	Opposition Period Ends	11/23/2011
Applicant	Grand Canyon Ranch Suite115 235 East Tropicana Avenue Las Vegas, NV 89169 UNITED STATES		

Goods/Services Affected by Opposition

Class 039. First Use: 2003/05/00 First Use In Commerce: 2003/05/00 All goods and services in the class are opposed, namely: Excursion arrangements for tourists
Class 041. First Use: 2003/05/00 First Use In Commerce: 2003/05/00 All goods and services in the class are opposed, namely: Recreational and entertainment services in the nature of horse-drawn wagon rides, horse-back riding and helicopter tours, ATV (all-terrain vehicle) tours, hiking, and mountain biking

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.	3202993	Application Date	04/04/2005
Registration Date	01/23/2007	Foreign Priority	NONE

		Date	
Word Mark	CANYON RANCH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 1979/12/31 First Use In Commerce: 1979/12/31 health resort services, namely, providing food and lodging that specialize in promoting patrons' general health and well-being; resort lodging services; providing temporary housing accommodations; providing a database in the field of recipes and cooking information; restaurant services		

U.S. Registration No.	1598938	Application Date	03/15/1989
Registration Date	05/29/1990	Foreign Priority Date	NONE
Word Mark	CANYON RANCH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 1980/01/01 First Use In Commerce: 1980/01/01 TRANSPORTATION OF PASSENGERS BY MEANS OF AUTOMOBILE AND RESERVATION SERVICES FOR TRANSPORTATION		

U.S. Registration No.	3178367	Application Date	04/05/2005
Registration Date	11/28/2006	Foreign Priority Date	NONE
Word Mark	CANYON RANCH		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 041. First use: First Use: 1979/12/31 First Use In Commerce: 1979/12/31 Health club services, namely, providing instruction and equipment in the field of physical exercise; physical education services, namely, providing exercise classes to others and conducting classes in exercise and physical conditioning; educational services, namely, conducting classes, seminars, conferences, and workshops in the fields of nutrition, exercise, physical conditioning, conflict management, family health, wellness, prevention of disease, beauty, skin care, physical fitness, physical training, stress management and behavior modification; counseling and consultation services in the fields of exercise and physical conditioning, physical fitness and physical training
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U.S. Registration No.	1350012	Application Date	09/17/1984
Registration Date	07/16/1985	Foreign Priority Date	NONE
Word Mark	CANYON RANCH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1979/12/09 First Use In Commerce: 1979/12/09 CONDUCTING PROGRAMS IN EXERCISE AND PHYSICAL CONDITIONING Class 042. First use: First Use: 1979/12/09 First Use In Commerce: 1979/12/09 FITNESS RESORT AND RESTAURANT SERVICES		

U.S. Registration No.	3172612	Application Date	10/03/2005
Registration Date	11/14/2006	Foreign Priority Date	NONE
Word Mark	CANYON RANCH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 1979/12/31 First Use In Commerce: 1979/12/31 Sports and entertainment services, namely, golf; educational services, namely, conducting classes and demonstrations in the fields of physical fitness training		

Related Proceedings	92054034
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Attachments	78977602#TMSN.jpeg (1 page)(bytes) 78602524#TMSN.jpeg (1 page)(bytes) 78977603#TMSN.jpeg (1 page)(bytes)
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	Grand Canyon Ranch Opposition.pdf (8 pages)(287575 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	/fc/
Name	Flavia Campbell
Date	11/23/2011

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

CR LICENSE, LLC)	
)	Opposition No. _____
Opposer,)	
)	Mark: GRAND CANYON RANCH
v.)	AT SPIRIT MOUNTAIN
)	
GRAND CANYON RANCH, LLC.)	Serial No. 77/905,088
)	
Applicant.)	Published: July 26, 2011
_____)	

NOTICE OF OPPOSITION

CR License, LLC (“Opposer”), an Arizona Limited Liability Company located and doing business at 8600 E. Rockcliff Road, Tucson, Arizona 85750, believes that it will be damaged by the registration of the trademark shown in Application Serial No. 77/905,088 filed by Grand Canyon Ranch, LLC on January 5, 2010 in classes 39 and 41, and hereby opposes its registration pursuant to Section 13(a) of the Trademark Act of 1946, as amended (the “Lanham Act”), 15 U.S.C. §1063(a). As grounds for opposition, the Opposer, by its attorneys, Lewis and Roca LLP, respectfully alleges the following upon information and belief:

1. Grand Canyon Ranch, LLC (hereinafter “Applicant”), with an address of record at Suite 115 235 East Tropicana Avenue, Las Vegas, Nevada 89169, filed Application Serial No. 77/905,088 on January 5, 2010 to register the mark “GRAND CANYON RANCH AT SPIRIT MOUNTAIN” on the Principal Register (hereinafter “the Application”). The Application was filed for the following services:

- Class 39: Excursion arrangements for tourists; and
- Class 41: Recreational and entertainment services in the nature of horse-drawn wagon rides, horse-back riding and helicopter tours, ATV (all-terrain vehicle) tours, hiking, and mountain biking.

A copy of the TARR trademark status printout of the Application is attached to this Notice of Opposition at Exhibit A.

2. This Application was published for opposition on July 26, 2011. Opposer was granted a 90 day extension of time to oppose the Application and therefore, this Notice of Opposition is being filed prior to the end of the time to oppose.

Opposer's CANYON RANCH® Trademark

3. The first CANYON RANCH® health spa and resort was founded in Tucson, Arizona in 1979, over three decades ago, long before the Applicant's filing date or alleged first use date.

4. Since that time, Canyon Ranch has expanded its business and opened new health spas and resorts under the CANYON RANCH® name in Lenox, Massachusetts, Miami Beach, Florida, Las Vegas, Nevada and aboard luxury cruise ships such as the Queen Mary 2. The CANYON RANCH® mark is now used not only with resort, restaurant and fitness services, but also with such diverse products and services as cookbooks, real estate development, clothing, skin care products and medical services.

5. The CANYON RANCH® health spa and resorts have repeatedly been named the World's Best Spa by *Travel and Leisure Magazine* and *Condé Nast Traveler*.

6. Canyon Ranch owns 36 federal registrations and 21 federal applications for CANYON RANCH formative marks, many of which cover services commercially related, if not identical, to those covered by the Application, as the table below shows:

Reg./ App. No.	Mark	Filing Date	Goods/Services
Reg. No. 3202993	CANYON RANCH	April 4, 2005	"health resort services, namely, providing food and lodging that

Reg./ App. No.	Mark	Filing Date	Goods/Services
			specialize in promoting patrons' general health and well-being; resort lodging services; providing temporary housing accommodations; providing a database in the field of recipes and cooking information; restaurant services;"
Reg. No. 1598938	CANYON RANCH	March 15, 1989	"transportation of passengers by means of automobile and reservation services for transportation;"
Reg. No. 3178367	CANYON RANCH	April 5, 2005	"health club services, namely, providing instruction and equipment in the field of physical exercise; physical education services, namely, providing exercise classes to others and conducting classes in exercise and physical conditioning; educational services, namely, conducting classes, seminars, conferences, and workshops in the fields of nutrition, exercise, physical conditioning, conflict management, family health, wellness, prevention of disease, beauty, skin care, physical fitness, physical training, stress management and behavior modification; counseling and consultation services in the fields of exercise and physical conditioning, physical fitness and physical training;"
Reg. No. 1350012	CANYON RANCH	September 17, 1984	"conducting programs in exercise and physical conditioning; fitness resort and restaurant services;"
Reg. No. 3172612	CANYON RANCH	October 3, 2005	"Sports and entertainment services, namely, golf; educational services, namely, conducting classes and demonstrations in the fields of physical fitness training"

7. The above registrations were all filed before the Application was filed.

8. All of the above registrations are valid and subsisting and two of them (Reg. Nos.

1598938 and 1350012) are incontestable.

Grounds For Opposition

9. The GRAND CANYON RANCH AT SPIRIT MOUNTAIN mark so resembles Canyon Ranch's previously used and registered CANYON RANCH® mark that, when used with the services covered in the Application, it is likely to cause confusion, mistake, or to deceive.

10. The Application will also dilute the distinctive quality of Canyon Ranch's famous CANYON RANCH® mark.

The Application is Likely to Cause Confusion

11. The Application is likely to cause confusion with Canyon Ranch's famous CANYON RANCH® mark.

The Marks Are Similar

12. Applicant's GRAND CANYON RANCH AT SPIRIT MOUNTAIN mark encompasses Opposer's CANYON RANCH® mark in its entirety and the only additional elements to the Application are the laudatory term "GRAND" and the geographic descriptor "AT SPIRIT MOUNTAIN," neither of which is distinctive enough to differentiate the mark shown in the Application from Opposer's CANYON RANCH® mark.

13. Moreover, Opposer owns a family of CANYON RANCH-formative marks for a variety of goods and services, and therefore, consumers may view the GRAND CANYON RANCH AT SPIRIT MOUNTAIN mark as belonging to that family of marks owned by Canyon Ranch.

The Services Are Commercially Related, If Not Identical

14. The Application covers excursions for tourists; recreational and entertainment services, including horse-drawn wagon rides, horse-back riding, hiking and mountain biking, and ATV and helicopter tours.

15. Canyon Ranch is well-known for its CANYON RANCH® resorts, famous for their healthy outdoor activities, which include hiking, mountain biking, kayaking, canoeing, golf, and bird and nature walks. Thus the services offered by the parties under the CANYON RANCH and GRAND CANYON RANCH AT SPIRIT MOUNTAIN marks are identical and/or commercially related.

16. Other factors that enhance the likelihood of confusion include the fact that (i) Applicant, like the Opposer, offers resort services, and (ii) is located and provides its services under the GRAND CANYON RANCH AT SPIRIT MOUNTAIN in Nevada, where one of Canyon Ranch's CANYON RANCH SPACLUB® facilities is located. Moreover, the CANYON RANCH® flagship resort has operated in the adjoining state, Arizona, for over thirty years. The CANYON RANCH® name is strongly associated with the American Southwest.

17. The renown and long standing use of the CANYON RANCH® mark by Canyon Ranch also increases the risk that use of the phrase "CANYON RANCH" within the Application will cause consumers to mistakenly believe the services offered by the Applicant are offered by or otherwise connected with Canyon Ranch.

18. Moreover, the fact that Opposer does business as "Canyon Ranch" also increases the risk that consumers may believe the services offered under the Application originate from Canyon Ranch.

19. In view of the above, Canyon Ranch and the purchasing public will be damaged by registration of Application Serial No. 77/905,088 for the mark GRAND CANYON RANCH AT SPIRIT MOUNTAIN for the services identified in the Application as a result of the aforementioned likelihood of confusion.

The Application Dilutes the Distinctiveness of the Famous CANYON RANCH®

Mark

20. Opposer's CANYON RANCH® mark is distinctive and famous. Factors that support such findings include: (i) the inherent distinctiveness of the CANYON RANCH® mark; (ii) the over three decades of extensive and continuous use of the CANYON RANCH® mark; (iii) Opposer's extensive investment in advertising the CANYON RANCH® mark; (iv) the broad geographical scope of CANYON RANCH® branded goods and services, which are advertised nationally and internationally; (v) the high degree of recognition of the CANYON RANCH® mark in Opposer's and Applicant's industry field and amongst the general population, which is evidenced by the large number of prestigious awards and recognitions received by Opposer's CANYON RANCH® resorts over the years; (vi) the high volume of unsolicited media coverage -- print, broadcast and online -- given the CANYON RANCH® mark; and (vii) the fact that other than Applicant's Application and registration no. 3927500-- against which Opposer filed a cancellation action which is currently pending-- and one third party registration in class 41, there are no federal registrations for CANYON RANCH-formative marks in the classes covered by the Application, other than those owned by Canyon Ranch.

21. The CANYON RANCH® mark has been famous since prior to Applicant's adoption or filing of its GRAND CANYON RANCH AT SPIRIT MOUNTAIN mark.

22. Applicant's Application will damage the economic value of Canyon Ranch's CANYON RANCH® mark, as it will lose its ability to serve as a unique identifier of Canyon Ranch's goods and services. Moreover, upon information and belief, the services offered by Applicant are not the world-class quality services associated with the CANYON RANCH® mark.

23. The similarity between the CANYON RANCH® and the GRAND CANYON RANCH AT SPIRIT MOUNTAIN marks and the renown of the CANYON RANCH® mark support a finding of dilution by blurring and tarnishment.

24. In view of the above, Canyon Ranch will be damaged by registration of the Application, since it will cause the CANYON RANCH® mark to lose uniqueness and economic value.

WHEREFORE, the Opposer respectfully prays that this Opposition be sustained and Applicant's Application No. 77/905,088 be denied registration.



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Attorneys for Petitioner,
CR License, LLC (d/b/a Canyon Ranch)

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Notice of Opposition was served by First-Class Mail®, postage prepaid, upon the following:

Grand Canyon Ranch
Suite 115 235 East Tropicana Avenue
Las Vegas, NV 89169

and

H. John Rizvi
Gold & Rizvi, P.A.
Suite 309
11575 Heron Bay Blvd.
Coral Springs FL 33076

Mailed this 23 day of November 2011.

/Tammy Bunch/