

ESTTA Tracking number: **ESTTA461774**

Filing date: **03/14/2012**

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	Lifebooker LLC
Granted to Date of previous extension	03/14/2012
Address	45 Main Street, Suite 524 Brooklyn, NY 11021 UNITED STATES

Correspondence information	Michael A. Grow and Linda S. Chan Attorneys Arent Fox LLP 1675 Broadway New York, NY 10019 UNITED STATES grow.michael@arentfox.com, chan.linda@arentfox.com, jenkins.marylee@arentfox.com, branch.tanya@arentfox.com, NYIPDocket@arentfox.com Phone:212 484 3900
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Applicant Information

Application No	85281401	Publication date	11/15/2011
Opposition Filing Date	03/14/2012	Opposition Period Ends	03/14/2012
Applicant	Brown, Cleveland 5426 Norwich Ave Sherman Oaks, CA 91411 UNITED STATES		

Goods/Services Affected by Opposition

Class 045. All goods and services in the class are opposed, namely: Online social networking services in the field of recording a persons life, namely, past, present and future provided via a website
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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)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	4069759	Application Date	12/20/2010
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Registration Date	12/13/2011	Foreign Priority Date	NONE
Word Mark	LIFEBOOKER		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 035. First use: First Use: 2007/08/29 First Use In Commerce: 2007/08/29 Administering a consumer discount program, namely, providing consumer information and discounts on a wide range of services, namely, beauty salon services, dental services, hair care services, health, wellness and fitness services and other leisure activities; advertising and promoting the goods and services of others in the fields of beauty salon services, dental services, hair care services, health, wellness and fitness services, and other leisure activities through online incentive awards, discount programs and online directories; administering an online program offering discounts and coupons enabling participants to receive discounts and coupons for beauty salon services, dental services, hair care services, health, wellness and fitness services, and other leisure activities; administering a program enabling participants to receive discounts for beauty salon services, dental services, hair care services, health, wellness and fitness services and other leisure activities services of others and processing rebates for those services</p>		

U.S. Registration No.	4062485	Application Date	12/20/2010
Registration Date	11/29/2011	Foreign Priority Date	NONE
Word Mark	LIFEBOOKER LOOT		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 2010/03/10 First Use In Commerce: 2010/03/10 Downloadable discount coupons to be printed via the Internet for merchandise and services of others in the nature of discounts on a wide range of services,</p>		

	<p>namely, beauty salon services, dental services, hair care services, health, wellness and fitness services and other leisure activities</p> <p>Class 035. First use: First Use: 2010/03/10 First Use In Commerce: 2010/03/10</p> <p>Promoting goods and services of others by providing a website featuring discount coupons, links to third party retail websites, discount information, in the nature of discounts on a wide range of services, namely, beauty salon services, dental services, hair care services, health, wellness and fitness services and other leisure activities</p>
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Attachments	<p>85202072#TMSN.jpeg (1 page)(bytes)</p> <p>85202115#TMSN.jpeg (1 page)(bytes)</p> <p>Not of Opp - Lifebooker LLC v. Cleveland Brown App. No. 85281401.pdf (5 pages)(198571 bytes)</p>
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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	/Linda S. Chan/
Name	Linda S. Chan
Date	03/14/2012

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

In re application No. 85/281,401 filed on March 30, 2011, and published on November 15, 2011

LIFEBOOKER LLC	:	
Opposer	:	
	:	
v.	:	Opposition No. _____
	:	
CLEVELAND BROWN	:	
Applicant	:	

NOTICE OF OPPOSITION

Opposer Lifebooker LLC (“Opposer”) believes that it will be damaged by the registration of the above-identified mark and hereby opposes registration of the same under the provisions of Section 13 of the Trademark Act of 1946. 15 U.S.C. § 1063.

As grounds for the opposition, Opposer alleges as follows:

1. Opposer is the owner of all rights, title and interest in and to the marks LIFEBOOKER and LIFEBOOKER LOOT and the trade name LIFEBOOKER (“Opposer’s Marks”), which have been used in connection with a variety of goods and services.
2. The Patent and Trademark Office has recognized Opposer’s exclusive rights by issuing the following registrations:

Reg. No. 4,069,759, LIFEBOOKER

Reg. No. 4,062,485, LIFEBOOKER LOOT
3. Opposer’s registrations are valid and subsisting. Accordingly, these registrations provide prima facie evidence of Opposer’s ownership of and exclusive right to use Opposer’s Marks in commerce.

4. The LIFEBOOKER name and mark has been widely used and advertised since at least as early as 2007. As a result, it has become well known and famous as a distinctive indicator of the origin of Opposer's goods and services, and is a valuable symbol of Opposer's goodwill.
5. Since long prior to any priority date that Applicant may claim, Opposer has publicized and promoted its goods and services by using Opposer's Marks on various social networking sites venues such as Facebook, Twitter, Tumblr, and Pinterest.
6. Notwithstanding Opposer's rights in its name and mark, Applicant filed the above-referenced application for registration of the mark LIFEBOOK for "Online social networking services in the field of recording a persons [sic] life, namely, past, present and future provided via a website" in Class 45.
7. Upon information and belief, Applicant has made no use of its alleged mark in commerce.
8. Upon information and belief, Applicant had actual and constructive notice of Opposer's Marks when Applicant adopted its alleged mark.
9. Opposer has used its LIFEBOOKER mark continuously on or in connection with its goods and services in interstate commerce since long prior to the filing date of Application No. 85/281,401 or any first use date that Applicant may claim for its alleged mark.

LIKELIHOOD OF CONFUSION - §2(D)

10. The mark which Applicant seeks to register so resembles Opposer's Marks that the use and registration thereof is likely to cause confusion, mistake, and deception as to the source or origin of Applicant's services in violation of Section 2(d) of the Trademark Act

and the issuance of a registration to Applicant will injure and damage Opposer and the goodwill and reputation symbolized by Opposer's Marks.

11. The services of Applicant are closely related to Opposer's goods and services.
12. Likelihood of confusion is enhanced in this case by the fame of Opposer's Marks and by the fact that consumers associate Opposer's Marks with services sold, approved or endorsed by Opposer.
13. Likelihood of confusion is further enhanced by the fact that LIFEBOOKER and LIFEBOOK are very similar in appearance, sound and meaning and Applicant's removal of the -ER suffix from Opposer's Marks does not distinguish Applicant's alleged mark from those owned by Opposer.
14. Likelihood of confusion is enhanced in this case by the fact that the parties' services are offered through the same trade channels to the same classes of consumers.
15. Likelihood of confusion may be presumed in this case in light of the fact that Applicant obviously adopted an imitation of Opposer's Marks with prior knowledge of Opposer's Marks and with the intent to cause confusion and to capitalize on the popularity of Opposer's Marks.
16. Use and registration of the mark LIFEBOOK by Applicant will deprive Opposer of the ability to protect its reputation, persona, and goodwill.

DECEPTION/FALSE SUGGESTION OF CONNECTION-§2(d)

17. Applicant's alleged mark so closely resembles Opposer's Marks that it is likely to cause deception in violation of Section 2(a) of the Trademark Act, in that Applicant's mark misdescribes the nature or origin of the services, consumers are likely to believe that the

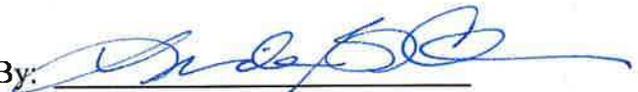
misdescription actually describes the nature or origin of the services, and this deception is likely to materially alter consumers' decisions relating to Applicant's services.

18. Applicant's alleged mark so closely resembles Opposer's Mark that it falsely suggests a connection with Opposer in violation of Section 2(a) of the Trademark Act because Applicant's alleged mark points uniquely to Opposer in violation of Section 2(a) of the Trademark Act because Applicant's mark points uniquely to Opposer, and purchasers will assume that services offered under Applicant's alleged mark are connected with Opposer.
19. When Applicant's alleged mark is used on services of the type described in the application, Applicant's alleged mark will cause consumers to mistakenly assume that Opposer is endorsing, attempting to promote, or encouraging the sale of Applicant's services by permitting the Applicant's mark to be used in connection with such services.
20. Applicant is not affiliated or connected with Opposer, nor is it approved, endorsed, or sponsored by Opposer.
21. Applicant's alleged mark is deceptive in that it falsely suggests a connection with or approval by Opposer.
22. Likelihood of damage to Opposer's goodwill is enhanced by the fact that prospective consumers who encounter defects in the quality of the Applicant's services will attribute those defects to Opposer, thereby injuring Opposer's reputation and goodwill.

23. By reason of the foregoing, Opposer will be damaged by the registration of the Applicant's mark, and the registration should be refused.

WHEREFORE, Opposer prays that this opposition will be sustained and that registration be denied.

LIFEBOOKER LLC

By: 

Michael A. Grow
Linda S. Chan
Arent Fox LLP
1675 Broadway
New York, New York 10019
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Attorney for Opposer

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing notice of opposition (re Ser. No. 85/281,401) is being served upon Applicant's counsel of record, Christopher J. Day of Law Office of Christopher Day at 9977 N 90th St Ste 155, Scottsdale, AZ 85258-4499 by first class mail, postage prepaid, on March 14, 2012.


Tanya V. J. Branch