

ESTTA Tracking number: **ESTTA1019**

Filing date: **06/11/2013**

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	EXECUTIVE TRANSPORTATION SERVICES OF WNY, INC.		
Entity	Corporation	Citizenship	New York
Address	5464 Genesee Street Lancaster, NY 14086 UNITED STATES		

Correspondence information	Jeffrey Furr Attorney Furr Law Firm 2622 Debolt Road Utica, OH 43080 UNITED STATES jeffmfurr@furrllawfirm.com Phone:740-892-2118		
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Applicant Information

Application No	85791624	Publication date	05/28/2013
Opposition Filing Date	06/11/2013	Opposition Period Ends	06/27/2013
Applicant	Buffalo Niagara Chauffeured Services, Inc. 62 Clyde Avenue Buffalo, NY 14215 UNITED STATES		

Goods/Services Affected by Opposition

Class 039. First Use: 1970/01/01 First Use In Commerce: 1970/01/01 All goods and services in the class are opposed, namely: Limousine services

Grounds for Opposition

The mark is merely descriptive	Trademark Act section 2(e)(1)
The mark is primarily geographically descriptive	Trademark Act section 2(e)(2)
The mark comprises matter that, as a whole, is functional	Trademark Act section 2(e)(5)
Genericness	Trademark Act section 23

Attachments	bufflimiopposition.pdf(82588 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	/jmf/
Name	Jeffrey Furr
Date	06/11/2013

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

In re Application Number 85791624
For the mark BUFFALO LIMOUSINE
Filed November 30, 2012
Published May 28, 2013

EXECUTIVE TRANSPORTATION SERVICE OF WNY,
BUFFALO TROLLEY,
CHAUTAUQUA LIMOUSINE SERVICE,
DJ THE DJ LIMOUSINE SERVICE,
GIORGIOS LIMOUSINE SERVICE,
GRAY LINE OF NIAGARA,
MAC TRANSPORTATION & TOURS,
MANCUSO COUNTRY AUTO,
MANCUSO LIMOUSINE & BUS OF WNY,
MISTY THUNDER LIMOUSINE SERVICE,
STATUS LIMOUSINE SERVICE, and
TLC OF WNY LIMOUSINE

Opposers

NOTICE OF OPPOSITION

vs.

Buffalo Niagara Chauffeured Services, Inc.

Applicant

EXECUTIVE TRANSPORTATION SERVICE OF WNY, a company, duly organized and existing under the laws of New York, having a place of business at 5464 Genesee St., Lancaster, New York, BUFFALO TROLLEY, a company, duly organized and existing under the laws of New York, having a place of business at 1625 Buffalo Ave, Suite 1A Niagara Falls, New York; CHAUTAUQUA LIMOUSINE SERVICE, a company, duly organized and existing under the laws of New York, having a place of business at 5464 Genesee St., Lancaster, New York; DJ THE DJ LIMOUSINE SERVICE, a company, duly organized and existing under the laws of New York, having a place of business at Military Road, Niagara Falls, New York; GIORGIOS LIMOUSINE SERVICE, a company, duly organized and existing under the laws of New York, having a place of business at 5464 Genesee Street, Lancaster, New York 14086; GRAY LINE OF NIAGARA, a company, duly organized and existing under the laws of New York, having a place of business at 1625 Buffalo Ave, Suite 1A, Niagara Falls, New York; MAC TRANSPORTATION & TOURS, a company, duly organized and existing under the laws of New York, having a place of business at 70 Earhart Drive, Suite 7, Williamsville, New York; MANCUSO COUNTRY AUTO, a company, duly organized and existing under the laws of New York, having a place of business at 3959 West Main Street, Batavia, New York 14020; MANCUSO LIMOUSINE & BUS OF WNY, a company, duly organized and existing under the laws of New York, having a place of business at 3959 West Main Street, Batavia, New York 14020; MISTY THUNDER LIMOUSINE SERVICE, a company, duly organized and existing under the laws of New York, having a place of business at Military Road, Niagara Falls, New York, STATUS LIMOUSINE SERVICE, a company, duly organized and existing under the laws of New York, having

a place of business at 799 Englewood Avenue, Buffalo, New York 14223, TLC OF WNY LIMOUSINE, a company, duly organized and existing under the laws of New York, having a place of business at 4804 Transit Road, Depew, New York, believes that they will be damaged by the registration of the mark shown in Application Serial Number 85791624 and hereby opposes the same under the provisions of Section 13 of the Trademark Act of 1946, 15 U.S.C. 1063.

As grounds for opposition, Opposers alleges the following:

1. Opposers are companies doing Limousine services in and around Buffalo, New York and have used the term “buffalo limousine” or similar term for years to describe their services and goods as it is virtually impossible to describe their service of limousine service in their geographic location of Buffalo, New York without the use of the terms.
2. Applicant filed trademark application Serial Number 85791624 on November 30, 2012 for the mark BUFFALO LIMOUSINE associated with “Limousine services” in International Class 039.
3. Applicant primarily offers limousine services in the city of Buffalo, New York.
4. Opposers have a direct and personal stake in the outcome of this proceeding because Opposers have been using the generic/descriptive term “Buffalo limousine” to describe their services and Applicant is trying to take the generic/descriptive term and prevent it from being used.

5. Opposers have been using the generic/descriptive term “Buffalo limousine” that the Applicant is trying to trademark interfering in the Opposers right to use the term in a descriptive manner.
6. The Applicant’s Mark is a generic term which would grant the Applicant a monopoly since the Opposers would not be able to describe their services as what they are, limousine services in Buffalo.
7. The Applicant’s mark is primarily geographically descriptive.
8. The Applicant’s mark as a whole is functional.
9. If deemed not to be generic then the Applicant’s Mark is merely descriptive of its services and geographical location. If the services are not being offered in Buffalo then the mark is geographically mis-descriptive.

FIRST GROUND FOR RELIEF (under Trademark Act section 2(e)(1))
Merely Descriptive

10. Petitioner incorporates by reference paragraphs 1 through 9 as if fully set forth herein.

SECOND GROUND FOR RELIEF (under Trademark Act section 2(e)(2))
Primarily Geographically Descriptive

11. Petitioner incorporates by reference paragraphs 1 through 9 as if fully set forth herein.

THIRD GROUND FOR RELIEF (under Trademark Act section 2(e)(5))
Comprises Matter that is as a whole Functional

12. Petitioner incorporates by reference paragraphs 1 through 9 as if fully set forth herein.

FOURTH GROUND FOR RELIEF (under Trademark Act section 23)
Genericness

13. Petitioner incorporates by reference paragraphs 1 through 9 as if fully set forth herein.

WHEREFORE, Opposer asks the Board to sustain this opposition and deny registration of the mark identified in Applicant's application.

Respectfully submitted,

June 11, 2013
Date

/jmf/
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CERTIFICATE OF ELECTRONIC MAILING

I hereby certify that this paper is being filed electronically with the United States Patent and Trademark Trial and Appeal Board on the 11th day of June, 2012 through ESTTA.

/jmf/

Jeffrey M. Furr, Esquire

CERTIFICATE OF SERVICE

I hereby certify that this paper is being deposited on the 11th day of June, 2013 with the United States Postal Service in an envelope addressed to:

Buffalo Niagara Chauffeured Services, Inc., 62 Clyde Avenue, Buffalo, NEW YORK
14215 and CHARLES VON SIMSON, DAMON MOREY LLP, 200 DELAWARE AVE
STE 1200, BUFFALO, NEW YORK 14202-2150

/jmf/

Jeffrey M. Furr, Esquire