

ESTTA Tracking number: **ESTTA555164**

Filing date: **08/21/2013**

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	Barbara Morton Timarron College Prep
Granted to Date of previous extension	08/21/2013
Address	630 E. Southlake Blvd., Suite 111 Southlake, TX 76092 UNITED STATES
Party who filed Extension of time to oppose	BarbaraMorton
Relationship to party who filed Extension of time to oppose	The first name has a typographical error, missing the space between 'Barbara' and 'Morton'. The company name is a name under which Ms. Morton does business.

Attorney information	Warren V. Norred Norred Law, PLLC 200 E. Abram, Suite 300 Arlington, TX 76010 UNITED STATES wnorred@norredlaw.com Phone:817-704-3984
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Applicant Information

Application No	85780484	Publication date	04/23/2013
Opposition Filing Date	08/21/2013	Opposition Period Ends	08/21/2013
Applicant	Timarron Owners Association, Inc. 700 Wentwood Drive Southlake, TX 76092 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. First Use: 1992/05/15 First Use In Commerce: 1992/05/15 All goods and services in the class are opposed, namely: Association services, namely, promoting the interests of current homeowners and marketing to attract new homeowners; Business management of homeowners associations for others; Homeowner association services, namely, promoting the interests of homeowners in a specific community and marketing the community nationwide to prospective new residents and property owners
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Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
The mark is primarily geographically descriptive	Trademark Act section 2(e)(2)
Dilution	Trademark Act section 43(c)
Genericness	Trademark Act section 23

Mark Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	TIMARRON COLLEGE PREP		
Goods/Services	Conducting after school tutoring programs; Education services, namely, providing tutoring in the field of mathematics, sciences, social studies, language arts and foreign languages; Education services, namely, providing tutoring in the fields of curriculum for all educational levels, namely, primary and secondary grades, and college level, namely, undergraduate, graduate and post-graduate levels; Education services, namely, providing tutoring in the fields of taking academic entrance examinations and standardized tests; Providing courses of instruction at the primary and secondary levels, and college levels, namely, undergraduate, graduate and post-graduate level; Teaching in the field of mathematics, sciences, social studies, language arts and foreign languages		

Related Proceedings	Opposition 91186534 Parties are also involved in a Texas state case in Tarrant County, 096-260449-12, in which the Applicant filed suit against Opposer for trademark infringement, though Applicant recently dismissed its claims.
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Attachments	Notice of Opposition to Timarron HOA.pdf(414706 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 Facsimile or email (by agreement only) on this date.

Signature	/Warren V. Norred/
Name	Warren V. Norred
Date	08/21/2013

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

TIMARRON COLLEGE PREP

Opposer

v.

TIMARRON OWNERS ASSOCIATION

Applicant.

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Opposition No: _____

Mark: TIMARRON

In re Trademark No: 85516680

NOTICE OF OPPOSITION

OPPOSER:

Barbara Morton, dba Timarron College Prep
630 E. Southlake Boulevardl, Suite 111
Southlake, TX 76092

APPLICANT:

Timarron Owners Asso., Inc.
Texas Partnership
700 Wentwood Drive
Southlake, Texas 76092

1. Applicant, **TIMARRON OWNER ASSOCIATION**, is a Texas corporation.
2. Opposer, **BARBARA MORTION, dba TIMARRON COLLEGE PREP** believes that it will be damaged by registration of the subject mark and thereby opposes the same.
3. This Notice of Opposition has been timely filed, having first received an order extending the deadline to file from its original deadline to August 21, 2013.

As grounds of opposition, it is alleged that:

1. Applicant seeks to register the word mark "TIMARRON" as a service mark in Int'l Class 35, and described on its application as "Association services, namely, promoting the interests of current homeowners and marketing to attract new homeowners; Business management of homeowners associations for others; Homeowner association services, namely, promoting the interests of homeowners in a specific community and marketing the community nationwide to prospective new residents and property owners."
2. Opposer would agree that Applicant has a common law mark for "Timarron Owners

Association", the name for which is well known. However, Opposer asserts that "Timarron" has been used in the business name of more than twenty businesses around the area, including but not limited to the the following:

- a. "The Courtyard at Timarron" is a current business in Southlake, TX.
 - b. "The Villages at Timarron" is a current business in Southlake, TX.
 - c. " Timarron Family Medicine, PA" is a current business in Southlake, TX.
 - d. "Timarron at Creekside Park" is a current business in Southlake, TX.
 - e. "Timarron Financial Services, LLC" is a current business in Southlake, TX.
 - f. "Timarron Partners, Inc." is a current business in Grapevine, TX.
 - g. "Timarron LLC" is a current business in Richardson, TX.
 - h. "Timarron Capital Inc" is a current business in Irving, TX.
 - i. "Timarron Custom Homes, Inc." is a current business in Keller, TX.
 - j. "Timarron Venture, Ltd." is a current business in Dallas, TX.
 - k. "Timarron Venture One, L.C." is a current business in Dallas, TX.
 - l. "Timarron Shopping Center, L.P." is a current business in Dallas, TX.
 - m. "Timarron Mortgage Group Inc." is a current business in Dallas, TX.
 - n. "Timarron Land Corporation" is a current business in Mesquite, TX.
 - o. "Timarron Skin & Laser" is a current business in Southlake, TX.
 - p. "Timarron Professional Eye" is a current business in Southlake, TX.
 - q. "Timarron Golf Club Maintenance" is a current business in Southlake, TX.
 - r. "Timarron Family Medicine" is a current business in Southlake, TX.
 - s. "Village at Timarron 4120" is a current business in Southlake, TX.
 - t. "Timarron Tiger Sharks" is a current business in Southlake, TX.
3. Though Applicant might point out that most of the services provided by the above-listed organizations do not offer home owner association services, but Applicant's legal proceedings at state court plead very differently.
- a. Applicant lost its state case by summary judgment when it sued Neighborhood Networks Publishing, Inc. in Texas Tarrant County District Court 352, Cause No. 352-260448-12. provided by Applicant.
 - b. Applicant recently dismissed its claims against Opposer in Texas Tarrant County District Court 096-260449-12
 - c. Opposer is aware of a third company contacted by Applicant, where Opposer has threatened another suit on similarly bad logic.
- Laches
4. Many near organizations have been using TIMARRON as part of their mark for years, along with many other entities in the area.

5. Many businesses near Applicant have used "Timarron"
6. The delay in filing suit was not reasonable or excusable.

Affirmative Defense of Dilution

7. The word "TIMARRON" is used by many businesses in the Southlake, TX area. In the minds of consumers, the word "TIMARRON" is not attached to one particular business.
8. "TIMARRON" is so diluted that no single entity should be able to have exclusive rights to the word.
9. Opposer's claim to a common law trademark is limited to its full name "TIMARRON OWNER'S ASSOCIATION", by which it is known.

Applicant's mark is not valid.

10. The State of Texas has given a registration to Applicant for "TIMARRON", which Applicant has challenged in the 96th Tarrant County as detailed above, Opposer expects to result in a cancellation of the state mark.

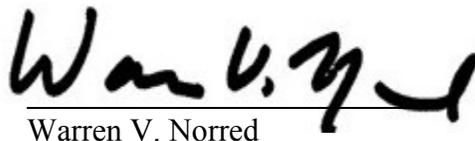
Prayer

WHEREFORE, Applicant respectfully requests that the Applicant's mark be rejected.

Respectfully submitted,

By: /Warren V. Norred/
Warren V. Norred, Texas Bar No. 24045094
200 E. Abram, suite 300, Arlington, TX 76001
Tel. (817) 704-3984, Fax. (817) 549-0161
Attorney for PLAINTIFF

CERTIFICATE OF SERVICE - I certify that on August 21, 2013, a true and correct copy of Opposer's Notice of Opposition above served by fax to John Wilson at 972.248.8088.


Warren V. Norred