

ESTTA Tracking number: **ESTTA581509**

Filing date: **01/13/2014**

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	JorgeJ.Carnicero
Granted to Date of previous extension	01/12/2014
Address	3235 Foxvale Drive Oakton, VA 22124 UNITED STATES

Correspondence information	Theresa W. Middlebrook Counsel of Record HOLLAND & KNIGHT 400 Soth Hope Street Suite 800 Los Angeles, CA 90071 UNITED STATES theresa.middlebrook@hklaw.com, cathi.viquelia@hklaw.com Phone:213 896 2586
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**Applicant Information**

Application No	85687947	Publication date	07/16/2013
Opposition Filing Date	01/13/2014	Opposition Period Ends	01/12/2014
Applicant	Pejacsevich, Peter PO Box 94 Middleburg, VA 20118 ATX		

**Goods/Services Affected by Opposition**

Class 044. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Horse farms; technical consultation in the fields of feeding and raising horses
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**Grounds for Opposition**

False suggestion of a connection	Trademark Act section 2(a)
The mark is primarily geographically descriptive	Trademark Act section 2(e)(2)

**Mark Cited by Opposer as Basis for Opposition**

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	ATOKA FARM		

Goods/Services	institution known for equestrian activities
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Related Proceedings	Opposition No. 91209647 re ATOKA PROPERTIES Serial No. 85687953 for ATOKA
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Attachments	OPPO Atoka Farm 85687947.pdf(311239 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	/twm/
Name	Theresa W. Middlebrook
Date	01/13/2014



owns the historic Atoka Farm property, as well as other assets, for the benefit of certain heirs of Mr. Carnicero, including Opposer.

2. The historic Atoka Farm property is a residence within Virginia's original horse country known as Middleburg (which also the name of a small town), which has long been recognized for its connection with classic "horse and hound" equestrian activities. The custom of naming estates and significant residences in this area of the country has been followed since at least the late 1600s.

3. The historic Atoka Farm property's first buildings were built around 1816 when the unincorporated rural area had very few residents. The historic Atoka Farm property has been known by that name for many years and has retained that name through many changes of ownership. For many decades at least one sign or other indicator has appeared at the entrance to the historic Atoka Farm property that identifies the property as "Atoka Farm".

4. Over the years portions of the land in the original historic Atoka Farm property have been divided off and conveyed to others (each, a "**Divided Parcel**"). At all times the portion of the historic Atoka Farm property that remained with the then current owner contained the original historic buildings dating back to the early 1800s continued to be referred to as "Atoka Farm." Other than as set forth herein, and on information and belief, at no time has any Divided Parcel been referred to as "Atoka Farm," as such would cause confusion, mistake or deception with the historic Atoka Farm property. The historic Atoka Farm property in its current size and configuration contains the original historic buildings, is identified as Atoka Farm by its owners, past and present, and is currently known as such by adjacent residents, within the surrounding areas, and by the members of the general public.

5. Over time, the rural area immediately adjacent to the historic Atoka Farm property became known as, and is currently known as, the village of Atoka, on information and belief having been named after the historic Atoka Farm property, one of the area's original and most famous country estate properties in the area.

6. The historic Atoka Farm property and the village of Atoka are within the Cromwell's Run Rural Historic District, a federally recognized historic district. The District is characterized by open, contiguous and pastoral land and is well known as an area for horse racing, foxhunting, and breeding sport horses, as well as its historic buildings, and prestigious historic estate properties and residences, specifically including the historic Atoka Farm property.

7. The village of Atoka has played an important role in Virginia and U.S. history. Its strategic location made it an important meeting place for John S. Mosby's Confederate Rangers during the Civil War and has been an important crossroads since the 1800's.

8. When John F. Kennedy was President of the United States, he and his immediate family kept a residence in the village of Atoka known as Wexford. Mrs. Kennedy was famous for her equestrian skills and participation in foxhunting, which requires particular advanced skills in riding and controlling horses. Over the years, the historic Atoka Farm property has been permitted by its landowners to be traversed and accessed by organized fox hunts.

9. Presidents Johnson, Nixon and Reagan all owned or visited property in and around the village of Atoka, drawing national attention to the geographic name of this village.

10. The historic Atoka Farm property has long been specifically recognized for its location within the Middleburg region and its direct connection with equestrian activities. Many decades ago, the historic Atoka Farm property was the country home of U.S. Senator John Warner, and for a time, his then wife, the actress Elizabeth Taylor. On information and belief, while residing at the historic Atoka Farm property, Senator John Warner was recognized as an accomplished equestrian and participated in fox hunts. The historic Atoka Farm property developed further fame and renown as the home of Ms. Taylor. Ms. Taylor was recognized as an accomplished equestrian, cast as a young teenager in her breakout roll in "National Velvet" because of her riding ability, and continued her participation in equestrian sports during her residency at the historic Atoka Farm property, thus drawing even more attention to the name of the historic Atoka Farm property, and its link with equestrian activities.

11. At the time the historic Atoka Farm property was acquired by Mr. and Mrs. Carnicero from Senator Warner, it was commonly known that the historic Atoka Farm property would be used by Opposer. At that time, Opposer was, and remains to this day, well recognized for his experience, knowledge and contributions to the equestrian breeding and horse show worlds, including through his Directorships at the Washington International Horse Show, one of the world's leading equestrian competitions, and the Upperville Horse and Colt Show, one of the oldest horse shows in the United States. Opposer remains so recognized to this date, and thus further enforces a recognition of a link between the historic Atoka Farm property and world class breeding, training, and competition of sport horses.

12. The name Atoka Farm is a significant asset of the historic Atoka Farm property and of the Trust and increases the monetary value and/or desirability and/or salability of the historic Atoka Farm property to potential buyers.

13. The historic Atoka Farm property is an institution under Section 2(a) of the Federal Trademark Statute, 15 U.S.C. Section 1052(a). The historic Atoka Farm property is known for its connections with persons in the equestrian fields of horse breeding, training, and equestrian competitions.

14. Applicant is an individual and is married to a granddaughter of Mr. and Mrs. Carnicero, Opposer's niece, Natalia. Applicant personally filed the Application on July 26, 2012, which was subsequently published on July 16, 2013. Applicant has no, and has never held, any ownership rights in the historic Atoka Farm property. Applicant's sole interest in the historic Atoka Farm property was the temporary, limited, conditional right, now terminated, solely as and in his capacity as Natalia's husband, to reside with his wife and their children in a residence at the Atoka Farm property under agreements with the Trust.

15. On information and belief, Applicant's wife, Natalia, has rightful possession of a Divided Parcel from the historic Atoka Farm property, created pursuant to contract approved by the Trust, and which is held by her for the benefit of certain great-grandchildren of Mr. and Mrs. Carnicero (hereafter, the "**Legacy Parcel**"). On information and belief, a new residence has been

built on the Legacy Parcel and that residence is occupied by Natalia, her husband Applicant, and their children.

16. On information and belief, Applicant has caused the sign stating "Atoka Farm" at the entrance to the historic Atoka Farm property to be removed and secreted or destroyed.

17. Applicant has commenced referring to the Legacy Parcel as "Atoka Farm," has permitted others such as the residence architect to call that residence "Atoka Farm". This improperly and falsely suggests a connection between Applicant, as an individual, and the historic Atoka Farm property, and misleads others to believe that the Legacy Parcel is the historic Atoka Farm property, that Applicant has some ownership or other rights in the historic Atoka Farm property, that Applicant has some ownership or other rights in the historic Atoka Farm property, to increases the value of the Legacy Parcel by diverting the fame, prestige, monetary value, cache, and history of the actual historic Atoka Farm property to the Legacy Parcel, and damages the monetary and salability of the actual historic Atoka Farm property by diverting its name to the Legacy Parcel and clouding title to the right to use the name Atoka Farm. Such registration sought by Applicant would constitute a direct challenge by the current, any prospective owner, and any future owner of the historic Atoka Farm property to use its actual name as a name of this institution, or in any commercial sense.

18. As the beneficiary of the Trust that owns the historic Atoka Farm property, Opposer has the right and duty to protect the name and integrity of the historic Atoka Farm property and prevent Applicant from creating confusion with the public by implying a false connection between Applicant and the historic Atoka Farm property, thereby lessening and harming the value of the historic Atoka Farm property, its name and causing damage to Opposer.

19. There is no connection between the historic Atoka Farm property and Applicant. Applicant's registration of the mark ATOKA FARM would disparagingly and/or falsely suggest a connection between him and the historic Atoka Farm property, and is barred by Section 2(a) of the Trademark Act, 15 U.S.C. Section 1052(a).

20. Atoka is a place name inextricably linked to the geographic area known as Atoka. Applicant's registration of the mark ATOKA FARM for any commerce in and around Atoka is

an improper attempt to register a mark that is primarily geographically descriptive, and therefore barred from registration by Section 2(e)(2) of the Trademark Act, 15 U.S.C. Section 1052(e)(2).

22. At the time of filing of the Application, Applicant held no bona fide intention to use the mark ATOKA FARM in commerce for the services identified in the Application.

23. At no time after the filing of the Application, nor to date, has Applicant held any bona fide intention to use the mark ATOKA FARM in commerce for the services identified in the Application.

WHEREOF, Opposer prays that this Notice of Opposition be sustained and registration of application Serial No. 85/687,947 be refused.

Respectfully submitted,

Jorge J. Carnicero

Dated: Jan 13, 2014

By:   
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Counsel for Opposer

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing OPPOSITION was furnished by electronic mail and U.S. Mail on this 13th day of January, 2014 to:

Michael T. Murphy, Esq.  
K&L Gates, LLP  
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Theresa W. Middlebrook

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