

ESTTA Tracking number: **ESTTA641389**

Filing date: **11/26/2014**

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	Blackberry Farm, LLC
Granted to Date of previous extension	11/26/2014
Address	1471 West Millers Cove Road Walland, TN 37886 UNITED STATES

Attorney information	Michael J. Bradford Luedeka Neely Group, P.C. 900 S. Gay Street, Suite 1871 Knoxville, TN 37902 UNITED STATES mbradford@luedeka.com Phone:865-546-4305
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Applicant Information

Application No	86205907	Publication date	07/29/2014
Opposition Filing Date	11/26/2014	Opposition Period Ends	11/26/2014
Applicant	Kentucky Enterprises, LLC P.O. Box 88 Paris, KY 40362 UNITED STATES		

Goods/Services Affected by Opposition

Class 031. First Use: 2014/02/18 First Use In Commerce: 2014/02/18 All goods and services in the class are opposed, namely: Edible dog treats
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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.	2314647	Application Date	02/24/1999
Registration Date	02/01/2000	Foreign Priority Date	NONE
Word Mark	BLACKBERRY		

Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1998/01/00 First Use In Commerce: 1998/01/00 hotel and restaurant services		

U.S. Registration No.	2314642	Application Date	02/24/1999
Registration Date	02/01/2000	Foreign Priority Date	NONE
Word Mark	BLACKBERRY FARM		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1940/00/00 First Use In Commerce: 1940/00/00 hotel and restaurant services		

U.S. Registration No.	2316661	Application Date	02/24/1999
Registration Date	02/08/2000	Foreign Priority Date	NONE
Word Mark	BLACKBERRY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1940/00/00 First Use In Commerce: 1940/00/00		

	hotel and restaurant services		
U.S. Registration No.	2384464	Application Date	07/10/1997
Registration Date	09/12/2000	Foreign Priority Date	NONE
Word Mark	BLACKBERRY		
Design Mark	BLACKBERRY		
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1940/00/00 First Use In Commerce: 1940/00/00 hotel services		
U.S. Registration No.	3116830	Application Date	06/23/2005
Registration Date	07/18/2006	Foreign Priority Date	NONE
Word Mark	BLACKBERRY ESSENTIALS		
Design Mark	BLACKBERRY ESSENTIALS		
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2005/04/01 First Use In Commerce: 2005/04/01 cosmetics and cleaning preparations, namely, bath products for the body in the nature of bath salts, body scrub preparations, cleansing bars, and moisturizers, lotions, and balms		
U.S. Registration No.	3433085	Application Date	03/22/2006
Registration Date	05/20/2008	Foreign Priority Date	NONE
Word Mark	BLACKBERRY FARM		

Design Mark	<h1>BLACKBERRY FARM</h1>		
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 2007/12/24 First Use In Commerce: 2007/12/24 cheese		

U.S. Registration No.	3882899	Application Date	04/13/2010
Registration Date	11/30/2010	Foreign Priority Date	NONE
Word Mark	BLACKBERRY FARM		
Design Mark	<h1>BLACKBERRY FARM</h1>		
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 2009/12/01 First Use In Commerce: 2009/12/01 Preserved meats and sausages		

U.S. Registration No.	4349246	Application Date	08/23/2012
Registration Date	06/11/2013	Foreign Priority Date	NONE
Word Mark	BLACKBERRY FARM BREWERY		
Design Mark	<h1>BLACKBERRY FARM BREWERY</h1>		

Description of Mark	NONE
Goods/Services	Class 040. First use: First Use: 2012/08/22 First Use In Commerce: 2012/08/22 Brewery services

U.S. Registration No.	4418100	Application Date	02/27/2013
Registration Date	10/15/2013	Foreign Priority Date	NONE

Word Mark	BLACKBERRY FARM
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 030. First use: First Use: 2007/02/01 First Use In Commerce: 2007/02/01 biscuit mix, chow chow/relish, fried chicken mix, granola, seasoning, vinegar
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U.S. Registration No.	4620879	Application Date	03/19/2014
Registration Date	10/14/2014	Foreign Priority Date	NONE

Word Mark	BLACKBERRY FARM
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 035. First use: First Use: 1998/01/01 First Use In Commerce: 1998/01/01 online, wholesale, and retail store services, each featuring a wide variety of gift, home, and food goods, namely, giftitems, home dÃ©cor, lifestyle, food, drygoods, jewelry, clothing, kitchen accessories, spa products, and books
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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	/Michael J. Bradford/
Name	Michael J. Bradford
Date	11/26/2014

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

In the Matter of Application S/N 86/205,907

For the mark: BLACKBERRY BISCUITS & Design

Published in the Official Gazette on July 29, 2014
(Request to extend time to oppose granted until November 26, 2014)

BLACKBERRY FARM, LLC)	
)	
Opposer,)	
)	
v.)	
)	
KENTUCKY ENTERPRISES, LLC)	
)	
Applicant.)	

NOTICE OF OPPOSITION

TRADEMARK TRIAL AND APPEAL BOARD
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Sir:

Opposer, Blackberry Farm, LLC, believes it will be damaged by registration of the mark BLACKBERRY BISCUITS of Application Serial No. 86/205,907 filed by the named applicant therein and hereby opposes the same. As grounds for this opposition, it is alleged as follows:

1. Opposer Blackberry Farm, LLC (hereinafter "Blackberry Farm") is a Tennessee limited liability company having a place of business at 1471 West Millers Cove Road, Walland, Tennessee 37886.

2. On information and belief, the Applicant, Kentucky Enterprises, LLC, is a limited liability company of Kentucky, having an address of P.O. Box 88, Paris, Kentucky 40362.

3. The opposed application was filed by Applicant in the United States Patent and Trademark Office on February 27, 2014, under Serial No. 86/205,907, and claims a date of first use of the BLACKBERRY BISCUITS mark of February 18, 2014.

4. Opposer has used and currently uses a family of various marks which include the terms “Blackberry” and/or “Blackberry Farm” (hereinafter “Blackberry Marks”) in connection with hotel, resort, restaurant, brewery, retail store, and interior design services as well as a wide variety of goods, including assorted food items, beer, and cosmetics and cleaning preparations, and related goods and services. Such Blackberry Marks have been extensively promoted, advertised, and used in interstate commerce for and in connection with Opposer’s goods and services for a substantial period of time prior to any actual or constructive use by Applicant of its mark, and prior to the filing date of the opposed application.

5. By reason of extensive advertisement and promotion of the Blackberry Marks in commerce, the consuming public has come to recognize the marks as indication of a source or origin of the goods/services offered thereunder, such marks are symbolic of extensive good will, and this goodwill is an important and valuable asset of Opposer’s business. Further, as a result of such extensive advertisement and promotion, the Blackberry Marks were famous prior to any use or filing date of Applicant for its marks and are now famous.

6. Opposer is the owner of and will rely upon valuable common law rights in the Blackberry Marks. Furthermore, various of its Blackberry Marks are the subject of registrations in the United States Patent and Trademark Office, including, but not limited to:

Registration No.	Mark	Goods/Services
2314647		Hotel and restaurant services
2314642	BLACKBERRY FARM	Hotel and restaurant services
2316661	BLACKBERRY	Hotel and restaurant services
2384464	BLACKBERRY	Hotel services
3116830	BLACKBERRY ESSENTIALS	Cosmetics and cleaning preparations, namely, bath products for the body in the nature of bath salts, body scrub preparations, cleansing bars, and moisturizers, lotions, and balms
3433085	BLACKBERRY FARM	Cheese
3882899	BLACKBERRY FARM	Preserved meats and sausages
4349246	BLACKBERRY FARM BREWERY	Brewery services
4418100	BLACKBERRY FARM	Biscuit mix, chow chow/relish, fried chicken mix, granola, seasoning, vinegar
4620879	BLACKBERRY FARM	Online, wholesale, and retail store services, each featuring a wide variety of gift, home, and food goods, namely, gift items, home décor, lifestyle, food, dry goods, jewelry, clothing, kitchen accessories, spa products, and books

7. The registrations identified in the preceding paragraph are valid and subsisting, unrevoked and uncancelled, and Blackberry Farm is now the owner of the registrations, the marks shown therein and all of the good will of the business connected therewith.

8. On information and belief, the goods of the opposed application are or will be directed to the same general class of purchasers as the goods and services offered and provided under the Blackberry Marks.

9. Blackberry Farm has not licensed, consented or in any manner authorized use of the BLACKBERRY BISCUITS mark by the Applicant identified in the opposed application for any goods or services.

10. The goods of the opposed applications are the same as or are related to the goods offered under the Blackberry Marks.

11. As used for the same or related goods, the mark of the opposed application is confusingly similar to one or more of Blackberry Farm's Blackberry Marks.

12. Unauthorized use of the mark of the opposed application is likely to cause confusion among members of the public and to deceive purchasers who, on seeing the mark used in connection with the good stated therein, are likely to believe that the goods originate with, have some connection or association with, or are sponsored by, approved or licensed by the source of the goods/services offered and provided by Blackberry Farm under one or more of its Blackberry Marks. Blackberry Farm therefore avers that registration and/or use of the marks of the opposed applications would damage it.

13. Registration of the mark of the opposed application would be a further source of damage to Blackberry Farm inasmuch as use and registration of the opposed BLACKBERRY BISCUIT mark by Applicant for Applicant's goods dilutes and/or is likely to dilute the distinctive quality of Blackberry Farm's famous Blackberry Marks to the detriment and damage of Opposer.

WHEREFORE, Blackberry Farm believes it will be damaged by registration of the marks of the opposed applications and prays that registration thereof to Applicant be refused.

Respectfully submitted,

LUEDEKA NEELY GROUP, P.C.

By: s/Michael J. Bradford/

Michael J. Bradford, Reg. No. 52,646

Robert O. Fox, Reg. No. 34,165

Attorneys for Opposer

1871 Riverview Tower

Knoxville, TN 37902

(865) 546-4305

Certificate of Service

This is to certify that a true and correct copy of the foregoing is being served on counsel for Applicant, by first class mail, postage prepaid, addressed as follows:

Todd E. Stockwell, Esq.
STOCKWELL & SMEDLEY, PSC
861 Corporate Dr., Suite 200
Lexington, KY 40503-5434

Date: November 26, 2014

s/Michael J. Bradford/
Michael J. Bradford