

ESTTA Tracking number: **ESTTA648268**

Filing date: **01/05/2015**

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	CLIF BAR & COMPANY
Granted to Date of previous extension	01/04/2015
Address	1451 66th Street Emeryville, CA 94608 UNITED STATES

Correspondence information	William M. Bryner Attorney of record Kilpatrick Townsend & Stockton LLP 1001 West Fourth Street Winston-Salem, NC 27101-2400 UNITED STATES bbryner@kilpatricktownsend.com, rchou@kilpatricktownsend.com, amalutta@kilpatricktownsend.com, aschlette@kilpatricktownsend.com Phone:336-607-7482
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Applicant Information

Application No	86205271	Publication date	07/08/2014
Opposition Filing Date	01/05/2015	Opposition Period Ends	01/04/2015
Applicant	City of Greenville 200 West Fifth Street Greenville, NC 27858 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. First Use: 2013/10/20 First Use In Commerce: 2013/12/30 All goods and services in the class are opposed, namely: Promotion of economic development, recreation, tourism, community, education, culture, municipal and civic interests, all in the city of Greenville, North Carolina
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3729827	Application Date	01/13/2009
Registration Date	12/22/2009	Foreign Priority Date	NONE

Word Mark	IN GOOD COMPANY
Design Mark	
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2008/10/00 First Use In Commerce: 2008/10/00 Charitable services, namely, organizing and conducting volunteer programs and community service projects; advertising and marketing services for organizing and conducting volunteer programs and community service projects

Attachments	77648149#TMSN.png(bytes) Notice of Opposition.pdf(148729 bytes) Exhibit A to Notice of Opposition.pdf(502804 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	/William M. Bryner/
Name	CLIF BAR & COMPANY
Date	01/05/2015

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

In re Application No. No. 86/205,271
Filed: February 26, 2014
Published: July 8, 2014 in the Official Gazette
For: **FIND YOURSELF IN GOOD COMPANY**

CLIF BAR & COMPANY,
Opposer,

vs.

CITY OF GREENVILLE,
Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

CLIF BAR & COMPANY (“Clif Bar”), a California corporation, located and doing business at 1451 66th Street, Emeryville, California 94608, believes that it will be damaged by registration of the mark **FIND YOURSELF IN GOOD COMPANY** (Application Serial No. 86/205,271) for “Promotion of economic development, recreation, tourism, community, education, culture, municipal and civic interests, all in the city of Greenville, North Carolina” in International Class 35, filed in the name of City of Greenville (“Applicant”) with a mailing address at 200 West Fifth Street, Greenville, North Carolina, and published in the Official Gazette of July 8, 2014, and hereby opposes registration thereof.

As grounds for opposition, Clif Bar alleges:

1. Clif Bar is a company well known for selling sports/energy/nutrition food and beverages, operating a socially responsible business, organizing volunteer and community

activities, and working closely with environmental and charitable organizations. Clif Bar's line of sports/energy/nutrition products, including drinks mixes and powders, beverages, nutrition bars, and other snack foods, are made from organic ingredients and are promoted largely to nutritionally-minded consumers and athletes. Clif Bar's sports/energy/nutrition food and beverages are sold by many well-known retailers, such as REI, Whole Foods, Trader Joe's, Safeway, Wal-Mart, and Target, to name just a few. Clif Bar is working towards operating an entirely sustainable company and has run a program since 2001 where its employees collectively donate at least 2,080 hours (the average number of hours many full-time employees work in a year) to charitable causes. In 2006, the *San Francisco Business Times* selected Clif Bar for its Beyond the Check award, recognizing Clif Bar's innovative volunteer efforts. Since 2008, Clif Bar has organized and provided volunteer and community services to communities such as West Oakland, California; South Bronx, New York; New Orleans and Louisiana's Gulf Coast, and the Hopi Reservation in Arizona. Projects have included developing community gardens, restoring wetlands and building homes. Clif Bar is also affiliated with and/or has provided support to a number of environmental, health, and community-based organizations, such as the Breast Cancer Fund, Habitat for Humanity, Conservation Alliance, and Greenhouse Network. Accordingly, Clif Bar enjoys a well known and highly regarded reputation for selling top-quality sports/energy/nutrition products, operating a socially responsible business, organizing and conducting volunteer and community activities, and working closely with environmental and charitable organizations.

2. Clif Bar is the owner of U.S. Trademark Reg. No. 3,729,827 for the mark **IN GOOD COMPANY** ("IN GOOD COMPANY Mark") for "Charitable services, namely, organizing and conducting volunteer programs and community service projects; advertising and

marketing services for organizing and conducting volunteer programs and community service projects” in International Class 35. Clif Bar’s application for said registration was filed on January 13, 2009 and matured to registration on December 22, 2009. Clif Bar has used the **IN GOOD COMPANY** Mark on and in connection with the sale of the aforementioned services since at least as early October 2008. A copy of Clif Bar’s Certificate of Registration No. 3,279,287, and other information obtained from the USPTO’s website reflecting the current title and status of Clif Bar’s **IN GOOD COMPANY** Mark, is attached hereto as Exhibit A.

3. As a result of Clif Bar’s extensive advertising, sales, and marketing, Clif Bar’s **IN GOOD COMPANY** Mark is well known among members of the public and the trade.

4. By virtue of Clif Bar’s extensive use and promotion of its **IN GOOD COMPANY** Mark, Clif Bar has established valuable goodwill in the mark, and the public has come to associate Clif Bar’s **IN GOOD COMPANY** Mark with Clif Bar. As such, the public has come to know the **IN GOOD COMPANY** Mark as an indication of services that originate from Clif Bar.

5. Applicant filed U.S. Trademark Application Serial No. 86/205,271 (the Application”), which is the subject of this Opposition, on February 26, 2014, for the mark **FIND YOURSELF IN GOOD COMPANY** (“Applicant’s Mark”) in connection with “Promotion of economic development, recreation, tourism, community, education, culture, municipal and civic interests, all in the city of Greenville, North Carolina” in International Class 35, with a stated date of first use of October 20, 2013.

6. Applicant’s identified services are related to the community service and volunteer programs and services identified in Clif Bar’s registration for the **IN GOOD COMPANY** Mark, and with which Clif Bar has been using its **IN GOOD COMPANY** Mark for many years.

7. Clif Bar has used its **IN GOOD COMPANY** Mark in connection with its services since at least as early as 2008, at least five years prior to Applicant's filing date of February 26, 2014 and Applicant's stated date of first use of October 20, 2013.

8. Applicant's **FIND YOURSELF IN GOOD COMPANY** mark, which contains Clif Bar's **IN GOOD COMPANY** Mark in its entirety, is similar in sight, sound and connotation to Clif Bar's **IN GOOD COMPANY** Mark. Applicant's use of a mark that incorporates Clif Bar's **IN GOOD COMPANY** Mark suggests that there is an affiliation between Clif Bar and Applicant, when there is not.

9. As a result of the similarity between Clif Bar's **IN GOOD COMPANY** Mark and Applicant's **FIND YOURSELF IN GOOD COMPANY** mark, and the related nature of Applicant's services and Clif Bar's services, Applicant's Mark so resembles Clif Bar's previously used and registered **IN GOOD COMPANY** Mark as to be likely to cause confusion, to cause mistake, or to deceive the public or the trade as to the source, origin or sponsorship of the parties' respective services, in violation of § 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

10. Registration of Applicant's Mark shown in the opposed Application will result in damage to Clif Bar under § 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), pursuant to the allegations stated above.

11. If Applicant is permitted to register the **FIND YOURSELF IN GOOD COMPANY** mark, the registration would presumptively entitle Applicant to prima facie exclusive ownership and rights to the **FIND YOURSELF IN GOOD COMPANY** mark. Such registration would cause confusion among consumers as to the separate and distinct sources of Applicant's services and Clif Bar's services and the relationship of Clif Bar to Applicant, thereby damaging Clif Bar's goodwill in its **IN GOOD COMPANY** Mark, and resulting in irreparable

harm to Clif Bar's business and reputation, all to the detriment of Clif Bar who has expended considerable sums and effort in promoting the **IN GOOD COMPANY** Mark.

WHEREFORE, Clif Bar prays that this Opposition be sustained and that registration of U.S. Trademark Application Serial No. 86/205,271 be denied.

Please charge any necessary fee regarding this Opposition to the Deposit Account of Kilpatrick Townsend & Stockton LLP, 20-1430, and credit any overpayment to such deposit account.

Please direct all notices, pleadings and process regarding this matter to:

William M. Bryner, Esq.
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1001 West Fourth Street
Winston-Salem, NC 27101-2400
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Facsimile: (336) 734-2656
Email: bbryner@kilpatricktownsend.com

Respectfully submitted,

KILPATRICK TOWNSEND & STOCKTON LLP

Dated: January 5, 2015

By: /William M. Bryner/
William M. Bryner
Anthony J. Malutta
Rosaleen H. Chou
Attorneys for Opposer

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CERTIFICATE OF SERVICE

On January 5, 2015, I served the foregoing **NOTICE OF OPPOSITION** on counsel of record for Applicant by depositing a true copy thereof with the United States Postal Service as first class mail, postage prepaid, at San Francisco, California, enclosed in a sealed envelope addressed as follows:

Susan Freya Olive
OLICE & OLIVE, P.A.
PO Box 2049
Durham, NC 27702-2049

/Audrey Schlette/
Audrey Schlette

EXHIBIT A

United States of America

United States Patent and Trademark Office

IN GOOD COMPANY

Reg. No. 3,729,827 CLIF BAR & COMPANY (CALIFORNIA CORPORATION)
Registered Dec. 22, 2009 1610 5TH STREET
BERKELEY, CA 94710

Int. Cl.: 35 FOR: CHARITABLE SERVICES, NAMELY, ORGANIZING AND CONDUCTING VOLUNTEER PROGRAMS AND COMMUNITY SERVICE PROJECTS; ADVERTISING AND MARKETING SERVICES FOR ORGANIZING AND CONDUCTING VOLUNTEER PROGRAMS AND COMMUNITY SERVICE PROJECTS, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

**SERVICE MARK
PRINCIPAL REGISTER**

FIRST USE 10-0-2008; IN COMMERCE 10-0-2008.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 77-648,149, FILED 1-13-2009.

JENNIFER HETU, EXAMINING ATTORNEY



David J. Kyfos

Director of the United States Patent and Trademark Office

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Correspondent e-mail No
Authorized:

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Sep. 17, 2012	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	88888
Sep. 17, 2012	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Jun. 06, 2012	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY	
Dec. 22, 2009	REGISTERED-PRINCIPAL REGISTER	
Nov. 16, 2009	LAW OFFICE REGISTRATION REVIEW COMPLETED	73797
Nov. 13, 2009	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Oct. 27, 2009	STATEMENT OF USE PROCESSING COMPLETE	76538
Oct. 07, 2009	USE AMENDMENT FILED	76538
Oct. 27, 2009	CASE ASSIGNED TO INTENT TO USE PARALEGAL	76538
Oct. 07, 2009	TEAS STATEMENT OF USE RECEIVED	
Jun. 23, 2009	NOA MAILED - SOU REQUIRED FROM APPLICANT	
Mar. 31, 2009	PUBLISHED FOR OPPOSITION	
Mar. 11, 2009	NOTICE OF PUBLICATION	
Feb. 26, 2009	LAW OFFICE PUBLICATION REVIEW COMPLETED	73797
Feb. 26, 2009	ASSIGNED TO LIE	73797
Feb. 20, 2009	APPROVED FOR PUB - PRINCIPAL REGISTER	
Feb. 19, 2009	ASSIGNED TO EXAMINER	83697
Jan. 16, 2009	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information - None
File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Nov. 16, 2009

Assignment Abstract Of Title Information

Summary

Total Assignments: 1

Registrant: Clif Bar & Company

Assignment 1 of 1

Conveyance: NOTICE OF GRANT OF SECURITY INTEREST IN TRADEMARKS

Reel/Frame: [4790/0714](#)

Pages: 11

Date Recorded: May 30, 2012

Supporting Documents: [assignment-tm-4790-0714.pdf](#)

Assignor

Name: [CLIF BAR & COMPANY](#)

Execution Date: May 15, 2012

Legal Entity Type: CORPORATION

State or Country Where Organized: CALIFORNIA

Assignee

Name: [BANK OF AMERICA, N.A., AS ADMINISTRATIVE AGENT](#)

Legal Entity Type: NATIONAL BANKING ASSOCIATION

State or Country Where Organized: UNITED STATES

Address: 800 FIFTH AVENUE, FLOOR 17
MAIL CODE: WA1-501-17-32
SEATTLE, WASHINGTON 98104

Correspondent

Correspondent Name: MOORE & VAN ALLEN PLLC

Correspondent Address: 430 DAVIS DRIVE
SUITE 500
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Domestic Representative - Not Found