

ESTTA Tracking number: **ESTTA668433**

Filing date: **04/23/2015**

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	Best In Shelter, Inc.		
Entity	Corporation	Citizenship	Maryland
Address	6900 Wilson Lane Bethesda, MD 20817 UNITED STATES		

Attorney information	Gary D. Krugman Sughrue Mion, PLLC 2100 Pennsylvania Avenue, N.W. Suite 800 Washington, DC 20037 UNITED STATES gkrugman@sughrue.com, mwhite@sughrue.com Phone:2026637484		
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Applicant Information

Application No	86354104	Publication date	04/07/2015
Opposition Filing Date	04/23/2015	Opposition Period Ends	05/07/2015
Applicant	JR RESCUED ME LLC 377 Little Novac Path Water Mill, NY 11976 UNITED STATES		

Goods/Services Affected by Opposition

Class 041. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Educational and entertainment services, namely, a continuing program about animals eligible for adoption accessible by radio, television, satellite, audio, video and computer networks

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. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	BEST IN SHELTER		
Goods/Services	promoting and providing for the adoption of shelter animals		

Attachments	H00213B Notice of Opposition (April 23, 2015) As Filed.PDF(952156 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	/Gary D. Krugman/
Name	Gary D. Krugman
Date	04/23/2015

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

In re the Matter of: Application Serial No. 86354104
Mark Opposed: BEST IN SHELTER WITH JILL RAPPAPORT

BEST IN SHELTER, INC.,

Opposer,

v.

JR RESCUED ME, LLC,

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

Opposer, Best In Shelter, Inc., a Maryland corporation with a business address of 6900 Wilson Lane, Bethesda, Maryland 20817, hereby opposes registration of the mark BEST IN SHELTER WITH JILL RAPPAPORT which is the subject of Application Serial No. 86354104. As grounds in support of this opposition, Opposer alleges as follows:

1. Opposer, Best In Shelter, Inc., is a Maryland corporation with a business address of 6900 Wilson Lane, Bethesda, Maryland 20817.
2. Opposer, since at least as early as October, 2011, and well prior to any date of first use upon which Applicant can rely, has adopted and used the name and mark BEST IN SHELTER to identify its services relating to promoting and providing for the adoption of shelter animals. This use of the BEST IN SHELTER name and mark has been continuous from the inception of Opposer in October 2011, up to and including the present time.
3. Opposer's mission under the BEST IN SHELTER name and mark has been and continues to be promoting the adoption of shelter and rescue animals and raising awareness of what rescue organizations and shelters have to offer in terms of providing adoptable animals.
4. Opposer, as part of its activities relating to the promotion of the adoption of rescue and shelter animals, has organized and hosted a number of on-line BEST IN SHELTER shows in which various animal shelters and rescue organizations participate by providing videos of animals with the public voting for their favorite rescue/shelter animal. Members of the public are encouraged, as part of Opposer's activities, to consider adopting the pets they vote on.

5. Opposer's BEST IN SHELTER shows have resulted in thousands of votes being cast by individuals and these shows have received extensive media coverage, in newspapers and television stations. These shows have also served to raise thousands of dollars in donations to participating shelters and rescue organizations.

6. Opposer is the owner of the domain name and website www.bestinshelter.org. This website, which has been active since at least May 2012, well prior to any date of first use upon which Applicant can rely, promotes Opposer's charitable activities in connection with the adoption of shelter and rescue animals. Opposer's website prominently features Opposer's BEST IN SHELTER mark and name.

7. As a result of Opposer's long and continuous use of its mark and name since as early as October 2011, the mark and name BEST IN SHELTER has come to be associated exclusively with Opposer and with Opposer's charitable activities relating to the promotion of adoption of shelter and rescue animals.

8. Notwithstanding Opposer's prior rights in the mark and name BEST IN SHELTER for its charitable activities relating to the promotion of adoption of shelter and rescue animals, Applicant filed, on July 31, 2014, an application to register the mark BEST IN SHELTER WITH JILL RAPPAPORT for services described as "Educational and entertainment services, namely, a continuing program about animals eligible for adoption accessible by radio, television, satellite, audio, video and computer networks." This application was filed based on Applicant's alleged *bona fide* intent to use the mark and was assigned Application Serial No. 86354104.

9. On information and belief, Applicant, at the time the application was filed, was aware of Opposer's adoption and use of the BEST IN SHELTER mark and name for activities relating to the promotion of adoption of shelter and rescue animals. Notwithstanding Applicant's knowledge of Opposer's prior rights in the mark and name BEST IN SHELTER, Applicant submitted a sworn statement to the U.S. Patent and Trademark Office in connection with the filing of the application, falsely stating that Applicant believes, to the best of his/her knowledge and belief, that no other person, firm, corporation or associate has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake or to deceive.

10. On information and belief, Applicant's intended activities to be offered under the BEST IN SHELTER WITH JILL RAPPAPORT mark, comprise activities designed to promote

the adoption of shelter animals by means of a television series and show in which various shelter animals would be chosen to compete before a panel of judges for a chance to be crowned the winner of the contest and to also encourage and promote the adoption of all of the shelter animal competitors.

11. Applicant's applied for mark so resembles Opposer's previously used mark and trade name as to be likely, when used in connection with Applicant's services, to cause confusion, mistake or deception within the meaning of Section 2(d) of the Trademark Act.

WHEREFORE, it is respectfully requested that this opposition be sustained and that registration to Applicant be refused.

With this electronic submission, authorization is provided to debit a credit card of the undersigned in the amount of \$300 for the government filing fee in connection with this Notice of Opposition. Please charge any difference or credit any overpayment to the undersigned's Deposit Account No. 19-4880.

Respectfully submitted,

BEST IN SHELTER, INC.

By:



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing **NOTICE OF OPPOSITION** has been served on this 23rd day of April 2015 via first class mail, postage prepaid to:

Sally M. Abel
Fenwick & West LLP
801 California Street
Silicon Valley Center
Mountain View, CALIFORNIA 94041
Attorney for Applicant



Gary D. Krugman