

ESTTA Tracking number: **ESTTA670337**

Filing date: **05/04/2015**

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 | CB7 Management, LLC |
| Granted to Date of previous extension | 05/03/2015 |
| Address | 13900 CONLAN CIRCLE, SUITE 240 CHARLOTTE, NC 28277 UNITED STATES |

| | |
|----------------------|---|
| Attorney information | Craig N. Killen Nelson Mullins Riley & Scarborough LLP 100 North Tryon Street, 42nd Floor, IP Department Charlotte, NC 28202 UNITED STATES ip@nelsonmullins.com, craig.killen@nelsonmullins.com Phone:803-799-2000 |
|----------------------|---|

Applicant Information

| | | | |
|------------------------|--|------------------------|------------|
| Application No | 86088665 | Publication date | 11/04/2014 |
| Opposition Filing Date | 05/04/2015 | Opposition Period Ends | 05/03/2015 |
| Applicant | CB CAPITAL, LLC 53 SAVANNAH TRL HILTON HEAD, SC 29926 UNITED STATES | | |

Goods/Services Affected by Opposition

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|--|
| Class 043. First Use: 2012/09/05 First Use In Commerce: 2012/09/05 All goods and services in the class are opposed, namely: RESTAURANT AND BAR SERVICES |
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Grounds for Opposition

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|--------------------------------------|----------------------------|
| Priority and likelihood of confusion | Trademark Act section 2(d) |
|--------------------------------------|----------------------------|

Mark Cited by Opposer as Basis for Opposition

| | | | |
|----------------------|---------------|-----------------------|------------|
| U.S. Application No. | 86104263 | Application Date | 10/29/2013 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | CHARBAR NO. 7 | | |

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|---------------------|--|
| Design Mark | CHARBAR NO. 7 |
| Description of Mark | NONE |
| Goods/Services | Class 043. First use: First Use: 2011/05/31 First Use In Commerce: 2011/05/31 Restaurant and bar services |

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|-------------|--|
| Attachments | 86104263#TMSN.png(bytes) 42064-09003-TM Notice of Opposition - CHARBAR CO.pdf(38965 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 | /Craig N Killen/ |
| Name | Craig N. Killen |
| Date | 05/04/2015 |

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

| | | |
|---------------------|---|-----------------------------|
| CB7 Management, LLC |) | Opposition No.: _____ |
| |) | |
| |) | Serial No.: 86088665 |
| |) | |
| vs. |) | Mark: CHARBAR CO |
| |) | |
| CB CAPITAL, LLC |) | Published: November 4, 2014 |
| |) | |
| |) | |
| |) | |

NOTICE OF OPPOSITION

CB7 Management, LLC (“Opposer”), a limited liability company organized under the laws of the State of North Carolina with an address of 13900 Conlan Circle, Suite 240, Charlotte, North Carolina 28277, hereby opposes the application of CB CAPITAL, LLC (“Applicant”) for the registration of CHARBAR CO as a service mark in International Class 43 reciting, "Restaurant and bar services," U.S. Serial No. 86/088,665, filed October 10, 2013, and published in the Official Gazette on November 4, 2014.

Opposer states the following grounds in support of its opposition:

1. Opposer is a limited liability company organized under North Carolina law with an address of 13900 Conlan Circle, Suite 240, Charlotte, North Carolina 28277.
2. Since at least as early as May 31, 2011, Opposer has operated and marketed under the CHARBAR NO. 7 mark, providing restaurant and bar services.
3. Opposer is the owner of an application for registration of the mark CHARBAR NO. 7 as a service mark in International Class 43 reciting, "Restaurant and bar services," U.S. Serial No. 86/104,263, filed on October 29, 2013. Opposer's application is

suspended pending the final disposition of the above-referenced application being opposed herein. See Exhibit A containing a copy of the Notice of Suspension issued in U.S. Serial No. 86/104,263.

4. Opposer's use of the CHARBAR NO. 7 mark long precedes the filing date of the above-referenced application being opposed herein, and precedes Applicant's date of first use of September 5, 2012 for CHARBAR CO. Thus, Opposer has senior priority.

5. Opposer has developed and currently possesses substantial goodwill in the CHARBAR NO. 7 mark.

6. Applicant seeks to register and uses the mark CHARBAR CO in U.S. Serial No. 86/088,665 in connection with services that are identical to the services rendered by Opposer in commerce. Applicant's applied-for trademark so resembles, in sight, sound and meaning, Opposer's CHARBAR NO. 7 mark when used in connection with these services, as to be likely to cause confusion or to cause mistake or to deceive, in violation of Section 2(d) of the Lanham Act.

7. Opposer will be damaged by the registration of Applicant's mark in U.S. Serial No. 86/088,665, for the reasons set forth above, and such registration may interfere with Opposer's ability to conduct its business. Furthermore, Opposer will be injured because, if registration is granted, it would provide Applicant a *prima facie* exclusive right to use the CHARBAR CO mark to the exclusion of others, including Opposer.

WHEREFORE, Opposer requests that the opposition to U.S. Application Serial No. 86/088,665 be sustained in favor of Opposer, and that no registration be issued thereon to Applicant.

The filing fees required by 37 C.F.R. 2.6(a)(17) for filing this Notice of Opposition on behalf of Opposer are submitted herewith.

NELSON MULLINS RILEY & SCARBOROUGH, L.L.P.

By: _____/Craig N. Killen/
Craig N. Killen
100 North Tryon Street
42nd Floor, IP Department
Charlotte, North Carolina 28202
(803) 799-2000
Fax (803) 255-9831

Attorney for CB7 Management, LLC

Charlotte, North Carolina

May 4, 2015

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. §§ 2.101(b) and 2.119(4), the undersigned of the law offices of Nelson Mullins Riley & Scarborough, L.L.P., attorneys for the Opposer hereby certifies that I have served the Correspondent of Record of the above-referenced application listed with the United States Patent and Trademark Office TSDR database with a copy of the pleading(s) herein below specified by mailing a copy of the same by United States Postal Service First Class Mail, with proper postage thereon, to the following address(es):

Pleadings: NOTICE OF OPPOSITION

Served: TERESA C. TUCKER
GROSSMAN TUCKER PERREAULT & PFLEGER PLLC
55 S COMMERCIAL ST
MANCHESTER, NEW HAMPSHIRE 03101-2606
UNITED STATES

/Craig N. Killen/
Craig N. Killen

May 4, 2015

EXHIBIT "A"

To: CB7 Management, LLC (ip@nelsonmullins.com)
Subject: U.S. TRADEMARK APPLICATION NO. 86104263 - CHARBAR NO. 7 - 42064/09003
Sent: 8/5/2014 7:58:39 PM
Sent As: ECOM101@USPTO.GOV
Attachments:

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

U.S. APPLICATION SERIAL NO. 86104263

MARK: CHARBAR NO. 7

86104263

CORRESPONDENT ADDRESS:

CRAIG N. KILLEN
NELSON MULLINS RILEY & SCARBOROUGH LLP
100 N TRYON ST
CHARLOTTE, NC 28202-4000

GENERAL TRADEMARK IN
<http://www.uspto.gov/trademark>

APPLICANT: CB7 Management, LLC

CORRESPONDENT'S REFERENCE/DOCKET NO :

42064/09003

CORRESPONDENT E-MAIL ADDRESS:

ip@nelsonmullins.com

SUSPENSION NOTICE: NO RESPONSE NEEDED

ISSUE/MAILING DATE: 8/5/2014

The trademark examining attorney is suspending action on the application for the reason(s) stated below. *See 37 C.F.R. §2.67; TMEP §§716 et seq.*

The USPTO will periodically conduct a status check of the application to determine whether suspension remains appropriate, and the trademark examining attorney will issue as needed an inquiry letter to applicant regarding the status of the matter on which suspension is based. TMEP §§716.04, 716.05. Applicant will be notified when suspension is no longer appropriate. *See TMEP §716.04.*

No response to this notice is necessary; however, if applicant wants to respond, applicant should use the "Response to Suspension Inquiry or Letter of Suspension" form online at <http://teasroa.uspto.gov/rsi/rsi>.

The effective filing dates of the pending applications identified below precede the filing date of applicant's application. If the marks in the referenced applications register, applicant's mark may be refused registration under Section 2(d) because of a likelihood of confusion with that registered marks. *See* 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, action on this application is suspended until the earlier-filed referenced applications either register or abandon. 37 C.F.R. §2.83(c). A copy of information relevant to this referenced applications is attached.

- Application Serial No. 85635478 and 86088665

REFUSAL(S)/REQUIREMENT(S) CONTINUED AND MAINTAINED: The following refusal is continued and maintained: Trademark Act Section 2(d) based on Registration No. 3380321.

/Angela Micheli/
Trademark Examining Attorney, Law Office 101
(571) 272-9196
(571) 273-9196 (fax)
angela.micheli@uspto.gov

PERIODICALLY CHECK THE STATUS OF THE APPLICATION: To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at TrademarkAssistanceCenter@uspto.gov or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS: Use the Trademark Electronic Application System (TEAS) form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

To: CB7 Management, LLC (ip@nelsonmullins.com)
Subject: U.S. TRADEMARK APPLICATION NO. 86104263 - CHARBAR NO. 7 - 42064/09003
Sent: 8/5/2014 7:58:40 PM
Sent As: ECOM101@USPTO.GOV
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

**IMPORTANT NOTICE REGARDING YOUR
U.S. TRADEMARK APPLICATION**

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED
ON **8/5/2014** FOR U.S. APPLICATION SERIAL NO.86104263

Please follow the instructions below:

(1) TO READ THE LETTER: Click on this [link](#) or go to <http://tsdr.uspto.gov/>, enter the U.S. application serial number, and click on “Documents.”

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

(2) QUESTIONS: For questions about the contents of the Office action itself, please contact the assigned trademark examining attorney. For *technical* assistance in accessing or viewing the Office action in the Trademark Status and Document Retrieval (TSDR) system, please e-mail TSDR@uspto.gov.

WARNING

PRIVATE COMPANY SOLICITATIONS REGARDING YOUR APPLICATION: Private companies **not** associated with the USPTO are using information provided in trademark applications to mail or e-mail trademark-related solicitations. These companies often use names that closely resemble the USPTO and their solicitations may look like an official government document. Many solicitations require that you pay “fees.”

Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the “United States Patent and Trademark Office” in Alexandria, VA; or sent by e-mail from the domain “@uspto.gov.” For more information on how to handle private company solicitations, see <http://www.uspto.gov/trademarks/>

[solicitation_warnings.jsp](#)