

ESTTA Tracking number: **ESTTA684262**

Filing date: **07/17/2015**

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	Greenbrier IA, Inc.
Granted to Date of previous extension	07/29/2015
Address	136 Carriage Lane White Sulphur Spring, WV 24986 UNITED STATES

Attorney information	Mary Baril McGuireWoods LLP Gateway Plaza 800 East Canal Street Richmond, VA 23219-3916 UNITED STATES mbaril@mcguirewoods.com
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Applicant Information

Application No	86426016	Publication date	03/31/2015
Opposition Filing Date	07/17/2015	Opposition Period Ends	07/29/2015
Applicant	The Tradition Lives On LLC 189 Highland Road York, PA 17403 UNITED STATES		

Goods/Services Affected by Opposition

Class 024. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Cloth flags
Class 025. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Golf shirts; Hooded sweatshirts; T-shirts

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.	3110128	Application Date	03/08/2004
Registration Date	06/27/2006	Foreign Priority Date	NONE
Word Mark	THE TRADITION LIVES ON		

Design Mark	<p style="text-align: center;">THE TRADITION LIVES ON</p>
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 2004/02/01 First Use In Commerce: 2004/02/01 [providing tennis court facilities; golf course services] Class 043. First use: First Use: 2004/02/01 First Use In Commerce: 2004/02/04 resort hotel services

Attachments	78380529#TMSN.png(bytes) Notice of Opposition to The Tradition Lives On LLC.pdf(183948 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	/Mary Baril/
Name	Mary Baril
Date	07/17/2015

2. Pursuant to Trademark Rule 2.102, Opposer obtained extensions of time for filing a Notice of Opposition against registration of Applicant's Mark to and including July 29, 2015.

Opposer and the THE TRADITION LIVES ON Mark

3. Opposer owns federal trademark registration for the mark for the mark THE TRADITION LIVES ON in Class 43 in connection with "resort hotel services." (See U.S. Registration No. 3,110,128) ("Opposer's Mark").

4. Opposer has used Opposer's Mark in interstate commerce in conjunction with Opposer's services consistently since 2004. Opposer used Opposer's Mark in interstate commerce before Applicant applied to register Applicant's Mark. Accordingly, priority is not at issue.

5. Opposer has invested substantially in advertising and promoting Opposer's Services under Opposer's Mark and has developed substantial goodwill which is symbolized by Opposer's Mark. Through extensive advertising and promotion, and through the offering of Opposer's Services in interstate commerce, consumers of Opposer's Services, and the public in general, have come to know and recognize Opposer's Mark and to identify, associate, and equate Opposer's Mark with Opposer and its Services.

Applicant's Mark and Application

6. On October 16, 2014, Applicant filed U.S. Ser. No. 86/426,016 for Applicant's Mark THE TRADITION LIVES ON in connection with "[c]loth flags" in International Class 24 and "[g]olf shirts, [h]ooded sweatshirts; [t]-shirts" in International Class 25 (the "Application"). Applicant filed the Application on an intent-to-use basis, and to date, Applicant has not alleged any use of Applicant's Mark in connection Applicant's Goods.

7. Applicant's intent-to-use application for Applicant's Mark is likely to be confused with Opposer's senior identical Mark.

OPPOSER'S GROUND FOR OPPOSITION
Likelihood of Confusion

8. Paragraphs 1 through 7 are incorporated and made a part of this Ground for Opposition.

9. Applicant's Mark and Opposer's Mark are identical in sight, sound and meaning.

10. Applicant proposes to use Applicant's Mark in connection with cloth flags, golf shirts, hooded sweatshirts, and t-shirts, which are related to the services sold by Opposer under the THE TRADITION LIVES ON Mark.

11. Opposer also sells goods that are associated with the services it provides, including goods in International Class 25.

12. Applicant's Mark is identical to Opposer's Mark and when used in connection with the goods for which Applicant seeks to register Applicant's Mark, it is likely to cause confusion or mistake or to deceive consumers, resulting in damage to Opposer. The general public is likely to be confused, mistaken or deceived as to the origin and sponsorship of Applicant's Goods and misled into believing that Applicant's Goods offered under Applicant's Mark are provided by, or are in some other way directly or indirectly associated with Opposer, to the detriment of Opposer.

13. Opposer has no control over the nature or quality of the Goods with which Applicant allegedly plans to use Applicant's Mark. Hence, any defects, objections or faults found with Applicant's Goods offered under Applicant's Mark could inflict injury upon Opposer's reputation because of false association with Opposer.

14. Opposer and its goodwill will be damaged by Applicant's use and registration of Applicant's Mark in that Applicant's Mark is identical to Opposer's THE TRADITION LIVES ON Mark.

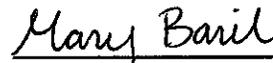
WHEREFORE, Opposer prays that Application Serial No. 86/426,016 be rejected, that no registration be issued thereon to Applicant, and that this Opposition be sustained in Opposer's favor.

Dated: July 17, 2015

Respectfully submitted,

Greenbrier IA, Inc.

By Counsel



Mary Dalton Baril (VSB No. 30440)

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Counsel for Greenbrier IA, Inc.

Electronically Filed via ESTTA: July 17, 2015.

CERTIFICATE OF SERVICE

On July 17, 2015, a copy of this Notice of Opposition was sent via FedEx to the Applicant at the following address:

The Tradition Lives On LLC
189 Highland Road
York, Pennsylvania 17403

And, on July 17, 2015, a copy of this Notice of Opposition was sent via FedEx to the Applicant's counsel at the following address:

David Ludwig
Dunlap Bennett & Ludwig
211 Church Street SE
Leesburg, VA 20175

Mary Baril

Mary Dalton Baril