



Better Customer Bureau_®

11871 Jamestown St. NE, Blaine, MN 55449, (P) 651-755-5866

MAIL DATE: 15 January 2016

United States Patent And Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contract Number 571-272-8500

Refrence: Response to OPPOSITION Dated December 16, 2015

Opposition No. 91224460 - 86 513286

Council of Better Business Bureaus, Inc.

v.

Frank Rufus Serna

Monique Tyson, Paralegal Specialist and the USPTO:

Our office is responding to letter dated 12/16/2015 in response to notice of opposition due on November 29, 2015. On November 16, 2015 our office was in contact with the Better Business Bureau, Angela T. Isabell, Assistant General Counsel, in which their office was to remove the opposition that week. This avenue was to allow both parties to work together to come to a resolution.

It was our understanding that this action was processed and taken care of as the Better Business Bureau noted and both parties agreed. Since this time we have not heard from the Better Business Bureau until this letter from your office stating such delay in response from the Better Customer Bureau.

Our office feels that this action on behalf of the Better Business Bureau was a tactic to in persuading our office to focus our attention to the Better Business Bureau with hopes that they would hold to their honest word and work diligently with our office in a resolution due to the removal of the opposition noted that the Better Business Bureau was to file respectfully.

Please accept this letter as a form of extension for our office to file a response to opposition for we do not feel the Better Business Bureau had any intention of allowing both parties to resolve this outside of the USPTO and was using this avenue to deter our response.

The Better Customer Bureau is completing a Response in which will be provided this week.



01-19-2016

Frank Rufus Serna
11871 Jamestown St NE
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____/FRS/____
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT A TRUE AND COMPLETE COPY OF THE FORGOING RESPONSE TO OPPOSITION HAS BEEN SERVED ON UNITED STATES PATENT AND TRADEMARK OFFICE BY MAILING SAID COPY ON 1/15/2016 VIA FIRST CLASS MAIL, POSTAGE PREPAID TO:

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ALEXANDRIA, VA 22313-1451
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_____/FRS/_____
Frank R. Serna

UNITED STATES PATENT AND TRADEMARK OFFICE
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v.

Frank Rufus Serna

Monique Tyson, Paralegal Specialist:

An answer to the notice of opposition was due in this proceeding on November 29, 2015. Inasmuch as it appears that no answer has been filed, nor has Applicant filed a motion to extend the time to file an answer, notice of default is hereby entered against Applicant pursuant to Fed. R. Civ. P. 55(a).¹

Applicant is allowed until thirty days from the mailing date of this order to show cause why judgment by default should not be entered against Applicant in accordance with Fed. R. Civ. P. 55(b)(2).

¹ Inasmuch as Applicant is in default, the parties' obligations to hold the discovery conference, and to serve initial disclosures, are effectively stayed. See TBMP § 312.01.

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

Council of Better Business Bureaus, Inc.,)) Opposer)) v.)) Frank Rufus Serna, and Individual,) Applicant))) _____))	Opposition No. 91224460 Application Serial No. 86/513,286 Mark: BETTER CUSTOMER BUREAU
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RESPONSE TO OPPOSITION

Applicant, Council of Better Customer Bureau, Inc. a Corporation, at 11871 Jamestown St NE, Blaine, Minnesota (hereinafter “Applicant”), does not feel that any damage from registration Serial No. 86/513, 286 for the mark BETTER CUSTOMER BUREAU, filed January 24, 2105, by Frank Rufus Serna, and individual, claiming a first use date of March 18, 2014, in connection with “Business enquiries and investigations; Business information and inquiries,” in Class 35, as shown in Application Serial No. 86/513,286, and hereby responds to opposition.

As grounds for response to opposition, Applicant alleges as follow:

1. With respect to the Better Business Bureau and their practices, they are unlike those of the Better Customer Bureau in which provides building relationships between consumers and businesses. (IE. The Better Business Bureau main goal and focus for over 100 years is directed to providing services to the consumer about poor and negative business practices in which the Better Customer Bureau focuses their main practice to Businesses about poor and negative consumer practices).
 - a. As noted these business practices are 100% the opposite and do not cross or interfere with the other business practices being offered by either business or party.
2. Opposer and Applicant both strive on Trust and Honesty in respect to their customers. We hope all businesses strive on this great moral as the Better Customer Bureau fully knows that the Better Business Bureau to date does and supports to the utmost belief.
3. The Better Customer Bureau strives on their mark to hopefully be well known just as the Better Business Bureau in its connection for protecting **responsible businesses against abusive consumer practices while providing legitimate advertising.**
 - a. As noted the Better Customer Bureau provides its services to the mere opposite of the Better Business Bureau. This was the main goal and outlook noted on behalf of the Better Customer Bureau with respect to that of the Better Business Bureau.
4. Since 2014 the **Better Customer Bureau services have been helping businesses find honest and trustworthy consumers they can trust.**

- a. As noted and viewed, the Better Customer Bureau focuses and provides services to the complete opposite parties in which is in no way a conflict of business practices.
5. The Better Customer Bureau mark is a source of Trust and Confidence for Applicant and its members in which is FREE.
 - a. Better Business Bureau mandates a fee to its members in order to display or use such mark.
6. Since 2014 the Better Customer Bureau has gained great customers (businesses) in which use our services and hopes this will grow to the many numbers that our great businesses deserve in seeking honest consumers. In hopes that the Better Customer Bureau will sustain its business for years to come we do hope our great name will be respected just as the Better Business Bureau has. We strive to allow and assist in all efforts for the Better Business Bureau to do what they do best as they have for the last 100+ years.
7. The Better Customer Bureau filed an application on:
 - a. January 24, 2014 for the Mark BETTER CUSTOMER BUREAU for services identified as, "Business enquiries and investigations; Business information and inquires" in Class 35, claiming a first use date of March 18, 2014. This application for BETTER CUSTOMER BUREAU was published in the Official Gazette on June 23, 2015.
 - b. In 2014, the Better Customer Bureau also filed another Mark Under Class 35, registered Dec. 2, 2014, with first use of 3-24-2014; in Commerce 3-24-2014, Serial No. 86-255,077, Filed 4-17-2014. This mark and its content was not disputed or opposed by the Better Business Bureau to date.
8. The Better Business Bureau has noted numerous trademarks and Patents of ownership and has provided those for review. It is not any intention of the Better Customer Bureau to infringe or take away from such, but believe we have the same rights to such names we seek just as the Better Business Bureau and we have taken the many steps to insure we do not invoke or infringe on the Better Business Bureau and their marks. These avenues were taken with great respect we have for the Better Business Bureau and their practices.
 - a. In light of the response to the Better Business Bureau. Our office did respond to the Better Business Bureau in note to ask of the importance and such avenue of keeping the BETTER CUSTOMER BUREAU name for not being used. It was stated that they have no hopes of using such name. The Better Customer Bureau feels that this name is fair to be taken and used if the Better Business Bureau has no interest in it what so ever.
9. It is noted and stated by Opposer that its members' long standing efforts, and the expenditure of considerable sums by Opposer and its members for advertising and promotional activities, and by virtue of the excellence and reputation of the investigative and informational services associated with the Opposer's BETTER BUSINESS BUREAU mark, Opposer's BETTER BUSINESS BUREAU mark has become well known and developed substantial goodwill and a valuable reputation with businesses and consumers.
 - a. It is noted and stated by Applicant that its members, its expenditures of considerable sums by Applicant and its members respects, and by virtue of the reputations to date gained by its members associated by the Applicant's BETTER CUSTOMER BUREAU mark. In such short time the BETTER CUSTOMER BUREAU mark as also become well know and developed and also a valuable reputation for businesses that deserve the same respect as consumers.

- i. The reputation the BETTER CUSTOMER BUREAU seeks is directed to that of the Business in which the BETTER BUSINESS BUREAU seeks that of the consumers.
- 10. The services offered are no where highly related NOR offered in the same or related channels of trade as noted by the Better Business Bureau.
 - a. The Better Business Bureau directs and focuses their main objective and practice on:
 - i. Consumers seeking honest and reliable businesses,
 - ii. Charging a fee to use their mark,
 - iii. Gaining compensation by use of advertising and marketing,
 - iv. Providing reports and receiving only reports from consumers against businesses,
 - v. Placing grades on businesses due to reports that may or may not be true, honest, and justified, etc.,
 - vi. Places a complete directory of businesses on line for consumers to seek and view,
 - b. The Better Customer Bureau directs and focuses their main objective and practices on:
 - i. Business seeking honest and reliable consumers,
 - ii. Free use of the Better Customer Bureau mark,
 - iii. No compensation for advertising and or marketing,
 - iv. Provides reports and receives only reports from businesses against consumers (the Better Business Bureau has not performed this practice since being in business),
 - v. The Better Customer Bureau does not place grades on consumers and allows businesses to verify each complaint thoroughly by reading the complaints instead of being deterred by the vision of a grade.
 - vi. Allows all businesses to compliment their customers (practice performed since day one)
 - 1. A practice the Better Business Bureau has just started, started and removed, in August 2015.
- 11. It is noted that the marks between the BETTER CUSTOMER BUREAU and that of the BETTER BUSINESS BUREAU **are confusingly similar in sight, sound and meaning**. It is noted that the only confusing part of this statement is similar in SIGHT, SOUND, and MEANING.
 - a. **SIGHT** is clearly different as the use of the words “Business” and “Customer” are nowhere close in sight.
 - b. **SOUND** is highly different and nowhere close in vowels or pronunciation.
 - c. **MEANING** is clearly understood in the market place as to:
 - i. **Business** – is a place of business in the marketplace formerly known as a place to shop or buy products or services.
 - ii. **Customer** – is the person to buys from the business in the marketplace. Formerly known as the consumer spending funds.

In Meaning it is noticed in our profession in which we are providing our services for there is a clear and distinct difference when placing these (2) words as separation.

- 12. Applicant or Opposer has no control over nature and quality of the services Applicant or Opposer provides in connection with the respect business(s) marks. This is the beauty of

our world and the consumers and businesses throughout to make decisions based on their own outlooks and knowledge. Consumers who are dissatisfied with either the Applicant's services or the Opposer's Services will likely not blame either company but will focus their decision based on the service they are provided by that individual business providing those services. Neither company can determine the gains or losses of the other. There is no risk in placing blame on either company for they are nowhere mistakenly the same nor provide the same services to their prospective customers. The Better Customer Bureau cannot foresee the Better Business Bureau losing value or customers for a dissatisfied customer of the Better Customer Bureau. This can only happen if the individual business is not satisfied with the individual business they are doing business with does not perform to their satisfaction. All businesses know that if they do not perform to the customer's satisfaction, that customer seeks another business to gain confidence and trust with.

- a. Seeing how the Better Customer Bureau and the Better Business Bureau are different, there will be no loss of business on either party. Especially when the Better Customer Bureau respects and supports the business practices of the Better Business Bureau.
 - b. To date the Better Customer Bureau has received zero calls, emails, letters or communications seeking information or knowledge of any relationship between the Better Customer Bureau or that of the Better Business Bureau.
13. The use and registration of the service mark Better Customer Bureau by Applicant is NOT likely to cause confusion, mistake, and deception of the trade and /or consuming public as to the source of origin of Applicant's services, leading consumers to believe wrongly that the Applicant's services are those of the Opposer or are sponsored, authorized or warranted by, or affiliated with, the Opposer or its members.
- a. No damage can be caused to Opposer's marks or business for use of the Better Customer Bureau mark has been in service for almost (2) two years and registered with the USPTO since Dec. 2, 2014 with NO cause of damage to date.
 - b. The Better Business Bureau is directing damages to their name and practice. As the facts show, the Better Customer Bureau has a registered mark in place since 12/2/2014 and used in the market place since 3-24-2014 with no damages or confusion in the market place since such date.

WHEREFORE, Applicant request and prays that the Application Serial No. 86/513,286 be granted registration (just as other marks have been), and that the Applicant be honored the rights to its application and marks.

Respectfully Submitted,

Dated: 1/15/2016

By: _____/FRS/
Frank R. Serna, CEO
info@bcbureau.org
11871 Jamestown St NE
Blaine, MN 55449
Telephone: 651-755-5866

CERTIFICATE OF SERVICE

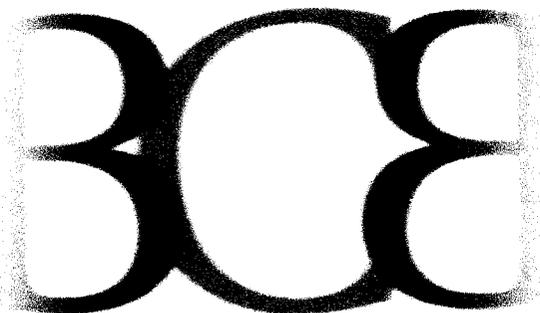
I HEREBY CERTIFY THAT A TRUE AND COMPLETE COPY OF THE FORGOING RESPONSE TO OPPOSITION HAS BEEN SERVED ON UNITED STATES PATENT AND TRADEMARK OFFICE BY MAILING SAD COPY ON 1/15/2016 VIA FIRST CLASS MAIL, POSTAGE PREPAID TO:

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_____/FRS/_____
Frank R. Serna

United States of America

United States Patent and Trademark Office



Better Customer Bureau

Reg. No. 4,648,746

Registered Dec. 2, 2014

Int. CL: 35

SERVICE MARK

PRINCIPAL REGISTER

SERIAL, FRANK, UNITED STATES, INDIVIDUAL,
100 HIGHWAY 10, NORTHEAST
SPRING LAKE PARK, VA 24161

FOR BUSINESS ENQUIRIES AND INVESTIGATIONS IN CLASS OF U.S. CLS. 100.01
AND 102

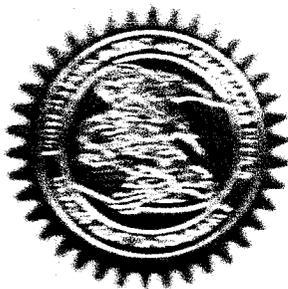
FIRST USE 10-20-14 IN U.S. 10/20/14

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CUSTOMER BUREAU" APART
FROM THE MARK AS SHOWN

THE MARK CONSISTS OF A CAPITAL "B" ABUTTING A CAPITAL "C" ABUTTING A
BACKWARD CAPITAL "B" WITH A SOLID LINE BENEATH THOSE LETTERS. BENEATH
THE SOLID LINE ARE THE WORDS "BETTER CUSTOMER BUREAU". THE COLOR GRAY
REPRESENTS SHADING AREAS AND IS NOT CLAIMED AS A FEATURE OF THE MARK.

SEE NO. 4,648,746 FILED 11/17/14

BRENDAN KELLY, DRAWING ATTORNEY



Michelle K. Lee

Deputy Director of the United States
Patent and Trademark Office