

ESTTA Tracking number: **ESTTA716391**

Filing date: **12/22/2015**

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	Uber Promotions Inc
Granted to Date of previous extension	12/23/2015
Address	4010 West Newberry Rd., Suite A Gainesville, FL 32607 UNITED STATES
Correspondence information	Scott D. Smiley Attorney for Plaintiff The Concept Law Group, P.A. 200 South Andrews Avenue, Suite 100 Fort Lauderdale, FL 32607 UNITED STATES Info@ConceptLaw.com Phone:754-300-1500

Applicant Information

Application No	86469371	Publication date	08/25/2015
Opposition Filing Date	12/22/2015	Opposition Period Ends	12/23/2015
Applicant	Uber Technologies, Inc. 1455 Market Street, 4th Floor San Francisco, CA 94103 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Mobile application software for connecting drivers and passengers; mobile application software for automated scheduling and dispatch of motor vehicles; mobile application software for coordinating transportation services; mobile application software for engaging transportation services

Grounds for Opposition

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

Marks Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	UBER		

Goods/Services	passenger transportation services, travel booking services, and vehicle charter services
----------------	--

U.S. Application/ Registration No.	NONE	Application Date	NONE
------------------------------------	------	------------------	------

Registration Date	NONE
-------------------	------

Word Mark	Ã#BER
-----------	-------

Goods/Services	passenger transportation services, travel booking services, and vehicle charter services
----------------	--

U.S. Application/ Registration No.	NONE	Application Date	NONE
------------------------------------	------	------------------	------

Registration Date	NONE
-------------------	------

Word Mark	UBER PROMOTIONS
-----------	-----------------

Goods/Services	passenger transportation services, travel booking services, and vehicle charter services
----------------	--

U.S. Application/ Registration No.	NONE	Application Date	NONE
------------------------------------	------	------------------	------

Registration Date	NONE
-------------------	------

Word Mark	Ã#BER PROMOTIONS
-----------	------------------

Goods/Services	passenger transportation services, travel booking services, and vehicle charter services
----------------	--

Related Proceedings	UBER PROMOTIONS, INC. v. UBER TECHNOLOGIES, INC., Civil Action No. 1:15-cv-206-MW-GRJ, U.S. District Court (N.D. Fla.)
---------------------	--

Attachments	Notice of Opposition of 86283319.pdf(84228 bytes) Exhibit 1.pdf(543920 bytes)
-------------	--

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	/Scott D. Smiley/
Name	Scott D. Smiley
Date	12/22/2015

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

UBER PROMOTIONS INC,
Opposer

v.

UBER TECHNOLOGIES, INC.,
Applicant

Serial No. 86/469,371

Opposition No. _____

For the Mark UBER (+ Design)

NOTICE OF OPPOSITION

Opposer, UBER PROMOTIONS INC, (“Opposer”), a Florida corporation having its principal place of business at 4010 W. Newberry Road, Suite A, Gainesville, Florida, 32607, believes that it will be damaged by registration of the mark shown in Application Serial No. 86/469,371 and hereby opposes the same. Opposer requested an extension of time in which to file its opposition and now timely files its Notice of Opposition. As grounds for opposition, Opposer asserts that:

1. On May 16, 2014, approximately one month after being put on actual notice of Opposer’s trademark rights, UBER TECHNOLOGIES, INC. (“Applicant”) filed Application Serial No. 86/283,319 to register UBER (+ Design) “Mobile application software for connecting drivers and passengers; mobile application software for automated scheduling and dispatch of motor vehicles; mobile application software for coordinating transportation services; mobile application software for engaging transportation services” in Class 009, claiming a bonafide intent to use the mark in

commerce under Trademark Act Section 1(b), 15 U.S.C. Section 1051(b), of the Trademark Act.

2. Opposer is the owner of common law rights in the marks UBER, ÜBER, UBER PROMOTIONS, and ÜBER PROMOTIONS for passenger transportation services, travel booking services, and vehicle charter services, which have been in use in interstate commerce since at least May 12, 2007, and in use in Florida since at least July 26, 2006.
3. Opposer is the owner of Florida Trademark Registration No. T15000001104 for UBER PROMOTIONS for “passenger transportation services, vehicle charter services.” A true and correct copy of Opposer’s certificate of Florida Trademark Registration is attached as Exhibit “1” hereto.
4. The parties’ marks are confusingly similar in appearance, sound, and connotation, and in other respects.
5. The parties’ goods and services overlap and service the same consumers in the same channels of trade.
6. Opposer is the senior user and has superior rights to the use of the mark UBER, ÜBER, UBER PROMOTIONS, and ÜBER PROMOTIONS in connection with travel, transportation, and related services.
7. Applicant’s use of UBER (+ Design) will create a likelihood of confusion under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d), and damage Opposer’s established rights in the marketplace.
8. Opposer’s prior use is a ground for opposition of Applicant’s mark pursuant to Trademark Act Section 2(d), 15 U.S.C. Section 1052(d), which states that a mark

cannot have been previously used by another in connection with goods or services in a way which may cause confusion to consumers.

WHEREFORE, Opposer deems that it will be damaged by the registration of Serial No. 86/469,371 for the mark UBER (+ Design) as it relates to goods in Class 009 and prays that Applicant's mark may not be allowed to register.

Dated: December 22, 2015

SANTUCCI PRIORE, P.L.

200 South Andrews Avenue
Museum Plaza, Suite 100
Fort Lauderdale, Florida 33301
Telephone: 954-351-7474
Facsimile: 954-351-7475

THE CONCEPT LAW GROUP, P.A.

200 South Andrews Avenue
Museum Plaza, Suite 100
Fort Lauderdale, Florida 33301
Telephone: 754-300-1500
Facsimile: 754-300-1501

/Michael I. Santucci/

Michael I. Santucci (FBN: 0105260)
E-mail: mis@500law.com

/Scott D. Smiley/

Scott D. Smiley (FBN: 678341)
E-mail: Scott@conceptlaw.com

Certificate of Mailing and Service

I certify that on December 22, 2015, the foregoing Notice of Opposition is being served by mailing a copy thereof by U.S. mail to:

UBER TECHNOLOGIES, INC.
1455 Market Street, 4th Floor
San Francisco, CA 94013

By: */Scott D. Smiley/*
Scott D. Smiley
Museum Plaza
200 South Andrews Avenue, Suite 100
Fort Lauderdale, FL 33301
(754) 300-1500
Attorney for Opposer,
UBER PROMOTIONS INC

Exhibit 1

State of Florida



Department of State

I certify from the records of this office that UBER PROMOTIONS INC, a Florida Corporation located at 4010 W NEWBERRY RD, SUITE A, GAINESVILLE, FL 32607 has registered UBER PROMOTIONS to be used as a mark under class(es) 0039. Said mark was first used anywhere May 12, 2007 and was first used in Florida July 26, 2006.

I further certify this mark is being used in connection with the following goods and/or services: PASSENGER TRANSPORTATION SERVICES, VEHICLE CHARTER SERVICES.

I further certify that said mark was registered in this office on October 21, 2015 and its date of expiration is October 21, 2020.

The number of this mark is T15000001104.

Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capital, this the
Twenty-second day of October, 2015



CR2EO22 (1-11)

Ken Detzner

Ken Detzner
Secretary of State