

19.Oct.07

United States Patent and Trademark Office (USPTO)
Trademark Trial and Appeal Board
PO BOX 1451
Alexandria, VA 22313-1451

RE: Opposition # 91169106
Serial No. 78407551

Good Day,


I am uncertain what argument is being raised at this time. I have seen no further oppositions with a September 21 deadline and have replied to each opposition that was brought to my attention. I have enclosed my last response to the USPTO Trademark Trials and Appeals Board and the signature card showing whom signed for it on behalf of OS Assets, Inc. This is beginning to appear like false statements with no proof submitted by the opposition. After reviewing the 'Opposers Second Motion For Default Judgment', I still do not see any grounds for their claim, as stated before. This is becoming an attempt to influence decision through persistence. Whenever the claim by OS Assets was discredited by having no grounds and the method of contact that caused a delay in the original response was shown to not be effective, proof should have been submitted. It was not.

The primary objective is being avoided and a constant attempt to repeat the same information is what is being done here. This is to gain a decision merely by influence by repeated contact over the same subject matter. To give an example of what I stated on my June 22nd response, I listed some publications below. One (1) of which was released three (3) years before OS Assets were formed and showing they are not the original users of the term "outback" in the United States. Not to mention the countless tourist organization (Outback Tours in Santa Fe New Mexico, Kanab Utah, LA & Ventura California, Denver & Hygiene Colorado, and Ardmore PA) that uses the word outback in their slogans to promote outdoor tours. My personal publication from Authorhouse called "Guide to the California Outback" further adds to my previous letters pointing out the use of the terms by local outdoor enthusiasts for many years. Many organizations I listed in this guide use the term often. The opposition's argument still does not hold any solid ground and they still fail to show any proof as mentioned before. Thank you and have a good day...

1985 & 1986: *Cycling the California Outback* by Chuck Slack-Elliott (Bodfish Books / ASIN B00070HQSC)

1991: California **Outback** Audio CD by Snowy River Music Company (ASIN B0007D2FIU)

RFife
1449 East 'F' St, Ste 101E #216
Oakdale, CA 95361


10-24-2007

02.Aug.07

United States Patent and Trademark Office (USPTO)
Trademark Trial and Appeal Board
PO BOX 1451
Alexandria, VA 22313-1451

RE: Opposition No. 91169106

Good Day,

Here is an image of the signature card as agreed in the previous opposition letter sent.
Have a good day...

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none">Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.Print your name and address on the reverse so that we can return the card to you.Attach this card to the back of the mailpiece, or on the front if space permits.	A. Signature <i>H. Fife Jr.</i> <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee B. Received by (Printed Name) <i>H. FIFE JR.</i> C. Date of Delivery <i>7-18-07</i>
1. Article Addressed to: <i>BIFE & HOLTZMAN Capital Square, STE 2100 65 E. State St. Columbus, OH 43215</i>	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No
2. Article Number (Transfer from service label)	3. Service type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. 4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes
PS Form 3811, February 2004	7006 2760 0003 3642 7979 Domestic Return Receipt 12-995 02-M 1940

Best Regards,

Ronnie Fife Jr.

22.June.07

United States Patent and Trademark Office (USPTO)
Trademark Trial and Appeal Board
PO BOX 1451
Alexandria, VA 22313-1451

RE: Opposition No. 91169106

In the latest opposition, it appears the restaurant chain in Florida, being represented by a firm in Ohio is claiming ownership over a "word" used worldwide. In an attempt to quote "applicable rules and Board practices" and gaining a default judgment, the "Opposers" neglect to mention their methods of contact are not effective when communicating across several state lines. For one, sending an email with many attachments will be regarded as Spam due to spam filters recognizing the size of the file and the sender not being in the address book. Second, certified letters that are signed by others than myself do not make their way to me right away and the opposition makes a reference to this by pointing out my response did not state whom signed for it when it was sent to them. I for one have many responsibilities, do not argue trademarks for a living, and therefore would not be expecting a dispute over an application that was already approved. Next, the opposers claim the letter response does not meet their allegations. The response was based on the USPTO requests, not a commercial entity's, being represented by a firm looking to justify their existence. Disputing the USPTO attorney's decision to grant the trademark is implicating they do not know the trademark guidelines. The application process was not simple and I corresponded with the USPTO Attorney for some time to conclude the process. The USPTO Attorney made it clear that in order for the application to be approved, the applicant (myself) would have to abide by the specific trademark description. The opposition failed to recognize this.

I do not see where it is proven that the trademark can cause "*any such confusion would injure opposers*", and where there are any grounds for this opposition. The timelines that were the main focus in the latest opposition should not be used unless it is proven their means of contact are effective. Other arguments used like the opposer's history, that is not relevant to the word outback, does not provide valid reasons for opposition. Removing the "Steakhouse" word in their trademark dispute and getting away from the picture illustrations and focusing just on the word "Outback" (page 9 out of 12) is not only an attempt to take ownership of a term used by outdoor enthusiasts for many years (before 1988 when OSI Restaurant Partners were formed), but deviating away from the USPTO guidelines for use of the trademarks. This term that is well known to be used by Australian locals, has been made part of a branding campaign by a restaurant developer in Florida with no regard to what the term meant to those that have always used it. It was an opportunity to have a "theme" to one of their restaurant chains. Locals in California have been using the word "Outback" to describe our outdoor sport play areas for many years (I first heard it in 1985). The name may have began as a slang term after watching nature shows on Ayers Rock (outback's red center, aka; Uluru) located in the Australian Outback. Even in Australia, the locals refer to the areas as "the bush", before entering what is now known as "the outback" (aka; never-never). The point here is that they are slang terms that were made up by locals, not branded campaigns to trademark and claim ownership.

Thousands of people refer to the outback of California in many ways. Terms like the backcountry (upcountry in the north), backlands, the woods, the woodlands, the sticks, flatlands, hillies, outlands, foothills, the rough country, nature's misery, devil's playground (desert regions in the south), etc., have been used to describe the areas away from the cities that have rough terrain or can be used for outdoor recreation. The opposition placing a statement in the latest argument over the word "outback" and focusing on the word itself would not be valid to prove "*any such confusion would injure opposers*". There would be sufficient evidence to prove this by now as the opposition states it has been sixteen (16) years. Going back to the response time argument and that the response does not meet the opposer's allegations, there is no evidence showing their communication methods are effective. Whether or not the opposition interprets the written response as sufficient denial, it is clearly their opinion. The statement in my response letter (first paragraph, second to last sentence) of "*The trademark will NOT cause confusion*" is clearly a denial to me and to those I had review the response and was written with every intention to be a denial as requested. Not to mention the opposer is making arguments with no supportive material to show their argument, yet claims the response does not meet their allegations. How can you make an allegation with no supporting evidence of your claim?

Just making the statement "*any such confusion would injure opposers*" does not show any evidence of "how" it would. Repeating yourself several times, but paraphrasing your comments using legal jargon, again does not show how the allegations are valid. In my review of the letters, I did not see any logical approach to how the California Outback would cause any confusion or injure opposer. Not to mention the word "injure" is vague and relates more to athletics, not business. To discredit further any confusion the opposer feels this may cause, there is an outdoor ecotourism guide that has already been submitted to the US Copyright Office called "Guide to the California Outback" that focuses on the outdoor recreation areas in California, away from the cities and coast. No affiliation with restaurant chains is mentioned in this guide. The final statements made by the opposition of "*because he has failed to deny these allegations, Applicant has admitted them*", and providing a "Certificate of Service" to an abandoned residence up for sale constitutes a serious false statement in order to gain a decision in their favor. One party in no way can falsely state what another party is saying, based on an individual's blind interpretation, just to gain a decision. That is an attempt to misconstrue the facts. Stating a person has been contacted "before" they have, is an act of perjury. With no proof of direct contact with myself is in no way proof of service as the opposition has pointed out themselves in an attempt to discredit my method to show they were notified without mentioning whom signed for the document. A copy of this letter is being mailed to the opposition and a copy of the Certified Letter signature will be sent to the USPTO Trademark Trial and Appeal Board as set forth by Trademark Rule 2.119 once it has been received. In my response, I listed my valid contact information and the opposition still sent correspondence to the old address. I have listed it again below for future inquiries. Thank you and have a good day...

RFife

1449 East 'F' St, Suite 101E #216

Oakdale, CA 95361

CC: Baker & Hostetler

Capitol Square, Suite 2100

65 E State Street

Columbus, Ohio 43215