

ESTTA Tracking number: **ESTTA101843**

Filing date: **09/29/2006**

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	Spirit Airlines, Inc.
Granted to Date of previous extension	09/30/2006
Address	2800 Executive Way Miramar, FL 33025 UNITED STATES

Attorney information	Christopher Kelly 1776 K Street, N.W. Washington, DC 20006 UNITED STATES ckelly@wrf.com Phone:202.719.7115
----------------------	--

Applicant Information

Application No	79012969	Publication date	08/01/2006
Opposition Filing Date	09/29/2006	Opposition Period Ends	09/30/2006
International Registration No.	0855735	International Registration Date	06/13/2005
Applicant	ALTA&luml;R S.A.S 32, rue Jouvenet F-75016 PARIS FRANCE		

Goods/Services Affected by Opposition

Class 039. All goods and seVICES in the class are opposed, namely: Air transport; arranging travel tours; making reservations and bookings for transportation
--

Grounds for Opposition

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

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2339635	Application Date	11/26/1997
Registration Date	04/11/2000	Foreign Priority Date	NONE
Word Mark	SPIRIT AIRLINES, INC.		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 039. First use: First Use: 1992/06/01 First Use In Commerce: 1992/06/01 SCHEDULED AND CHARTERED AIR TRANSPORTATION

U.S. Application No.	78433023	Application Date	06/10/2004
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SPIRIT AIRLINES		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 2003/05/09 First Use In Commerce: 2003/05/09 Stationery, business cards, printed instructional and teaching materials in the field of air travel, pens, pencils, printed paper signs, posters and calendars Class 025. First use: First Use: 2003/05/09 First Use In Commerce: 2003/05/09 Shirts, hats, sweaters and jackets Class 039. First use: First Use: 2003/05/09 First Use In Commerce: 2003/05/09 Airline transportation; travel services, namely, booking air travel		

U.S. Registration No.	3047380	Application Date	07/11/2003
Registration Date	01/24/2006	Foreign Priority Date	NONE
Word Mark	SPIRIT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 2002/05/09 First Use In Commerce: 2002/05/09 Air transportation services, namely, transportation of passengers, parcels and cargo		

Attachments	75396595#TMSN.gif (1 page)(bytes) 78433023#TMSN.jpeg (1 page)(bytes) 76528681#TMSN.gif (1 page)(bytes) DOC014.PDF (4 pages)(150078 bytes)
-------------	---

Signature	/CK/
Name	Christopher Kelly
Date	09/29/2006

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

Spirit Airlines, Inc.)	
)	
Opposer,)	App. Ser. No.: 79/012,969
)	Mark: AIRSPIRIT.COM
v.)	& Design
)	
ALTAIR SAS)	Opposition No. _____
)	
Applicant.)	
)	

NOTICE OF OPPOSITION

Spirit Airlines, Inc., a corporation organized under the laws of the state of Delaware, with offices located at 2800 Executive Way, Miramar, Florida 33025 (hereinafter “Opposer”), hereby opposes registration of application Ser. No. 79/012,969 – AIRSPIRIT.COM & Design for “air transport; arranging travel tours; making reservations and bookings for transportation,” in International Class 39, (“Applicant’s Mark”), by ALTAIR SAS (hereinafter “Applicant”), and published for purposes of opposition in the Official Gazette dated July 12, 2006. Opposer will be damaged if the opposed application matures to registration. Opposer puts forth the following grounds for opposition:

1. Opposer is one of the leading airlines in the United States, offering an extensive array of flights and other travel-related goods and services under a family of trademarks consisting in whole or in part of the name SPIRIT (collectively “SPIRIT” or “SPIRIT Marks”).
2. Opposer adopted and commenced use of the SPIRIT Mark at least as early as 1992 and has used SPIRIT continuously and without interruption to the present day.

3. Based on Opposer's extensive, exclusive and continuous use of SPIRIT, SPIRIT is recognized among the consuming public as a designator of origin with respect to Opposer's products and services.

4. Opposer is the owner of all right, title and interest in and to the following federal trademark registrations which presently are valid and subsisting in law. Opposer will submit current status and title copies, prepared by the Patent and Trademark Office, of its pleaded registrations at the appropriate time in this proceeding.

- (a) Registration No. 2,339,635 – **SPIRIT AIRLINES, INC.** for “scheduled and chartered air transportation,” registered on the Principal Register April 11, 2000.
- (b) Registration No. 3,047,380 – **SPIRIT & Design** for “air transportation services, namely, transportation of passengers, parcels and cargo,” registered on the Principal Register January 24, 2006.

5. Opposer's Registration No. 2,339,635 is statutorily incontestable as to the services listed therein and is conclusive evidence of the validity of the registered mark, Opposer's ownership thereof, and of Opposer's exclusive right to use the mark in commerce on or in connection with the services identified therein.

6. Opposer also is the owner of various pending applications to register SPIRIT, including application Ser. No. 78/433,023 – SPIRIT AIRLINES & Design for, among other things, “airline transportation; travel services, namely, booking air travel,” filed June 10, 2004.

7. By reason of Opposer's extensive, exclusive and continuous use of SPIRIT, Opposer has become known and recognized as the owner of the aforesaid marks.

8. The constructive and actual dates of first use of Opposer's foregoing SPIRIT Marks precede the filing date of the opposed application.

9. On information and belief, Applicant intends to offer services described as “air transport; arranging travel tours; making reservations and bookings for transportation” under Applicant’s Mark.

10. Applicant’s proposed services are identical or otherwise closely related to Opposer’s services offered under its SPIRIT Marks.

11. Applicant’s Mark so resembles Opposer’s SPIRIT Marks in terms of appearance, sound, connotation and commercial impression as to be likely, when applied to the services identified in the opposed application, to cause confusion and mistake and to deceive.

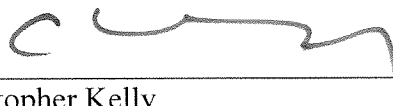
12. Applicant’s Mark is confusingly similar to Opposer’s SPIRIT Marks so that registration of Applicant’s Mark would be inconsistent with and damaging to Opposer’s exclusive rights in its SPIRIT Marks as applied to the goods and services with which they are used.

13. Opposer will be damaged by registration of Applicant’s Mark.

WHEREFORE, Opposer prays that its opposition be sustained and that Applicant’s Mark be denied registration.

This opposition is being filed by the undersigned attorneys at law, duly authorized to represent Opposer in this proceeding, pursuant to Trademark Rule 2.101(b).

Respectfully submitted,

By: 
Christopher Kelly
Jennifer L. Elgin
Wiley Rein & Fielding LLP
1776 K Street, N.W.
Washington, D.C. 20006
202.719.7000
Attorneys for Opposer

Dated: September 29, 2006
WRFMAIN 12538091.1