

ESTTA Tracking number: **ESTTA240172**

Filing date: **10/01/2008**

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	City Cab Company of Orlando, Inc.
Granted to Date of previous extension	10/01/2008
Address	324 W. Gore St. Orlando, FL 32806 UNITED STATES

Attorney information	Jon M. Gibbs AKERMAN SENTERFITT 420 S. Orange Ave. Orlando, FL 32801 UNITED STATES jon.gibbs@akerman.com Phone:407-423-4000
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Applicant Information

Application No	77362791	Publication date	06/03/2008
Opposition Filing Date	10/01/2008	Opposition Period Ends	10/01/2008
Applicant	Checker Acquisition Corporation 2016 North Pitcher Street Kalamazoo, MI 49001 UNITED STATES		

Goods/Services Affected by Opposition

Class 039. All goods and services in the class are opposed, namely: Taxi transport

Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Other	43(a)False representation in commerce

Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	77369717	Application Date	01/11/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	CHECKER CAB		
Design Mark			

Description of Mark	The mark consists of the words CHECKER CAB with a stylized checkerboard design on a yellow background.
Goods/Services	Class 039. First use: First Use: 1985/00/00 First Use In Commerce: 1985/00/00 Transportation services, namely hired car transport; passenger transport; taxi transport

Attachments	77369717#TMSN.jpeg (1 page)(bytes) Notice of Opposition (O1337728).PDF (3 pages)(17061 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	/Jon M. Gibbs/
Name	Jon M. Gibbs
Date	10/01/2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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_____)	
City Cab Company,)	
of Orlando, Inc.)	
)	
Opposer,)	
)	Oppn. No. _____
v.)	
)	Application Serial No. 77/362,791
Checker Acquisition)	Mark: CHECKER TAXI
Corporation,)	
)	Publication Date: 06/03/2008
Applicant.)	
_____)	

Filed via ESTTA: October 1, 2008.

NOTICE OF OPPOSITION

Opposer, City Cab Company of Orlando, Inc. ("Opposer"), a corporation existing under the laws of the State of Florida, with its principal place of business located at 324 West Gore Street, Orlando, FL 32806, believes that it will be damaged by the registration on the Principal Register of Application Serial No. 77/362,791 ("Application") for the mark CHECKER TAXI ("Applicant's Mark") for "[t]axi transport" in International Class 039 ("Applicant's Services"), as filed by and in the name of Checker Acquisition Corporation ("Applicant"), and hereby opposes registration of same.

As grounds for opposition, Opposer alleges the following:

1. Opposer is the owner of all right, title and interest in and to the service mark

CHECKER CAB

including any and all common law and statutory rights therein ("Opposer's Mark"), which Opposer has used and is using in interstate commerce on and in connection with, *inter alia*, the provision of transportation services, namely hired car transport; passenger transport; taxi transport ("Opposer's Services").

2. Opposer has used and is using in interstate commerce Opposer's Mark on and in connection with Opposer's Services since at least as early as December 31, 1989.

3. Opposer's Mark has been used, advertised, and promoted in interstate commerce from a date long prior to the filing date of the Application, filed under 15 U.S.C. § 1051(b).

4. As a result of such use, advertising and promotion, Opposer's Mark has become well-known and famous as a distinctive indicator of Opposer's Services, such that Opposer has built up a valuable reputation and substantial goodwill in Opposer's Mark.

5. Notwithstanding Opposer's extensive prior common law and statutory rights in Opposer's Mark and Opposer's Registration, the Application was filed on January 2, 2008, over eighteen (18) years from the filing date of Opposer's first use date.

6. On information and belief, Applicant's Services are identical to Opposer's Services.

7. On information and belief, Applicant knew, had reason to know, or should have known of Opposer's prior rights in and to Opposer's Mark.

FIRST CAUSE OF ACTION

Likelihood of Confusion with Prior Common Law Service Mark

8. Opposer realleges and incorporates by reference the allegations set forth in paragraphs 1 through 7 above, as if set forth herein in their entirety.

9. Pursuant to Section 2(d) of the Trademark Act, 15 U.S.C. §1052(d), Applicant's Mark so resembles Opposer's Mark previously used in the United States and not abandoned, as to be likely, when used on or in connection with Applicant's Services, to cause confusion, or to cause mistake, or to deceive, and is therefore unregistrable.

10. Opposer will be damaged by registration of the Application because such registration would give Applicant ownership of, and the right to use, a mark that is confusingly similar to Opposer's Mark for services which are identical to Opposer's Services, in derogation of Opposer's invaluable proprietary rights in Opposer's Mark and Opposer's Registration.

SECOND CAUSE OF ACTION

False Representation in Commerce

11. Opposer realleges and incorporates by reference the allegations set forth in paragraphs 1 through 7 above, as if set forth herein in their entirety.

12. Pursuant to Section 43(a) of the Trademark Act, 15 U.S.C. §1125(a), Applicant's Mark so resembles Opposer's Mark previously used in the United States and not abandoned, as to be likely, when used on or in connection with Applicant's Services, to cause confusion, or to cause mistake, or to deceive, and is therefore unregistrable.

13. Opposer will be damaged by registration of the Application because such registration would give Applicant ownership of, and the right to use, a mark that is confusingly similar to Opposer's Mark for services which are identical to Opposer's Services, in derogation of Opposer's invaluable proprietary rights in Opposer's Mark and Opposer's Registration.

WHEREFORE, Opposer respectfully prays for judgment sustaining this opposition and refusing registration of the Application.

Please charge the filing fee for this opposition to USPTO Deposit Account No. 50-0951, and direct all correspondence and communication in this opposition to the undersigned.

City Cab Company of Orlando, Inc.

Dated: October 1, 2008

By: /s/ Jon M. Gibbs

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