

ESTTA Tracking number: **ESTTA261629**

Filing date: **01/21/2009**

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	NITE LIFE OF SANTA BARBARA
Granted to Date of previous extension	01/21/2009
Address	4963 PEBBLE HILL LANE SANTA BARBARA, CA 93111 UNITED STATES

Attorney information	Victoria Carver Carver Law PO BOX 1497 SANTA BARBARA, CA 93102 UNITED STATES VC@ETMLAW.COM Phone:805-964-9777
----------------------	--

Applicant Information

Application No	78864321	Publication date	09/23/2008
Opposition Filing Date	01/21/2009	Opposition Period Ends	01/21/2009
Applicant	NITE LIFE CAR CLUB ASSOCIATION 2277 Anthony Drive Ventura, CA 93003 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 1980/10/01 First Use In Commerce: 1980/10/01
All goods and services in the class are opposed, namely: Blazers; Denim jackets; Fur coats and jackets; Fur hats; Hat bands; Hats; Jackets; Leather jackets; Light-reflecting jackets; T-shirts

Grounds for Opposition

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

Mark Cited by Opposer as Basis for Opposition

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	NITE LIFE SANTA BARBARA and Design The mark consists of the words NITE LIFE: "NITE" has a dagger through it from left to right and "LIFE" has a dagger through it from right to left. The two daggers meet in the middle, below the words, at a rose.		

Goods/Services	SOCIAL CLUBS FOR AUTOMOBILE ENTHUSIASTS
----------------	---

Attachments	Notice Of Oppositions Final.pdf (2 pages)(23110 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	/vcarver/
Name	Victoria Carver
Date	01/21/2009

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

Niteliflife of Santa Barbara,)	
)	
Opposer)	
)	
v.)	
)	
)	Opposition
Nite Life Car Club Association,)	
)	
Applicant)	
)	

NOTICE OF OPPOSITION

Niteliflife of Santa Barbara, an unincorporated association, having a business address of 4963 Pebble Hill Lane, Santa Barbara, CA, (“Opposer”) hereby opposes registration of the mark **NITE LIFE and Design** (“Applicant Mark”) that is the subject of application Serial No.78-8864321, published in the Official Gazette of Trademarks on September 23, 2008, and requests that registration to Applicant be refused.

As grounds in support of its opposition, Opposer asserts as follows:

1. Opposer, since at least as early as 1980 and long prior to any date of first use upon which Applicant can rely, has adopted and continuously used the mark “NITELIFE SANTA BARBARA” (“Opposer Word Mark”) and NITELIFE SANTA BARBARA AND DESIGN (“Opposer Design Mark”), collectively referred to as “Opposer Marks,” as service marks for social club services for low-rider and automobile enthusiasts.
2. Opposer, Niteliflife Santa Barbara, an unincorporated association, was formed in 1980 as a social club for car enthusiasts and was originally comprised of approximately 12 members.
3. In 2004 certain members of Niteliflife Santa Barbara resigned from the group and formed a group in Ventura, now known as Nite Life Car Club Association (“Applicant”), owner of Serial No.78-8864321.
4. Against the wishes and over the objections of Opposer’s members, Applicant used and is using Applicant Mark that is nearly identical to Opposer Marks.
5. Opposer owns California service mark, registration number 061455, NITELIFE SANTA BARBARA. Said mark was registered on December 1, 2005 for social clubs for car enthusiasts. Said mark has been in use in California since at least as early as 1-1-1980.

6. Opposer engages in numerous and regular community and charitable events in Santa Barbara and Ventura counties in California to raise money for charity.
7. Opposer uses and has used Opposer Marks to advertise its club services and charitable events on posters and other advertising and on clothing since at least as early as 1980.
8. Applicant Mark incorporates a design (the Design) identical to the design in Opposer Design Mark.
9. Jamie Maldonado authored the Design and conveyed to Opposer exclusive rights to use the Design.
10. Applicant's use of the Design infringes Opposer's rights as the exclusive licensee of Maldonado.
11. Applicant Mark so resembles Opposer Marks that use of Applicant Mark causes confusion among the public as to the source of the goods sold under Applicant Mark.
12. Applicant's use of Applicant Mark interferes with Opposer's conduct of its charitable activities.
13. Registration of Applicant Mark would foreclose the natural expansion of Opposer's trademark rights, namely use of its service mark on clothing and other items sold and distributed by Opposer in the normal course of its car club and charitable operations.
14. Opposer believes that Applicant's declaration that it has exclusive rights to use Applicant Mark, including the Design, which is part of the Application, is knowingly false, since Applicant is aware of Opposer, Opposer Marks and Opposer's club activities and Opposer's long term use of Opposer Marks.
15. Applicant Mark so resembles Opposer Marks as to be likely, when applied to the goods set forth in Applicant's application, to cause confusion, mistake, or deception within the meaning of Section 2(d) of the Trademark Act.

WHEREFORE, Opposer prays that the opposition be sustained and that registration to Applicant be refused.