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Filing date: **12/16/2010**

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

Proceeding	91190175
Party	Plaintiff 100 Blacks in Law Enforcement Who Care, Inc.; and 100 Blacks Who Care, Inc.
Correspondence Address	NOEL LEADER 100 BLACKS IN LAW ENFORCEMENT WHO CARE 593 VENDERBILT AVENUE, SUITE 133 BROOKLYN, NY 11238 UNITED STATES nleader@100blacksinlawenforcement.org
Submission	Rebuttal Brief
Filer's Name	Noel Leader
Filer's e-mail	esmooth2@aol.com
Signature	//Noel Leader//
Date	12/16/2010
Attachments	100 Blacks Trademark Rebuttal Brief.pdf (20 pages)(516022 bytes)

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

In the matter of Application Number 77626835 for **ONE HUNDRED BLACKS IN LAW ENFORCEMENT WHO CARE** *Published on April 14, 2009*

<p>100 BLACKS IN LAW ENFORCEMENT WHO CARE, INC. AND 100 BLACKS WHO CARE, INC.,</p> <p>Opposers,</p> <p>v.</p> <p>MARQUEZ CLAXTON AND 100 BLACKS IN LAW ENFORCEMENT WHO CARE, an unincorporated association.</p> <p>Applicant.</p>	<p>Opposition No. 91190175</p>
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Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3514
BOX TTAB / FEE

OPPOSERS' REBUTTAL BRIEF

Noel Leader, Opposers
100 Blacks in Law Enforcement Who Care
593 Vanderbilt Avenue, Suite 133
Brooklyn, New York 11238
Tel: (718) 455-9059
Cell: (917) 335-2784

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PRELIMINARY STATEMENT

1. Opposers 100 Blacks in Law Enforcement Who Care ("hereafter referred to as Opposers or 100 BILEWC"), by pro se, hereby submits the this reply brief in opposition to Applicants' Trial Brief. We reply in support to retain our lawfully created service mark name and entitled, "100 Blacks in Law Enforcement Who Care." Upon the attached exhibits of the affidavits of Vernon Wells, Joel Ottley and Cliff Hollingsworth, all being the original and true founders of "100 BILEWC," sworn to on June 23, 2009, and upon the other attached exhibits and all proceedings in this case to date, the Opposers 100 BLACKS IN LAW ENFORCEMENT WHO CARE request the **UNITED STATES TRADEMARK TRIAL AND APPEAL BOARD** for an Order to deny the Applicants' application for trademark or service mark under our name.

STATEMENT OF FACTS

2. After review of the Applicants' Trial Brief, we find that they are attempting to intentionally deceive this board by falsely claiming that Applicant Marquez Claxton joined our [already existing] organization with Opposer Noel Leader in 1995.

3. Applicants falsely and erroneously allege that Noel Leader surreptitiously obtained our valid Certified New York State Service Mark, that we misappropriated our name 100 BILEWC and that we are the dissenting group. That is simply not true and deceiving.

4. The Applicants' offers absolutely no legitimate evidence in support of their assertions. Applicants only rely on a false affidavit by Marquez Claxton and his TEAS Plus Application attached to their brief as exhibits. That is it. They do not submit any bank statements, phone agreement, website ownership, etc., in support of the brief. Further, they do

not admit any evidence that they attempted to challenge our lawfully obtained Certified New York State Service Mark with the Special Deputy Secretary of New York State.

5. On November 17, 2008, Opposers 100 BILEWC, by and through founding member Noel Leader, received Opposers' certified NYS Service Mark (#S20721), granting 100 BILEWC exclusive rights to the name "100 Blacks in Law Enforcement Who Care." In fact, Applicant Marquez Claxton had full knowledge of Opposers receiving and possessing the attached certified New York State Service Mark under our domain name "100 Blacks in Law Enforcement Who Care." *see [Exhibit A]*.

6. Since the creation of our organization (100 BILEWC), we continue to be in constant possession of all organizational property including, *but not limited to*, the name 100 BILEWC, phone number (718) 455-9059, post office box 593 Vanderbilt Avenue, web-address 100blacksinlawenforcement.org, and checking account. Applicants has not set forth any opposition or contested our certified service mark via the rules and regulation of the issuer **NEW YORK STATE DEPARTMENT OF STATE CERTIFICATE OF SERVICE MARK REGISTRATION** as a matter of law.

ARGUMENT

7. On or about December of 2008, Applicant MARQUEZ CLAXTON presented a trademark application before the Board of the United States Patent and Trademark Office [*hereafter USPTO*] in Opposers' name 100 BILEWC, in spite of the fact that Applicant MARQUEZ CLAXTON was sent several certified notices informing him that "his unlawful use and infringement of our service mark is a violation of our rights under the Lanham Act, 15 U.S.C. 1114 et. seq."

8. Although Applicant Marquez Claxton and co-defendants have not obtained a federal or state trademark or service mark, they continue to fraudulently represent themselves as a trademark organization.

9. These facts along with the Applicants fraudulent claim of being the original owners of our mark 100 Blacks in Law Enforcement Who Care in spite of creating a [new] phone number (718) 374-5228, [new] PO Box 315 Flatbush Avenue, [new] Web Address 100blacksinlawenforcement.com; all of which was created at the earliest in December 2008. Clearly this reveals the Applicants animus in their attempt to “form a new group” and “usurp Opposers’ original organization name 100 BILEWC.”

10. The Applicants do not offer any tenable proof whatsoever that they had exclusive owner rights to the Trademark since 1993. They do not specify or offer any explanation as what type of trade is protected or exclusive to their group.

11. The evidence remains that 100 BILEWC is protected against any new application for our name by a valid New York State Service Mark Certificate which has not been adequately challenged by the Applicants as a matter of law. Opposers assert all authorities incorporated in our New York State Certificate of Service Mark Registration seal against any new application for our protected name 100 BILEWC, in name likeness, website and email.

12. Upon the aforementioned, information and belief, Opposers now moves this Board for an Order to grant relief in declaratory judgment and deny Applicants’ application for trademark in the above entitled action.

13. In connection with this motion, annexed are the following documents:

Exhibit A: Opposers New York State Certificate of Service Mark Registration

Exhibit B: Opposers’ Affidavits in Support

CONCLUSION

WHEREFORE, for the aforementioned reasons, Opposers 100 BLACKS IN LAW ENFORCEMENT WHO CARE respectfully requests that this Board deny Applicant's application for trademark or service mark and grant all other relief that this board may deem just and proper.

Dated: December 16, 2010
Brooklyn, New York

Respectfully submitted.

// Noel Leader /
Noel Leader, Opposers
100 Blacks in Law Enforcement Who Care
593 Vanderbilt Avenue, Suite 133
Brooklyn, New York 11238
Tel: (718) 455-9059
Cell: (917) 335-2784

To: Conor F. Donnelly, Esq.
Admitted in New York and to the USPTO
Attorney for Applicant
Intellectual Property - Patents, Trademarks & Copyrights
41 Prospect Park SW, Apt. 4E
Brooklyn, New York 11215-5930
Tel: (917) 370-1255

EXHIBIT A

New York State Department of State Certificate of Service Mark Registration

I Daniel E. Shapiro, Special Deputy Secretary of State, do certify that the Service Mark described below and depicted on the attached copy has been duly registered in this Department pursuant to Article 24 of the General Business Law. This registration will remain in force for TEN years from the Date of Registration.

Registration Number: S20721 Registration Date: 11/17/08

Applicant: NOEL LEADER
760 MADISON ST.
BROOKLYN NY 11221-

State of Incorporation or
Partnership Organization:

Class Numbers: 42

Date First Used in NYS: 1/1/1995 Date First Used Anywhere: 1/1/1995

Service Mark Description:

100 BLACKS IN LAW ENFORCEMENT WHO CARE

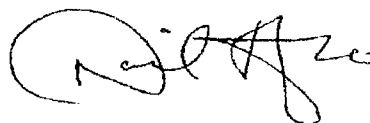
Description of Services:

Used to identify an organization which advocates civil and human rights on behalf of citizens of NYS. Also serves as a conduit for additional services such as education seminars, and variety of other informational public services.

WITNESS my hand and the seal of the State of New York In
the City of Albany on this:

Tuesday, November 25, 2008

by:



Special Deputy Secretary of State

DOS-690 (Rev. 3/01)



NYS Department of State

Division of Corporations

Entity Information

Selected Entity Name: 100 BLACKS IN LAW ENFORCEMENT WHO CARE, INC.

Selected Entity Status Information

Current Entity Name: 100 BLACKS IN LAW ENFORCEMENT WHO CARE, INC.

Initial DOS Filing Date: FEBRUARY 02, 2009

County: KINGS

Jurisdiction: NEW YORK

Entity Type: DOMESTIC BUSINESS CORPORATION

Current Entity Status: ACTIVE

Selected Entity Address Information

DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)

100 BLACKS IN LAW ENFORCEMENT WHO CARE, INC.

593 VANDERBILT AVENUE #133

BROOKLYN, NEW YORK, 11238

Registered Agent

NONE

NOTE: New York State does not issue organizational identification numbers.

[Search Results](#)

[New Search](#)

[Division of Corporations, State Records and UCC Home Page](#) [NYS Department of State Home Page](#)

EXHIBIT B

*SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS*

-----X
In the Matter and the Application of

Index Number
11190/2009

100 BLACKS IN LAW ENFORCEMENT WHO CARE,

AFFIDAVIT

Plaintiff,

-against-

IN SUPPORT

100 BLACKS IN LAW ENFORCEMENT WHO CARE™,
MARQUEZ CLAXTON,

Defendants.

-----X
STATE OF NEW YORK
COUNTY OF KINGS ss:

Vernon Wells, Co-founder of 100 BLACKS IN LAW ENFORCEMENT WHO CARE,
being duly sworn, deposes and says:

1. I am one of the original founders of plaintiff 100 BLACKS IN LAW ENFORCEMENT WHO CARE and now retired from the New York City Police Department. I have personal knowledge of all matters herein and I am fully authorized to represent the plaintiff in this proceeding before your Honor. I make this affidavit in support of plaintiff's Motion for Summary Judgment, Enforcement of Order by Contempt and Noel Leaders' Affidavit in Support of Motion.

2. I have read all of the papers, pleading and more specifically, Noel Leaders Affidavit attached to Plaintiff's Motion before your Honor. I hereby fully avert, certify, endorse and support every claim made in plaintiff's papers and attached affidavits of supporting original founders as true and accurate under the penalty of perjury.

3. I further certify that my current position in plaintiff 100 BLACKS IN LAW ENFORCEMENT WHO CARE is Co-founder, and I have knowledge of all parties in this action. Defendants MARQUEZ CLAXTON and defendant 100 BLACKS IN LAW ENFORCEMENT

WHO CARE™, who are all former and removed members from our plaintiff organization 100 BLACKS IN LAW ENFORCEMENT WHO CARE. I have no knowledge of any information upon which the defendants may prevail in this action.

WHEREFORE, I respectfully request that this motion be granted, and that such other and further relief may be just and proper.

Vernon Wells

[Signature]

Vernon Wells

Name Printed

Sworn to before me on the

23rd day of June, 2009

Tara L. Chester
Notary public

TARA LYNETTE CHESTER
Commissioner of Deeds
City of New York - No. 4-51459
Certificate Filed in Queens County
Commission Expires 6/01/2011

*SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS*

-----X
In the Matter and the Application of

Index Number
11190/2009

100 BLACKS IN LAW ENFORCEMENT WHO CARE,

AFFIDAVIT

Plaintiff,

-against-

IN SUPPORT

100 BLACKS IN LAW ENFORCEMENT WHO CARE™,
MARQUEZ CLAXTON,

Defendants.

-----X
STATE OF NEW YORK
COUNTY OF KINGS ss:

Joel Ottley, Co-founder of 100 BLACKS IN LAW ENFORCEMENT WHO CARE,
being duly sworn, deposes and says:

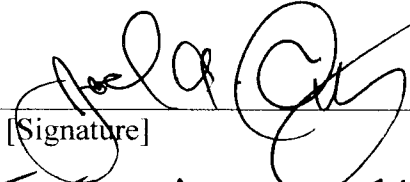
1. I am one of the founders since 1998 of plaintiff 100 BLACKS IN LAW ENFORCEMENT WHO CARE and now retired from the New York City Police Department. I have personal knowledge of all matters herein and I am fully authorized to represent the plaintiff in this proceeding before your Honor. I make this affidavit in support of plaintiff's Motion for Summary Judgment, Enforcement of Order by Contempt and Noel Leaders' Affidavit in Support of Motion.

2. I have read all of the papers, pleading and more specifically, Noel Leaders Affidavit attached to Plaintiff's Motion before your Honor. I hereby fully avert, certify, endorse and support every claim made in plaintiff's papers and attached affidavits of supporting original founders as true and accurate under the penalty of perjury.

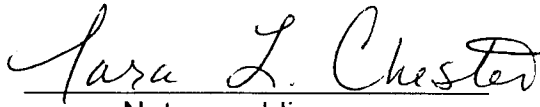
3. I further certify that my current position in plaintiff 100 BLACKS IN LAW ENFORCEMENT WHO CARE is Co-founder, and I have knowledge of all parties in this action. Defendants MARQUEZ CLAXTON and defendant 100 BLACKS IN LAW ENFORCEMENT

WHO CARE™, who are all former and removed members from our plaintiff organization 100 BLACKS IN LAW ENFORCEMENT WHO CARE. I have no knowledge of any information upon which the defendants may prevail in this action.

WHEREFORE, I respectfully request that this motion be granted, and that I have such other and further relief as may be just and proper.


[Signature]
JOEL A. OTLEY
Name Printed

Sworn to before me on the
23rd day of June, 2009


Notary public

TARA LYNETTE CHESTER
Commissioner of Deeds
City of New York - No. 4-51458
Certificate Filed in Queens County
Commission Expires 6/01/2011

*SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS*

-----X
In the Matter and the Application of

Index Number
11190/2009

100 BLACKS IN LAW ENFORCEMENT WHO CARE,

AFFIDAVIT

Plaintiff,

-against-

IN SUPPORT

100 BLACKS IN LAW ENFORCEMENT WHO CARE™,
MARQUEZ CLAXTON,

Defendants.

-----X
STATE OF NEW YORK
COUNTY OF KINGS ss:

Clifton L. Hollingsworth, Jr., Co-founder of 100 BLACKS IN LAW ENFORCEMENT WHO CARE, being duly sworn, deposes and says:

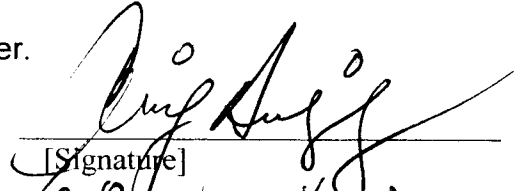
1. I am one of the original founders of plaintiff 100 BLACKS IN LAW ENFORCEMENT WHO CARE and now retired from the New York City Police Department. I have personal knowledge of all matters herein and I am fully authorized to represent the plaintiff in this proceeding before your Honor. I make this affidavit in support of plaintiff's Motion for Summary Judgment, Enforcement of Order by Contempt and Noel Leaders' Affidavit in Support of Motion.

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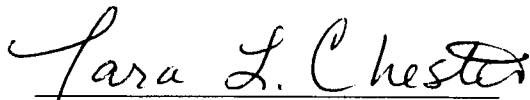
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WHO CARE™, who are all former and removed members from our plaintiff organization 100 BLACKS IN LAW ENFORCEMENT WHO CARE. I have no knowledge of any information upon which the defendants may prevail in this action.

WHEREFORE, I respectfully request that this motion be granted, and that I have such other and further relief as may be just and proper.


[Signature]
CLIFTON L. HOLLINGSWORTH JR.
Name Printed

Sworn to before me on the
23rd day of June, 2009


Tara L. Chester
Notary public

TARA LYNETTE CHESTER
Commissioner of Deeds
City of New York - No. 4-51458
Certificate Filed in Queens County
Commission Expires 6/01/2011

EXHIBIT C

**100 BLACKS
IN LAW ENFORCEMENT
WHO CARE**

1st Annual Awards Dinner Dance



at

Thomasina's Catering Hall

November 13, 1998

**ONE HUNDRED BLACKS
IN LAW
ENFORCEMENT WHO CARE
1997-1998
FOUNDERS**



Standing left to right:

Clifton Hollingsworth Jr.
Correspondence
and Communication

Kwame Tolliver
Information and
Research

Eric Adams
Administration

Terrance Wansley
Public Relations

Seated left to right:

Pamela Bumpars
Finance

Noel Leader
Profit Venture
and Entrepreneurship

Vernon Wells
Organization and Operation

Not Shown:

Bernard Adams
Social Support

Eric Josey
Defense

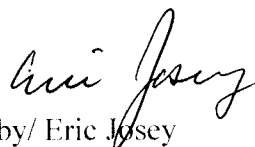
James Gilmore
Community Empowerment

CERTIFICATE OF SERVICE

I, ERIC JOSEY, I hereby certify that I am over the age of [18] years of age and did served a true and complete copy of the foregoing OPPOSERS REBUTTAL TRIAL BRIEF and exhibits in support of Opposers' Brief on Conor F. Donnelly, attorney for Applicant MARQUEZ CLAXTON AND 100 BLACKS IN LAW ENFORCEMENT WHO CARE™, an unincorporated association, all applicants parties by mailing said copy on the 17th day of December, 2010, via USPS Priority Mail, postage prepaid, Delivery Confirmation #9405 5036 9930 0442 1331 67, addressed to:

Attorney for All Applicants:

Conor F. Donnelly
41 Prospect Park, Suite 4E
Brooklyn, New York 11215



/by/ Eric Josey
/for/ Noel Leader, Opposers
100 Blacks In Law Enforcement Who
593 Vanderbilt Avenue, Suite 133
Brooklyn, New York 11238