

ESTTA Tracking number: **ESTTA445435**

Filing date: **12/08/2011**

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 | THE KEEP A BREAST FOUNDATION | | |
| Entity | Non Profit Corporation | Citizenship | California |
| Address | 2251 LAS PALMAS DRIVE Carlsbad, CA 92011 UNITED STATES | | |

| | | | |
|----------------------|--|--|--|
| Attorney information | Sean Flaherty Coast Law Group, LLP 1140 South Coast Highway 101 Encinitas, CA 92024 UNITED STATES trademarks@coastlawgroup.com Phone:760-942-8505 | | |
|----------------------|--|--|--|

Applicant Information

| | | | |
|------------------------|--|------------------------|------------|
| Application No | 85359191 | Publication date | 11/08/2011 |
| Opposition Filing Date | 12/08/2011 | Opposition Period Ends | 12/08/2011 |
| Applicant | Twin Tiger Assets Corp. 520 Esplanade # B Redondo Beach, CA 90277 UNITED STATES | | |

Goods/Services Affected by Opposition


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| Class 025. All goods and services in the class are opposed, namely: Belts for clothing; Cap visors; Caps with visors; Flip flops; Head wear; Hooded sweatshirts; Jackets; Pants; Shoes; Short trousers; Shorts; Sun visors; Sweatshirts; Swim suits; Swim trunks; Swim wear; T-shirts; Visors |
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Grounds for Opposition


| | |
|--------------------------------------|-----------------------------|
| Priority and likelihood of confusion | Trademark Act section 2(d) |
| Dilution | Trademark Act section 43(c) |

Marks Cited by Opposer as Basis for Opposition


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|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 4034885 | Application Date | 03/02/2011 |
| Registration Date | 10/04/2011 | Foreign Priority Date | NONE |
| Word Mark | I BOOBIES! | | |

| | | | |
|---------------------|---|--|--|
| Design Mark |  | | |
| Description of Mark | The mark consists of a heart with the outline of another heart superimposed on two half circles representing abstract breasts. The heart is preceded by "i" and followed by the word "boobies" with an exclamation point. | | |
| Goods/Services | Class 014. First use: First Use: 2009/05/15 First Use In Commerce: 2009/05/15 Bracelets | | |


| | | | |
|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 3940877 | Application Date | 08/16/2010 |
| Registration Date | 04/05/2011 | Foreign Priority Date | NONE |


| | | | |
|---------------------|---|--|--|
| Word Mark | I BOOBIES! | | |
| Design Mark |  | | |
| Description of Mark | The mark consists of a heart with the outline of another heart superimposed on two half circles representing abstract breasts. The heart is preceded by "i" and followed by the word "boobies" with an exclamation point. | | |
| Goods/Services | Class 012. First use: First Use: 2010/02/28 First Use In Commerce: 2010/02/28 License plate frames | | |


| | | | |
|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 3940876 | Application Date | 08/16/2010 |
| Registration Date | 04/05/2011 | Foreign Priority Date | NONE |

| | | | |
|---------------------|---|--|--|
| Word Mark | I BOOBIES! | | |
| Design Mark |  | | |
| Description of Mark | The mark consists of a heart with the outline of another heart superimposed on two half circles representing abstract breasts. The heart is preceded by "i" and followed by the word "boobies" with an exclamation point. | | |
| Goods/Services | Class 041. First use: First Use: 2007/06/30 First Use In Commerce: 2007/06/30 Educational services, namely, conducting seminars, art exhibitions, and workshops in the field of breast cancer awareness, causes, research and treatment; and entertainment services, namely, live musical performances to promote breast cancer awareness, causes, research and treatment | | |

| | | | |
|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 3940875 | Application Date | 08/16/2010 |
| Registration Date | 04/05/2011 | Foreign Priority Date | NONE |

| | |
|---------------------|---|
| Word Mark | I BOOBIES! |
| Design Mark |  |
| Description of Mark | The mark consists of a heart with the outline of another heart superimposed on two half circles representing abstract breasts. The heart is preceded by "i" and followed by the word "boobies" with an exclamation point. |
| Goods/Services | Class 036. First use: First Use: 2007/06/30 First Use In Commerce: 2007/06/30 Charitable fundraising services |

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|-----------------------|---|-----------------------|------------|
| U.S. Registration No. | 3870574 | Application Date | 03/30/2010 |
| Registration Date | 11/02/2010 | Foreign Priority Date | NONE |
| Word Mark | NONE | | |
| Design Mark |  | | |
| Description of Mark | The mark consists of a heart superimposed on two half circles representing abstract breasts. | | |
| Goods/Services | Class 041. First use: First Use: 2008/06/30 First Use In Commerce: 2008/06/30 Educational services, namely, conducting seminars, art exhibitions, and workshops in the field of breast cancer awareness, causes, research and treatment; and entertainment services, namely, live musical performances to promote breast cancer awareness, causes, research and treatment | | |

| | | | |
|-----------------------|--|-----------------------|------------|
| U.S. Registration No. | 3148275 | Application Date | 09/14/2005 |
| Registration Date | 09/26/2006 | Foreign Priority Date | NONE |
| Word Mark | KEEP A BREAST | | |
| Design Mark |  | | |

| | |
|---------------------|---|
| Description of Mark | NONE |
| Goods/Services | Class 041. First use: First Use: 2001/02/28 First Use In Commerce: 2001/02/28 Educational services, namely, conducting seminars, art exhibitions, and workshops in the field of breast cancer awareness, causes, research and treatment; and entertainment services namely, live musical performances by a musical band |

| | |
|-------------|---|
| Attachments | 85255611#TMSN.jpeg (1 page)(bytes) 85108728#TMSN.jpeg (1 page)(bytes) 85108727#TMSN.jpeg (1 page)(bytes) 85108717#TMSN.jpeg (1 page)(bytes) 85002400#TMSN.jpeg (1 page)(bytes) 78712642#TMSN.jpeg (1 page)(bytes) Ntc Opp 191 Final.pdf (15 pages)(217366 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 | /Sean Flaherty/ |
| Name | Sean Flaherty |
| Date | 12/08/2011 |

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

**In the Matter of Application Serial no. 85/359,191, Int'l Class 025
For the Mark BOOBIES ROCK**

Filed June 29, 2011- and published in the *Official Gazette* November 8, 2011

**THE KEEP A BREAST
FOUNDATION, INC.**

Opposer,

-against-

TWIN TIGER ASSETS CORP.

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

Commissioner for Trademarks
PO Box 1451
Alexandria, VA 22313-1451

THE KEEP A BREAST FOUNDATION, INC., (“Opposer”) believes that it will be damaged by the registration of the above-identified trademark, hereby opposes the registration thereof and alleges as follows:

FACTS

1. Standing is satisfied because Opposer believes that it would be damaged by the registration of the mark contained in Application Serial No. 85/359,191. The Opposer has a real interest in the proceeding because Opposer is the owner of mark(s) with superior rights to that of the Applicant’s confusingly similar mark. Also, as set forth below, Opposer has identified several reasonable bases for claiming damages.

2. Upon information and belief, TWIN TIGER ASSETS CORP., (“Applicant”) is a corporation organized under the laws of the State of Nevada having a place of business at 520 Esplanade # B, Redondo Beach, California 90277.
3. On or about June 29, 2011, Applicant filed U.S. Trademark Application Serial No. 85/359,191 for registration of the mark BOOBIES ROCK (“Applicant’s Mark”), in International Class 025 for “Belts for clothing; Cap visors; Caps with visors; Flip flops; Head wear; Hooded sweatshirts; Jackets; Pants; Shoes; Short trousers; Shorts; Sun visors; Sweatshirts; Swim suits; Swim trunks; Swim wear; T-shirts; Visors” pursuant to 1(b) of the Trademark Act, 15 U.S.C. §1051(b) (the “Application”).
4. The Application was published for opposition in the Official Trademark Gazette on November 8, 2011.
5. THE KEEP A BREAST FOUNDATION, INC. is a non profit corporation organized and existing under the laws of the State of California, having a place of business at 2251 Las Palmas Drive, Carlsbad, California 92011.
6. Opposer is the owner of several marks for KEEP A BREAST, I LOVE BOOBIES!, and I (HEART) BOOBIES! (collectively, “KAB Trademarks”).
7. Opposer is and has been for many years, engaged in the use of the KAB Trademarks in connection with the manufacture, advertising and sales of a wide variety of cause marketing clothing, apparel, goods, and services.
8. For approximately 10 years, Opposer’s reputation and distinctive image have been consistently developed across an expanding number of products and international markets.

9. As a result, Opposer has become one of the most successful and recognizable breast cancer awareness, education and outreach nonprofit organizations in the United States.
10. Opposer's Marks are the subject of numerous valid and subsisting United States trademark registrations and applications. A schedule of Opposer's Trademarks in the United States is attached hereto as Exhibit A.
11. Opposer directly and/or through licensees, markets and sells goods bearing the Opposer's Marks throughout the world and in the United States through hundreds of retail stores.
12. Opposer also sells, directly and/or through its licensees, goods on its website located at <http://www.keep-a-breast.org/> (The "KAB Website"), and through other online retailers.
13. For over 10 years, Opposer has built its organization based on the pursuit of its mission statement: "to help eradicate breast cancer by exposing young people to methods of prevention, early detection and support. Through art events, educational programs and fundraising efforts, Keep a Breast seeks to increase breast cancer awareness among young people so they are better equipped to make choices and develop habits that will benefit their long-term health and well-being." As a result, Opposer and the symbols and marks that are used to identify its goods in the market have become synonymous with breast cancer awareness, education, and outreach. Opposer has made a substantial investment in solidifying this image in the public conscience through the promotion of its goods and services that bear the KAB Trademarks.
14. In the course of becoming one of the most recognizable breast cancer awareness organizations in the United States, Opposer has, directly and/or through its licensees,

expended significant resources to protect the strength, goodwill, and value of the KAB Trademarks.

15. Opposer has, directly and/or through its licensees, expended significant time, effort and money in advertising and promotion of the goods and services sold under the KAB Trademarks in trade publications, magazines of general circulation, television ads, billboards, the Internet, as well as art events, musical festivals, sponsorships, and authorized retailers.
16. Opposer's goods and services marketed under the KAB Trademarks have enjoyed widespread media coverage in print, on television, and the Internet. The Keep a Breast corporate family has received consistent recognition for its exceptional success in bringing breast cancer awareness to a younger demographic worldwide- which has heightened consumer awareness of Opposer's goods and services.
17. Opposer's use of the KAB Trademarks predates Applicant's use of the Applicant's Mark.

COUNT 1
LIKELIHOOD OF CONFUSION

18. Opposer repeats and realleges each and every allegation set forth in the paragraphs above as if fully set forth herein.
19. Applicant's Mark proposed for registration shares common elements; and plays upon, Opposer's KAB Trademarks for I LOVE BOOBIES! and I (HEART) BOOBIES!.
20. Applicant's Mark is similar in appearance to the KAB Trademarks in sight, sound, connotation and commercial impression.
21. The goods recited in the Application are identical, similar, or related to the goods with which the KAB Trademarks are registered.

22. The goods recited in the Application are identical, similar, or related to the goods with which the KAB Trademarks are used.
23. Registration of the Applicant's Mark is likely to cause confusion, mistake, or deception as to the source of Applicant's goods and/or services and is likely to falsely suggest a common association, sponsorship, or origin of said services between Applicant and Opposer.

COUNT II
DILUTION

24. Opposer repeats and realleges each and every allegation set forth in the paragraphs above as if fully set forth herein.
25. Through Opposer's extensive advertisement, promotion, and substantial sales, the KAB Trademarks have become famous.
26. Any use by Applicant of Applicant's Mark has occurred after the KAB Trademarks became famous.
27. Relevant consumers are likely to make an association between Applicant's Mark and the KAB Trademarks.
28. Applicant's Mark is likely to impair the distinctiveness of the KAB Trademarks.
29. Applicant's Mark is likely to blur and/or tarnish the positive associations of the KAB Trademarks.
30. Likelihood of tarnishment and damage to Opposer's goodwill is enhanced by the fact that prospective customers who are dissatisfied with, or encounter defects in the quality of Applicant's goods will attribute those defects to Opposer.

31. Thus, if Applicant is permitted to register and use Applicant's Mark, it is likely to cause dilution of the distinctive quality of the KAB Trademarks, pursuant to Section 43 of the Lanham Act, 15 U.S.C. §1125(c)

WHEREFORE, Opposer prays that the Board sustain the Opposition and refuse the registration of Applicant's Mark, pursuant to 15 U.S.C §1052(d), 1063 and 1125(c).

Date: December 8, 2011

Respectfully Submitted,

COAST LAW GROUP, LLP

By: /s/ Sean Flaherty





Sean D. Flaherty, Esq.
COAST LAW GROUP, LLP
1140 South Coast Hwy 101
Encinitas, California 92024
Tel: (760) 942-8505
Fax: (760) 942-8515
Attorneys for Opposer


Exhibit A

Schedule of Keep a Breast Trademarks

Summary of Trademark Portfolio
 Mark Owner: Keep a Breast Foundation, Inc.




Registered Marks

| <u>Mark</u> | <u>Serial Number</u> | <u>Goods and Services</u> | <u>Date Filed</u> | <u>Status</u> | <u>Reg. No.</u> |
|---|----------------------|--|--------------------|----------------------------------|-----------------|
|  "HEART & BREASTS" | 85002400 | Educational services, namely, conducting seminars, art exhibitions, and workshops in the field of breast cancer awareness, causes, research and treatment; and entertainment services, namely, live musical performances to promote breast cancer awareness, causes, research and treatment. | March 30, 2010 | Registered November 2, 2010 | 3870574 |
| KEEP A BREAST | 78712642 | Educational services, namely, conducting seminars, art exhibitions, and workshops in the field of breast cancer awareness, causes, research and treatment; and entertainment services namely, live musical performances by a musical band. | September 14, 2005 | Registered September 26, 2006 | 3148275 |
|  I (HEART) BOOBIES! | 85108728 | License plate frames. | August 16, 2010 | Registered April 5, 2011 | 3940877 |
|  I (HEART) BOOBIES! | 85255611 | Bracelets | March 2, 2011 | Registered October 4, 2011 | 4034885 |
|  I (HEART) BOOBIES! | 85108717 | Charitable fundraising services. | August 16, 2010 | Registered April 5, 2011 | 3940875 |




| | | | | | |
|---|----------|--|-----------------|-----------------------------|---------|
|  I (HEART) BOOBIES! | 85108727 | Educational services, namely, conducting seminars, art exhibitions, and workshops in the field of breast cancer awareness, causes, research and treatment; and entertainment services, namely, live musical performances to promote breast cancer awareness, causes, research and treatment. | August 16, 2010 | Registered April 5, 2011 | 3940876 |
|---|----------|--|-----------------|-----------------------------|---------|

Keep a Breast Trademark Portfolio


Allowed Marks

| <u>Mark</u> | <u>Serial Number</u> | <u>Goods and Services</u> | <u>Date Filed</u> | <u>Status</u> | <u>Reg. No.</u> |
|---|----------------------|--|-------------------|--|-----------------|
|  <p>I (HEART) BOOBIES!</p> | 85108721 | Backpacks; Purses; Tote bags | August 16, 2010 | Published for Opposition January 18, 2011 Notice of Allowance Issued March 15, 2011 | N/A |
|  <p>I (HEART) BOOBIES!</p> | 85108718 | (Based on Use in Commerce) Publications, namely, brochures, booklets, and teaching materials in the field of breast cancer awareness and prevention; Stickers; (Based on Intent to Use) Blank journals; Erasers; Magazines featuring breast cancer awareness and prevention; Pencils; Personal organizers. | August 16, 2010 | Published for Opposition January 18, 2011 Notice of Allowance Issued March 15, 2011 | N/A |
|  <p>I (HEART) BOOBIES!</p> | 85101058 | Sunglasses | August 5, 2010 | Published for Opposition January 18, 2011 Notice of Allowance Issued March 15, 2011 | N/A |



Keep a Breast Trademark Portfolio

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|---|----------|---|----------------|---|-----|
|  "HEART & BREASTS" | 85002398 | (Based on Use in Commerce) Footwear; Hats; Hooded sweat shirts; T-shirts; Tank tops; (Based on Intent to Use) Beanies; Belts; Caps; Coats; Dresses; Gloves; Jackets; Jerseys; Pajamas; Pants; Scarves; Shirts; Shorts; Skirts; Socks; Sun visors; Sweat pants; Sweaters; Swimsuits; Underwear; Wraps; Wristbands. | March 30, 2010 | Published for Opposition August 17, 2010 Notice of Allowance Issued October 12, 2010 | N/A |
|  "HEART & BREASTS" | 85002395 | (Based on Use in Commerce) Tote bags; (Based on Intent to Use) All purpose sport bags; Backpacks; Book bags; Handbags; Luggage; Purses; Wallets. | March 30, 2010 | Published for Opposition August 17, 2010 Notice of Allowance Issued October 12, 2010 | N/A |
|  "HEART & BREASTS" | 85002391 | (Based on Use in Commerce) Bracelets; Necklaces; (Based on Intent to Use) Earrings; Jewelry, namely, anklets; Rings; Watches. | March 30, 2010 | Published for Opposition August 17, 2010 Notice of Allowance Issued October 12, 2010 | N/A |

Keep a Breast Trademark Portfolio

| | | | | | |
|---|----------|--|-----------------|--|-----|
| KEEP A BREAST | 77769453 | <p>Based on Use in Commerce) Bracelets; Earrings; Necklaces (Based on Intent to Use) Jewelry, namely, anklets; Rings; Watches.</p> <p>(Based on Use in Commerce) Book bags; Purses; Wallets (Based on Intent to Use) All purpose sport bags; Backpacks; Handbags; Luggage.</p> <p>(Based on Use in Commerce) Beanies; Caps; Dresses; Footwear; Hats; Hooded sweat shirts; Scarves; T-shirts; Tank tops; Wristbands (Based on Intent to Use) Belts; Coats; Gloves; Jackets; Jerseys; Pajamas; Pants; Shirts; Shorts; Skirts; Socks; Sun visors; Sweat pants; Sweaters; Swimsuits; Underwear; Wraps.</p> | June 26, 2009 | Published for Opposition November 17, 2009 Notice of Allowance Issued February 9, 2010 | N/A |
|  <p>I (HEART)BOOBIES!</p> | 85108764 | (Based on Use in Commerce) Hats; Hooded sweat shirts; T-shirts; (Based on Intent to Use) Bandanas; Belts; Bras; Jackets; Scarves; Shoes; Socks; Sweatbands; Underwear. | August 16, 2010 | Published for Opposition February 15, 2011 Notice of Allowance Issued April 12, 2011 | N/A |

Keep a Breast Trademark Portfolio

| | | | | | |
|--|----------|--|-----------------|--|-----|
|  <p>I (HEART) BOOBIES</p> | 85108752 | (Based on Use in Commerce) Bracelets; Key chains as jewelry; Necklaces; (Based on Intent to Use) Watches | August 16, 2010 | Published January 18, 2011 Notice of Allowance Issued March 15, 2011 | N/A |
|  <p>I (HEART) BOOBIES</p> | 85975287 | Belts, Socks | August 16, 2010 | Published February 15, 2011 Allowed April 12, 2011 | N/A |

Keep a Breast Trademark Portfolio

Pending Marks

| <u>Mark</u> | <u>Serial Number</u> | <u>Goods and Services</u> | <u>Date Filed</u> | <u>Status</u> | <u>Reg. No.</u> |
|----------------|----------------------|---|-------------------|-------------------|-----------------|
| I LOVE BOOBIES | 85212335 | Bandanas; Belts; Bras; Hats; Hooded sweatshirts; Jackets; Scarves; Shoes; Socks; Sweatbands; T-shirts; Underwear. | January 6, 2011 | Under Examination | N/A |
| I LOVE BOOBIES | 85212317 | Bracelets | January 6, 2011 | Under Examination | N/A |

Keep a Breast Trademark Portfolio

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

**In the Matter of Application Serial no. 85/359,191, Int'l Class 025
For the Mark BOOBIES ROCK**

Filed June 29, 2011- and published in the *Official Gazette* November 8, 2011

**THE KEEP A BREAST
FOUNDATION, INC..**

Opposer,

-against-

TWIN TIGER ASSETS CORP.

Applicant.

Opposition No. _____

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing Notice of Opposition on the Applicant and the Attorney of Record for the Applicant by mailing it via First Class Mail postage prepaid, on the 8th day of December, 2011, at the address indicated below:

Twin Tiger Assets Corp.
520 Esplanade # B
Redondo Beach, CA 90277

By: /s/ Sean Flaherty

Sean D. Flaherty, Esq.