

ESTTA Tracking number: **ESTTA504266**

Filing date: **11/07/2012**

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 | Gunnars LE MC International LLC | | |
| Entity | limited liability company | Citizenship | Missouri |
| Address | 1132 Saratoga Dr. St. Charles, MO 63303 UNITED STATES | | |

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| Attorney information | Annette P. Heller Heller & Associates 400 Chesterfield Center, Suite 400 Chesterfield, MO 63017 UNITED STATES tmattorneyheller@aol.com,tmattorneyturek@aol.com Phone:(314) 469-2610 | | |
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Applicant Information

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|------------------------|---|------------------------|------------|
| Application No | 85579329 | Publication date | 10/16/2012 |
| Opposition Filing Date | 11/07/2012 | Opposition Period Ends | 11/15/2012 |
| Applicant | Gunnars Law Enforcement Motorcycle Club of St. Louis, Inc. 2756 Francis Avenue Saint Louis, MO 63114 UNITED STATES | | |

Goods/Services Affected by Opposition

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| Class 036. First Use: 2005/09/01 First Use In Commerce: 2006/04/01 All goods and services in the class are opposed, namely: Fundraising services, namely, sharing profits from the sale of socially responsible products with not-for-profit organizations, schools, and civic groups |
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Grounds for Opposition

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|--------------------------------------|-------------------------------|
| Priority and likelihood of confusion | Trademark Act section 2(d) |
| Other | application is void ab initio |

Mark Cited by Opposer as Basis for Opposition

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|----------------------|---------------|-----------------------|------------|
| U.S. Application No. | 85616973 | Application Date | 05/04/2012 |
| Registration Date | NONE | Foreign Priority Date | NONE |
| Word Mark | GUNNARS LE MC | | |

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|---------------------|--|
| Design Mark | GUNNERS LE MC |
| Description of Mark | NONE |
| Goods/Services | Class 200. First use: First Use: 2005/12/00 First Use In Commerce: 2005/12/00 Indicating membership in a(n) to indicate membership in a law enforcement motorcycle club |

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| Attachments | 85616973#TMSN.jpeg (1 page)(bytes) Gunners Notice of Opposition.pdf (6 pages)(54029 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 | /aph72met/ |
| Name | Annette P. Heller |
| Date | 11/07/2012 |

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

Gunners LE MC International LLC)
Opposer,)
)
v.) Opposition No. _____)
)
Gunners Law Enforcement)
Motorcycle Club of St. Louis, Inc.)
Applicant.)
_____)

NOTICE OF OPPOSITION

Gunners LE MC International LLC (“Opposer”) is a Missouri limited liability company located and doing business at 1132 Saratoga Dr., St. Charles, Missouri 63303.

To the best of Opposer’s knowledge, Gunners Law Enforcement Motorcycle Club of St. Louis, Inc. (“Applicant”) is a Missouri corporation located and doing business at 2756 Francis Ave., St. Louis, Missouri 63114.

Pursuant to 15 U.S.C. §1063, Opposer believes it will be damaged by the registration of Application Serial No. 85579329 and hereby opposes the same.

The grounds for opposition are as follows:

1. Since at least as early as 2005, Opposer’s members have been using the name GUNNERS LE MC to indicate membership in Opposer’s law enforcement motorcycle club.
2. The GUNNERS LE MC collective membership mark is currently used by Opposer’s members to indicate membership in Opposer’s law enforcement motorcycle club.

3. Opposer has been continuously exercising legitimate control over the use of the GUNNERS LE MC collective membership mark in commerce by its members.

4. Opposer controls the use of the GUNNERS LE MC mark by its members as specified in Opposer's bylaws and other written provisions.

5. Opposer is the owner of all right, title, and interest in and to the GUNNERS LE MC collective membership mark as used by Opposer's members to indicate membership in Opposer's law enforcement motorcycle club.

6. Opposer's members regularly organize and participate in charitable fundraising programs and events for non-profit organizations and associations.

7. On March 25, 2012, Applicant filed an application based on §1(a) seeking registration of the service mark GUNNERS LAW ENFORCEMENT MOTORCYCLE CLUB for "fundraising services, namely, sharing profits from the sale of socially responsible products with not-for-profit organizations, schools, and civic groups." Applicant's application was assigned Serial No. 85579329.

8. The principals of Applicant were members of Opposer's St. Louis chapter. The principals' membership in Opposer's St. Louis chapter was terminated due to a bylaw violation in 2011. Opposer's St. Louis chapter remained in existence after the principals of Applicant were dismissed from the St. Louis chapter.

9. Upon information and belief, Applicant has no legitimate or *bona fide* right to use the GUNNERS LAW ENFORCEMENT MOTORCYCLE CLUB service mark in connection with the services listed in its application.

10. The use by Opposer's members of the GUNNERS LE MC collective membership mark in connection with indicating membership in a law enforcement motorcycle club precedes the filing date of Applicant's application for GUNNERS LAW ENFORCEMENT MOTORCYCLE CLUB.

11. The use by Opposer's members of the GUNNERS LE MC collective membership mark in connection with indicating membership in a law enforcement motorcycle club precedes any date on which Applicant can reasonably rely.

12. On May 4, 2012, Opposer filed an application with the United States Patent and Trademark Office under 15 U.S.C. §§ 1051(a) and 1054 seeking to register GUNNERS LE MC as a collective membership mark in International Class 200 for indicating "membership in a law enforcement motorcycle club." Opposer's application was assigned Serial No. 85616973.

13. On August 25, 2012, the Trademark Examining Attorney suspended action on Opposer's application pending the disposition of Applicant's application for GUNNERS LAW ENFORCEMENT MOTORCYCLE CLUB, thereby causing harm and damage to Opposer.

COUNT I - Priority and Likelihood of Confusion

14. Opposer realleges and incorporates by reference the allegations set forth in the preceding paragraphs as if fully set forth herein.

15. Applicant's GUNNERS LAW ENFORCEMENT MOTORCYCLE CLUB service mark is essentially identical in appearance, sound, and commercial impression to Opposer's GUNNER LE MC collective membership mark, especially since "LE MC" is the abbreviation for "Law Enforcement Motorcycle Club."

16. The services recited in Applicant's application for GUNNERS LAW ENFORCEMENT MOTORCYCLE CLUB are strongly related to the services that Opposer's members provide as members of Opposer's law enforcement motorcycle club.

17. Opposer reasonably believes that it will be damaged by the registration of Application Serial No. 85579329 since Applicant's service mark, when used on or in connection with its services, so resembles Opposer's GUNNERS LE MC collective membership mark as to be likely to cause confusion, to cause mistake, or to deceive as to the affiliation, connection, or association of Applicant with Opposer, or as to the origin, sponsorship, or approval of Applicant's services by Opposer.

18. Opposer reasonably believes it will be further damaged by the registration of Application Serial No. 85579329 because such registration would give color of exclusive statutory rights to Applicant in violation and derogation of the prior superior rights of Opposer.

COUNT II - Void *Ab Initio*

19. Opposer realleges and incorporates by reference the allegations set forth in Paragraphs 1-13 as if fully set forth herein.

20. Applicant was not the owner of all right, title, and interest in and to the GUNNERS LAW ENFORCEMENT MOTORCYCLE CLUB service mark in the United States at the time Applicant filed Application Serial No. 85579329.

21. Applicant's application is void *ab initio* since Applicant was not the owner of the GUNNERS LAW ENFORCEMENT MOTORCYCLE CLUB service mark at the time Applicant filed Application Serial No. 85579329.

