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ESTTA Tracking number: **ESTTA544538**

Filing date: **06/21/2013**

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 State of Oregon(OR State University)
Granted to Date of previous extension	06/22/2013
Address	University Marketing 102 Adams Hall Oregon State University Corvallis, OR 97331 UNITED STATES
Party who filed Extension of time to oppose	The State of Oregon acting by and through the State Board of Higher Education on behalf of Oregon State University
Relationship to party who filed Extension of time to oppose	?The TTAB form will not allow the full name to be entered. The form only allows 80 characters. The name was shortened to fit in the field.

Applicant Information

Application No	85781997	Publication date	04/23/2013
Opposition Filing Date	06/21/2013	Opposition Period Ends	06/22/2013
Applicant	Turner, Josh 2724 ruth dr Medford, OR 97504 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 2012/10/18 First Use In Commerce: 2012/10/18
All goods and services in the class are opposed, namely: Clothing namely t-shirts, long sleeve shirts, sleeveless shirts, tank tops, sweatshirts, sweat pants, jackets, beanies, caps, gloves, underwear, swim suits, board shorts, shorts, dresses

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	BEAVERS and BEAVS		
Goods/Services	shirts, pants, shorts, sweatshirts, basketballs, stickers, flags, key		

	chains, mugs, pens, fireplace, headphones

Attachments	BEAVS ARMY Des Opp - 85781997.pdf(2231528 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	/Kevin Hayes/
Name	KEVIN M HAYES
Date	06/21/2013

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

The State of Oregon acting by and through the State Board of Higher Education on behalf of Oregon State University, Opposer, v. Josh Turner, Applicant.	NOTICE OF OPPOSITION Opposition No.: _____ App. No. 85781997

In re trademark application of: Josh Turner

Serial No.:	85781997
Filed:	November 17, 2012
Mark:	BEAVS ARMY & Design
International Class:	025
Published in *Official Gazette*:	April 23, 2013

NOTICE OF OPPOSITION

COMMISSIONER FOR TRADEMARKS
P.O. BOX 1451
ALEXANDRIA, VA 22313

The State of Oregon acting by and through the State Board of Higher Education on behalf of Oregon State University, located and doing business at University Marketing, 102 Adams Hall, Oregon State University, Corvallis, Oregon 97331 ("Oregon State University"), whose marks include BEAVERS and BEAVS, believes that it will be damaged by registration of the mark BEAVS ARMY & Design shown in Applicant's application Serial No. 85781997 for the

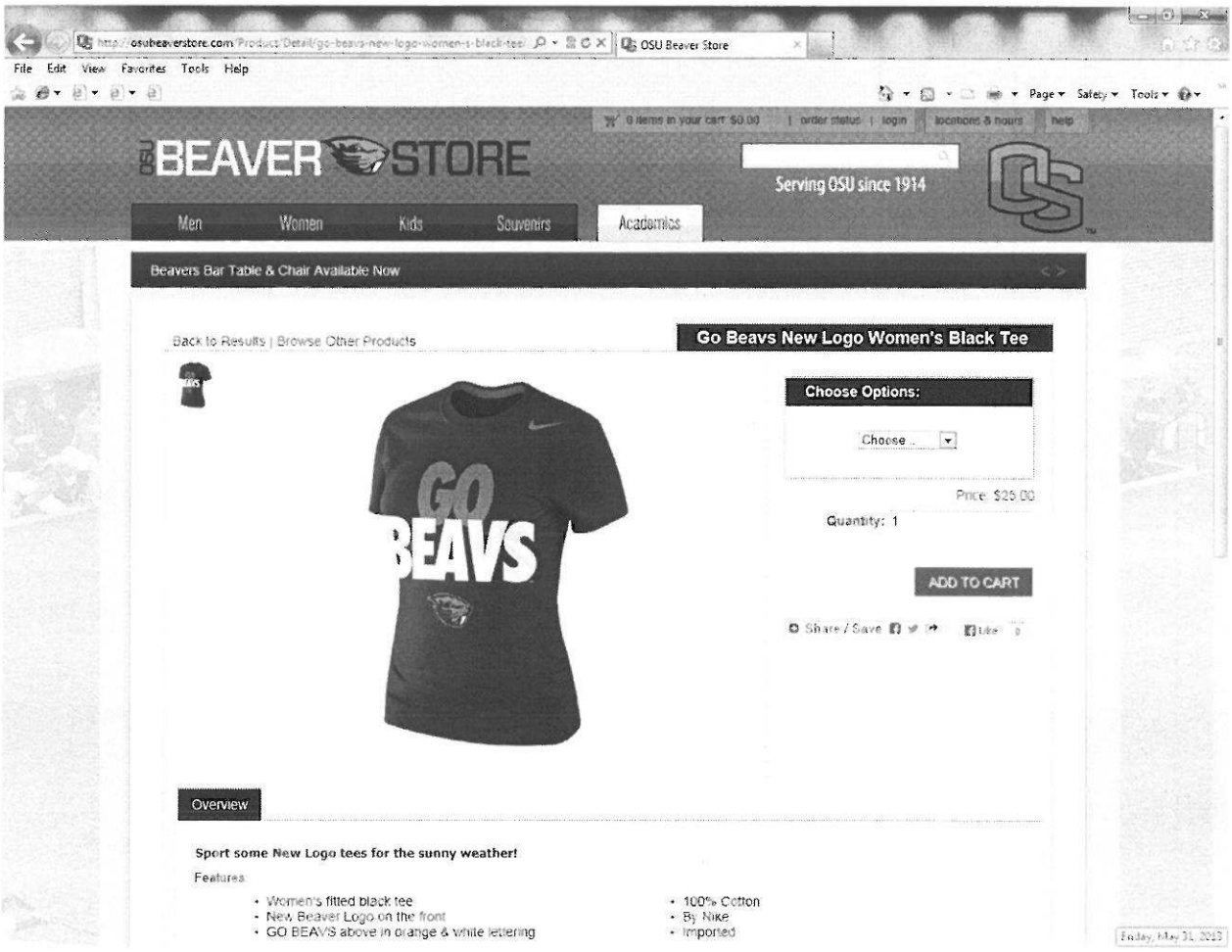
goods recited therein (i.e., clothing namely t-shirts, long sleeve shirts, sleeveless shirts, tank tops, sweatshirts, sweat pants, jackets, beanies, caps, gloves, underwear, swim suits, board shorts, shorts, dresses) (the "Subject Application") and hereby opposes the same.

As grounds for opposition, it is alleged:

1. Oregon State University's mascot is a beaver and its athletic teams have used the mark BEAVERS for generations, perhaps for as long as the last hundred years.

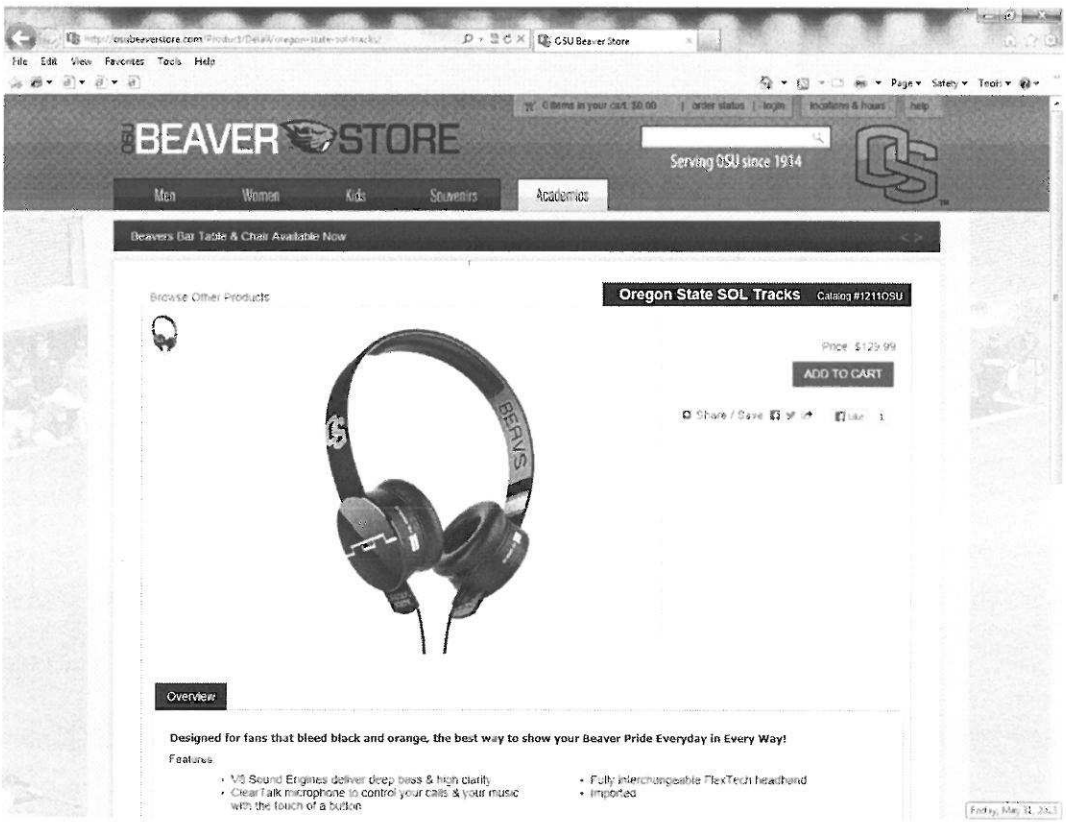
2. Not surprisingly, Oregon State University markets and promotes many types of goods and services under its BEAVERS mark. Such goods include clothing, for example, shirts, pants, and shorts which are the goods at issue in this Opposition, as well as, *inter alia*, sweatshirts, basketballs, stickers, flags, key chains, mugs, and pens.

3. Further, BEAVS obviously is a shorthand term for BEAVERS. BEAVS also is one of Oregon State University's trademarks. Oregon State University adopted BEAVS as a trademark and markets and promotes many types of goods and services under its BEAVS mark. Such goods include clothing, such as shirts. For example, shown below is a screen capture from the BEAVER STORE, where a BEAVS marked shirt is offered.



4. A further example of Oregon State University's BEAVS trademark can be seen on a fireplace offered at the BEAVER STORE that fans can use in their backyards, or while tailgating to cheer on Oregon State's athletic teams:

5. Yet another example of Oregon State University's BEAVS trademark can be seen on headphones offered through the BEAVER STORE:



6. Oregon State University used its BEAVS mark in commerce in connection with clothing and other goods before the filing date of the Subject Application.

7. The mark of the Subject Application entirely incorporates BEAVS.

8. The dominant feature of the opposed mark is BEAVS.

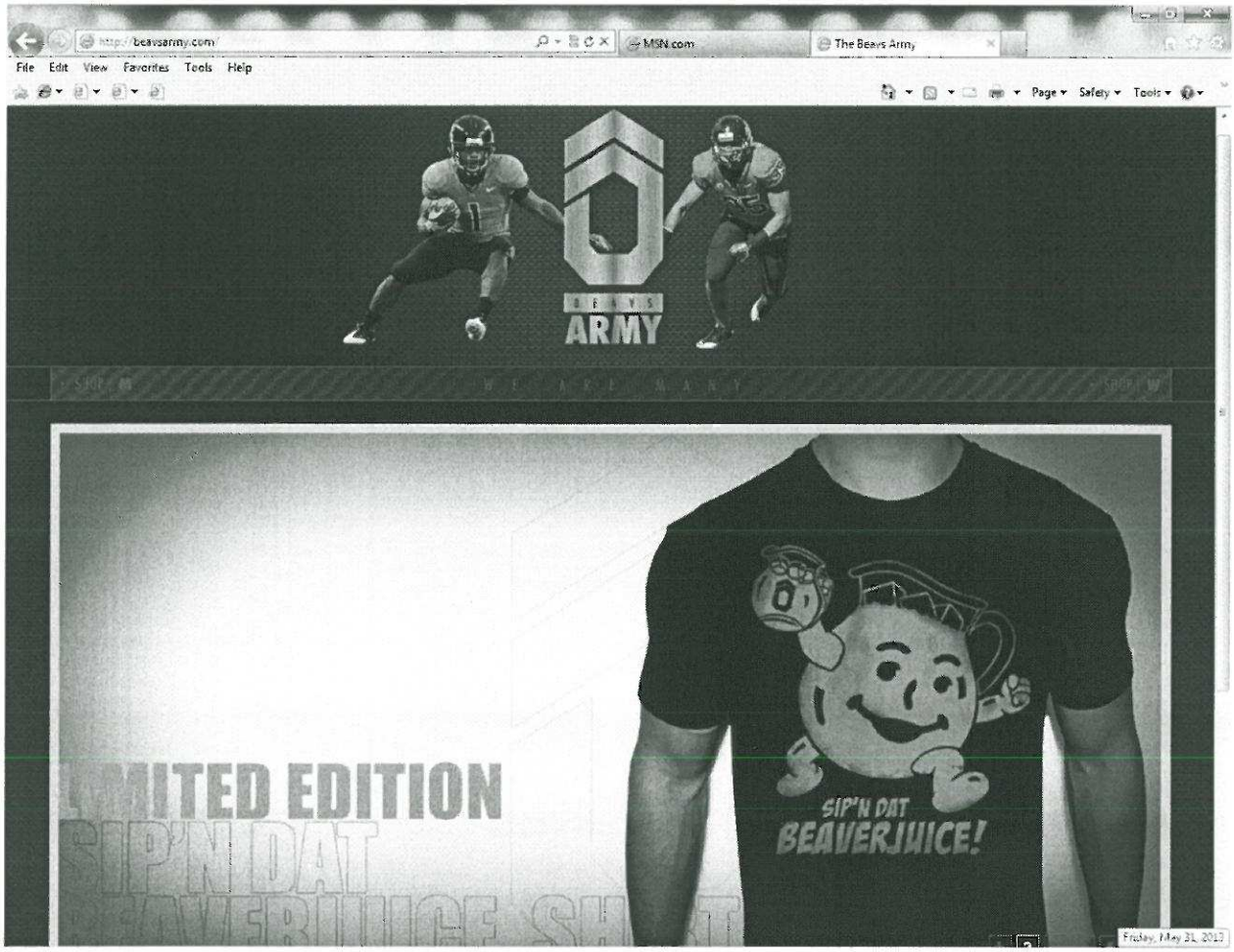
9. The mark of the Subject Application adds to BEAVS only: "ARMY," which is intended to refer to an army of BEAVS; and a stylized O symbol, which is intended to evoke the name "Oregon."

10. BEAVS is the most distinguishing feature of the BEAVS ARMY mark of the Subject Application.

11. The phrase BEAVS ARMY is meant to refer to Oregon State.

12. The O in the Subject Application is intended to refer to Oregon State.

13. The screen captures copied below show the main page of Applicant's website at beavsarmy.com.


http://beavsarmy.com/
MSN.com
The Beavs Army
File Edit View Favorites Tools Help
Page Safety Tools
BEAVS
ARMY
WE ARE MANY
MITED EDITION
SIP'N DAT
BEAVERJUICE!
Friday, May 31, 2013

14. That the phrase BEAVS ARMY is meant to refer to Oregon State is clear from the screen captures above that states: "We cheer for Oregon State."

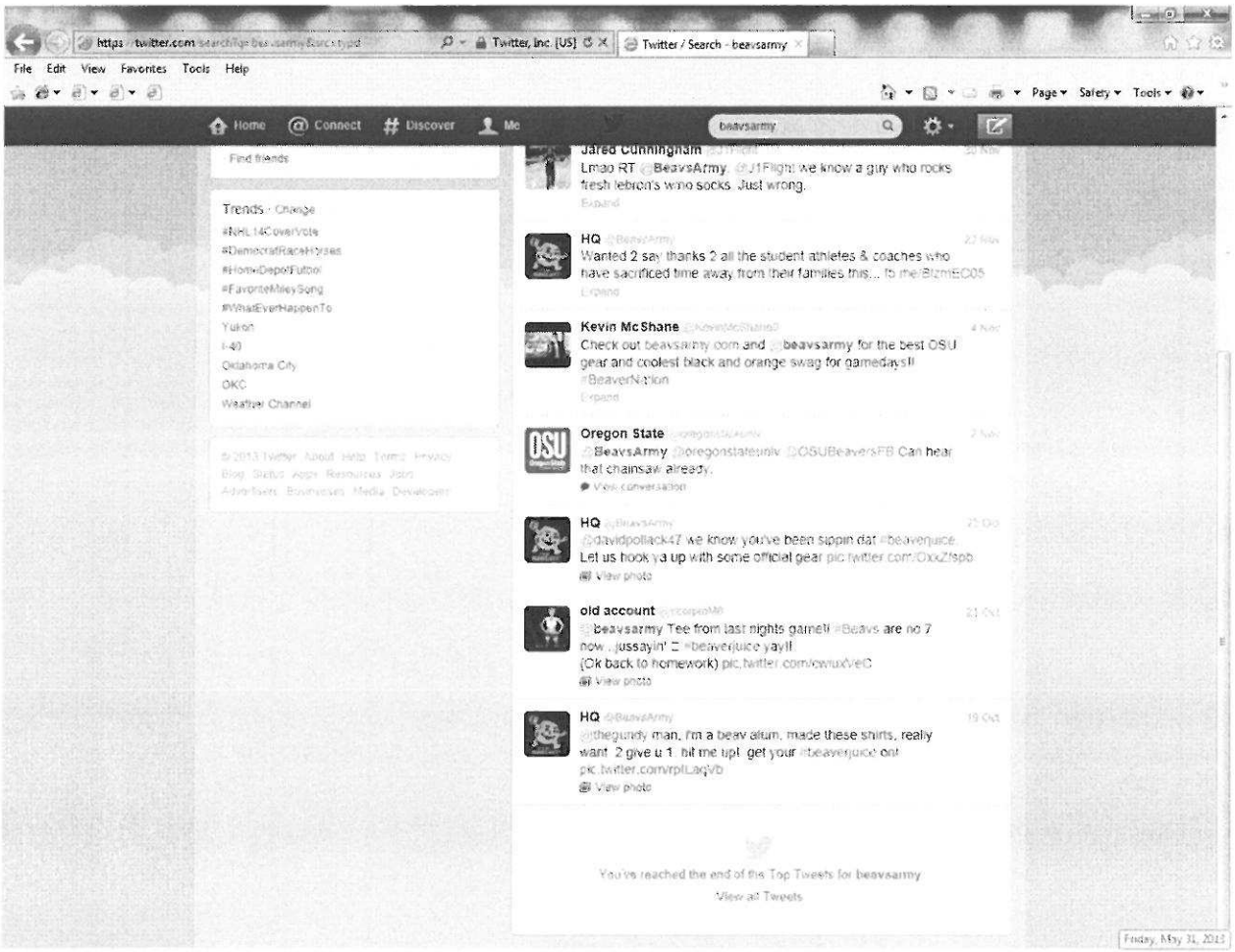
15. That the O design of the Subject Application is intended to refer to Oregon State is also clear from the screen captures shown above where the symbol is used in connection with images that refer to Oregon State and the language "We cheer for Oregon State."

16. The photos of football players in the first screen capture copied above are photos of Oregon State football players wearing Oregon State uniforms.

17. On information and belief, Applicant attended Oregon State University.

18. In that regard, the screen capture below is, on information and belief, from

Applicant's Twitter page where Applicant states "i'm a beav alum."



19. Applicant was aware before filing the opposed application that Oregon State University uses the mark BEAVS.

20. Applicant was aware before filing the opposed application that the O design in the Subject Application would be perceived by consumers as being associated with Oregon State University.

21. The Subject Application conflicts with Oregon State University's trademark rights in its BEAVERS and BEAVS trademarks. The Subject Application so resembles the Oregon State University's senior marks, BEAVERS and BEAVS, as to be likely to cause confusion, or mistake, or to deceive consumers within the meaning of 15 U.S.C. § 1052(d) when

used on or in connection with the goods identified therein.

WHEREFORE, Opposer will be injured and damaged by registration of the BEAVSARMY mark of application Serial No. 85781997 for the identified goods and Opposer requests that this opposition be sustained, that said application be rejected, and that no registration be issued thereon.

Respectfully submitted,

By _____

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121 S.W. Salmon Street
Portland, Oregon 97204
Telephone: (503) 226-7391
Attorneys for Opposer

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on 6/21, 2013, pursuant to 37 CFR §2.101(a-b) and TBMP 309.02(c)(1) a true copy of the foregoing **Notice of Opposition** was served on Applicant at the Correspondence Address listed for the application by first class mail, postage prepaid, to:

Raj Abhyanker
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Kevin M. Hayes