

ESTTA Tracking number: **ESTTA688976**

Filing date: **08/11/2015**

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	Pet Tech Productions, Inc.
Granted to Date of previous extension	08/12/2015
Address	4900 Baltimore Drive La Mesa, CA 91942 UNITED STATES
Attorney information	Mark I. Reichenthal Branfman Law Group, P.C. 708 Civic Center Drive Oceanside, CA 92054 UNITED STATES markr@branfman.com Phone:760-637-2400

Applicant Information

Application No	86384248	Publication date	04/14/2015
Opposition Filing Date	08/11/2015	Opposition Period Ends	08/12/2015
Applicant	Moore, Arden 2851 Todd Street Oceanside, CA 92054 UNITED STATES		

Goods/Services Affected by Opposition

Class 041. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: EDUCATIONAL SERVICES, NAMELY, providing lectures, in-person and online classes, training, and seminars in the fields of animal and pet safety, animal and pet first aid, animal and pet care, and animal and pet wellness; providing online classes, workshops and seminars to educate pet owners in the fields of animal and pet safety, first aid, wellness, and pet care via a website; providing a website featuring non-downloadable prerecorded video demonstrations in the fields of animal and pet safety, first aid, wellness, and pet care

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
<i>Torres v. Cantine Torresella S.r.l. Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)

Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	86663218	Application Date	06/15/2015
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Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	PET TECH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2001/12/01 First Use In Commerce: 2001/12/01 Educational services, namely, providing lectures, in-person and online classes, training, and seminars in the fields of animal and pet safety, animal and pet first aid, animal and pet care, and animal and pet wellness; providing online classes, workshops and seminars to educate pet owners in the fields of animal and pet safety, first aid, wellness, and pet care via a website; providing a website featuring non-downloadable prerecorded video demonstrations in the fields of animal and pet safety, first aid, wellness, and pet care		

Attachments	86663218#TMSN.png(bytes) 20150811171037113.pdf(382840 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	/Mark I. Reichenthal/
Name	Mark I. Reichenthal
Date	08/11/2015

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

In the matter of trademark application Serial No. 86/384,248
Published in the Official Gazette (Trademarks) on April 14, 2015
Mark: "PETTECH" (words only)
Class: 041

PET TECH PRODUCTIONS, INC)	
)	
Opposer,)	
)	
vs.)	Opposition No. _____
)	
ARDEN MOORE)	
)	
Applicant.)	
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UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

PET TECH PRODUCTIONS, INC (hereinafter "Opposer") believes that it will be damaged by the above-referenced application by ARDEN MOORE (hereinafter "Applicant") of the above-identified mark, PETTECH and hereby opposes the same.

As grounds of opposition, it is alleged that:

1. The Applicant seeks to register PETTECH as a trademark for "educational services, namely, providing lectures, in-person and online classes, training, and seminars in the fields of animal and pet safety, animal and pet first aid, animal and pet care, and animal and pet wellness; providing online classes, workshops and seminars to educate pet owners in the fields of animal and pet safety, first aid, wellness, and pet care via a website; providing a website featuring non-

downloadable prerecorded video demonstrations in the fields of animal and pet safety, first aid, wellness, and pet care” in International Class 041, as is evidenced by the publication of said mark in the April 14, 2015 issue of the Official Gazette.

2. Opposer has consistently used the mark PET TECH in interstate commerce since at least as early as December 1, 2001 for educational services, namely, providing lectures, in-person and online classes, training, and seminars in the fields of animal and pet safety, animal and pet first aid, animal and pet care, and animal and pet wellness; providing online classes, workshops and seminars to educate pet owners in the fields of animal and pet safety, first aid, wellness, and pet care via a website; providing a website featuring non-downloadable prerecorded video demonstrations in the fields of animal and pet safety, first aid, wellness, and pet care in International Class 041. Opposer’s date of first use is not only well before Applicant filed her Application but also well before Applicant provided independent contractor services to Opposer. Applicant’s services are identical to the services offered by Opposer and are therefore, highly likely to cause consumer confusion in the marketplace.

3. Applicant has, in the past, worked with Opposer as an Independent Contractor and has signed one or more written agreements acknowledging that the PET TECH mark is owned by Opposer and that Applicant shall not claim any ownership rights in the PET TECH mark. Therefore, Applicant had full knowledge of Opposer’s long-standing use of the PET TECH mark and by virtue of certain Agreements that Applicant signed she agreed not to contest Opposer’s ownership of the PET TECH mark. However, when Applicant filed her U.S. Intent to Use Service Mark Application for PETTECH, Ser. No. 86/384,248 Applicant declared that she is the true owner of the PETTECH mark and that no other person has the right to use the PETTECH mark in commerce. Applicant’s declaration is false and Applicant has committed fraud before

the United States Patent and Trademark Office by making this declaration knowing it to be false. Applicant cannot under the circumstances truthfully state that she is true owner of the PETTECH mark and no one else has the right to use or register the PETTECH mark when in prior signed agreements she contractually agreed not to contest Opposer's ownership to the PET TECH mark.

4. Given the allegations in paragraph 3 above, it is clear that Applicant has no license, consent or permission from Opposer to register Applicant's mark.

5. Opposer is the owner and relies on its common law use of the mark PET TECH for educational services, namely, providing lectures, in-person and online classes, training, and seminars in the fields of animal and pet safety, animal and pet first aid, animal and pet care, and animal and pet wellness; providing online classes, workshops and seminars to educate pet owners in the fields of animal and pet safety, first aid, wellness, and pet care via a website; providing a website featuring non-downloadable prerecorded video demonstrations in the fields of animal and pet safety, first aid, wellness, and pet care which has been in use in one form or another for approximately twenty years. Opposer has exclusively and continuously promoted the PET TECH mark in interstate commerce in connection with its services and products.

6. Opposer is the owner and relies on United States Trademark Application Serial No. 86/663,218 (See Exhibit A) for the mark PET TECH (words only) for educational services, namely, providing lectures, in-person and online classes, training, and seminars in the fields of animal and pet safety, animal and pet first aid, animal and pet care, and animal and pet wellness; providing online classes, workshops and seminars to educate pet owners in the fields of animal and pet safety, first aid, wellness, and pet care via a website; providing a website featuring non-downloadable prerecorded video demonstrations in the fields of animal and pet safety, first aid, wellness, and pet care in International 041. Opposer has exclusively and continuously promoted

the PET TECH mark in interstate commerce in connection with its services and products.

7. There is no issue of priority. Applicant has not yet claimed a date of first use of the PETTECH mark as her Application was filed on an Intent to Use basis. Opposer's date of first use is at least as early as December 1, 2001. Therefore, Opposer's date of first use is not only well before Applicant filed her Application but also well before Applicant provided independent contractor services to Opposer. Opposer's use of the PET TECH mark has not been abandoned and the uses cited in Paragraph 5 and the Application cited in Paragraph 6 are valid and subsisting.

8. Opposer's valid and continuous use of the mark PET TECH has developed valuable goodwill and recognition in respect to the mark PET TECH.

9. By virtue of its efforts and the expenditure of considerable sums for promotional materials and advertisements and the quality of its goods and services, Opposer has gained a valuable reputation for the mark PET TECH and this mark has acquired great value as an identification of Opposer's goods and services and the mark distinguishes such goods and services from the goods and services of others.

10. If Applicant is permitted to use and register its mark as specified in the application herein opposed, confusion is likely to result because of the use of the identical terms PET and TECH in Applicant's PETTECH mark and Opposer's mark PET TECH. Therefore, it is very likely that persons familiar with Opposer's mark would assume that Applicant was associated with Opposer and any such confusion would inevitably result in damage to Opposer.

Furthermore, any objection or fault found with Applicant's goods or services would necessarily reflect upon and seriously injure the reputation that Opposer has established under its mark.

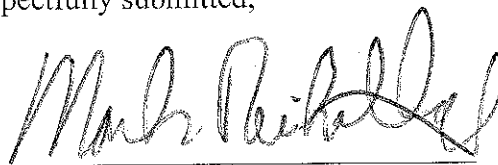
Thus, if Applicant is allowed to use and register PETTECH the resulting confusion and assumed

affiliation will be damaging to the Opposer's established goodwill under the mark PET TECH.

11. Further, if Applicant is granted the registration herein opposed, it would thereby obtain at least a prima facie exclusive right to the use of its mark thereby casting a cloud over Opposer's PET TECH mark. Applicant would also appropriate the considerable goodwill and recognition that Opposer has established through its long-standing use and marketing. Such registration would be a source of damage and injury to Opposer.

WHEREFORE, Opposer prays that the application Serial No. 86/384,248 be rejected, and that registration of the mark therein sought be denied and refused. Opposer has hereby appointed Mark I. Reichenthal and David P. Branfman of BRANFMAN LAW GROUP, P.C., 708 Civic Center Drive, Oceanside, CA 92054, members of the bar of the State of California, as agents and attorneys in the matter of the opposition above-identified, to prosecute said opposition, to transact all business in the United States Patent & Trademark Office and in the United States courts in connection with this opposition, to sign its name to all papers which may hereinafter be filed in connection therewith, and to receive all communications relating to the same.

Respectfully submitted,

By: 

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David P. Branfman
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Attorneys for Opposer

EXHIBIT A



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PET TECH

Word Mark **PET TECH**

Goods and Services IC 041. US 100 101 107. G & S: Educational services, namely, providing lectures, in-person and online classes, training, and seminars in the fields of animal and pet safety, animal and pet first aid, animal and pet care, and animal and pet wellness; providing online classes, workshops and seminars to educate pet owners in the fields of animal and pet safety, first aid, wellness, and pet care via a website; providing a website featuring non-downloadable prerecorded video demonstrations in the fields of animal and pet safety, first aid, wellness, and pet care. FIRST USE: 20011201. FIRST USE IN COMMERCE: 20011201

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 86663218

Filing Date June 15, 2015

Current Basis 1A

Original Filing Basis 1A

Owner (APPLICANT) Pet Tech Productions, Inc CORPORATION CALIFORNIA P.O. Box 2289 Carlsbad CALIFORNIA 92018

Attorney of Record Mark I. Reichenthal
Type of Mark SERVICE MARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Opposition has been served by first-class mail, postage pre-paid, upon the Applicant at the following address:

Jason C. Schmidt, Esq.
3186 South 59th Street
St. Louis, MO 63139

Dated: 8/11/2015



Claire Berryman