

ESTTA Tracking number: **ESTTA761666**

Filing date: **08/01/2016**

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	James W. Guercio
Granted to Date of previous extension	07/31/2016
Address	4440 Arapahoe Avenue, Suite 210 Boulder, CO 80303 UNITED STATES

Attorney information	Stephen J. Strauss Buchalter Nemer 1000 Wilshire Blvd., Suite 1500 Los Angeles, CA 90017 UNITED STATES sstrauss@buchalter.com, pnulud@buchalter.com, ipdocket@buchalter.com Phone:2138910700
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Applicant Information

Application No	86629133	Publication date	02/02/2016
Opposition Filing Date	08/01/2016	Opposition Period Ends	07/31/2016
Applicant	Arabica Funding, Inc. 3900 Lakebreeze Ave Brooklyn Center, MN 55429 UNITED STATES		

Goods/Services Affected by Opposition


Class 029. First Use: 2003/03/31 First Use In Commerce: 2003/03/31 All goods and services in the class are opposed, namely: Milk-Based Beverages Containing Coffee; Milk-Based Beverages Containing Tea; Milk-Based Beverages Containing Chocolate; Dried and Cooked Fruit; Fruit Salads and Vegetable Salads; Butter, Cheese, Cream Cheese, Hummus, Margarine, Milk, yogurt; fish, not live, jams, Meats, Peanut Butter, Poultry
Class 030. First Use: 2003/03/31 First Use In Commerce: 2003/03/31 All goods and services in the class are opposed, namely: Ice cream


Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Application No.	86867352	Application Date	01/06/2016
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Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	CARIBOU RANCH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1975/00/00 First Use In Commerce: 1975/00/00 MEATS, BEEF		

U.S. Application No.	86867391	Application Date	01/06/2016
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	CARIBOU RANCH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 031. First use: First Use: 1974/00/00 First Use In Commerce: 1974/00/00 LIVE ANIMALS, NAMELY, CATTLE; LIVESTOCK, NAMELY, CATTLE		

U.S. Application No.	86867408	Application Date	01/06/2016
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	CARIBOU RANCH		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 044. First use: First Use: 1971/00/00 First Use In Commerce: 1971/00/00 CATTLE FARMING SERVICES, CATTLE RANCHING SERVICES, LIVESTOCK FARMING SERVICES

Attachments	86867352#TMSN.png(bytes) 86867391#TMSN.png(bytes) 86867408#TMSN.png(bytes) CARIBOUOFFEEOPP.pdf(24137 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	/pnulud/
Name	Philip Nulud
Date	08/01/2016

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

James Guercio Opposer, vs. Arabica Funding, Inc. Applicant.	Opposition No. _____ Serial No.: 86/629,133 Mark: CARIBOU COFFEE
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UNITED STATE PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, Virginia 22213-1451

NOTICE OF OPPOSITION

Re: Application Serial No. 86/629,133
Mark: CARIBOU COFFEE
Applicant: Arabica Funding, Inc.
Filed: April 22, 2015
Published: March 15, 2016
International Class: 29
Goods: Milk-Based Beverages Containing Coffee; Milk-Based Beverages
 Containing Tea; Milk-Based Beverages Containing Chocolate; Dried and
 Cooked Fruit; Fruit Salads and Vegetable Salads; Butter, Cheese, Cream
 Cheese, Hummus, Margarine, Milk, yogurt; fish, not live, jams, Meats,
 Peanut Butter, Poultry.
International Class: 30
Goods: Ice cream.

James Guercio, an individual, citizen of the United States, having an office at 4440 Arapahoe Avenue, Suite 210, Boulder, Colorado 80303, believes he will be damaged by registration of the mark CARIBOU COFFEE covered by U.S. Application Serial No. 86/629,133 owned by Arabia Funding, Inc..

The grounds for this Opposition are as follows:

1. Opposer provides in commerce, *inter alia*, meats, beef, live animals, namely cattle (“Opposer’s Goods”) and cattle farming services, cattle ranching services, livestock farming services (“Opposer’s Services”) (Opposer’s Goods and Opposer’s Services are collectively referred to as “Opposer’s Goods and Services”).

2. Opposer, since at least as early as 1975, has used the CARIBOU RANCH and related marks in interstate commerce in connection with meats, beef and other related goods.
3. Opposer, since at least as early as 1974, has used the CARIBOU RANCH and related marks in interstate commerce in connection with live animals, namely, cattle and livestock, namely cattle and other related goods.
4. Opposer, since at least as early as 1971, has used the CARIBOU RANCH and related marks in interstate commerce in connection with cattle farming services, cattle ranching services, livestock farming services and other related services.
5. Opposer owns common law rights to the CARIBOU RANCH mark, that pre-date Applicant's rights, if any. In addition, Opposer owns the following U.S. Trademark Applications (collectively the "Guercio marks" or "Guercio trademarks"):

MARK	SERIAL NO.	GOODS:
CARIBOU RANCH	86/867,352	Meats, beef in Class 29
CARIBOU RANCH	86/867,391	Live animals, namely, cattle; livestock, namely, cattle in Class 31
CARIBOU RANCH	86/867,408	Cattle farming services, cattle ranching services, livestock farming services in Class 44

6. Since long prior to Applicant's filing of its application to register the mark CARIBOU COFFEE, (Applicant has claimed that it began to use the mark on its goods since as early as March 31, 2003) Opposer has and continues to use, advertise and promote in commerce Opposer's CARIBOU RANCH marks in connection with Opposer's Goods and Services.
7. Opposer has expended substantial amounts of money, time and resources in advertising, promoting, sales, use and distribution of Opposer's Goods and Services. Opposer has built up extensive goodwill in its CARIBOU RANCH marks.
8. Prior to Applicant's filing of its application to register the mark CARIBOU COFFEE, purchasers had come to recognize Opposer's CARIBOU RANCH marks as identifying goods and services emanating exclusively from Opposer.
9. On May 14, 2015, Applicant filed an application to register CARIBOU COFFEE for goods identified as "Milk-Based Beverages Containing Coffee; Milk-Based Beverages Containing Tea; Milk-Based Beverages Containing Chocolate; Dried and Cooked Fruit; Fruit Salads and Vegetable Salads; Butter, Cheese, Cream Cheese, Hummus, Margarine, Milk, yogurt; fish, not live, jams, Meats, Peanut Butter, Poultry," in Class 29 and "Ice cream" in Class 30 (Application No. 86/629,133). The subject application was published

CERTIFICATE OF SERVICE

Opposer James Guercio, by and through his counsel, hereby certifies that a copy of this NOTICE OF OPPOSITION has been served upon Applicant's counsel on this 1st day of August, 2016 by First Class U.S. Mail, postage prepaid, at the following address:

Elizabeth C. Buckingham
Dorsey & Whitney
50 S. 6th St. Suite 1500
Minneapolis, MN 55402

/pnulud/

Attorney for Opposer