

ESTTA Tracking number: **ESTTA873471**

Filing date: **01/25/2018**

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	San Pasqual Casino Development Group, Inc.		
Entity	tribally-chartered corporation	Citizenship	formed under the laws of the San Pasqual Band of Indians
Address	16300 Nyemii Pass Road Valley View, CA 92082 UNITED STATES		

Attorney information	Hillary A. Brooks Brooks Quinn, LLC 6513 132nd Ave. NE #378 Kirkland, WA 98033 UNITED STATES Email: hillary@brooksquinn.com, docketing@brooksquinn.com Phone: 5036291559		
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Applicant Information

Application No	85586768	Publication date	12/26/2017
Opposition Filing Date	01/25/2018	Opposition Period Ends	01/25/2018
Applicant	3 Square, Inc. 7450 Beverly Blvd. Los Angeles, CA 90036 UNITED STATES		

Goods/Services Affected by Opposition

Class 043. First Use: 2006/07/17 First Use In Commerce: 2006/07/17
All goods and services in the class are opposed, namely: Restaurant and catering services

Applicant Information

Application No	85588233	Publication date	12/26/2017
Opposition Filing Date	01/25/2018	Opposition Period Ends	01/25/2018
Applicant	3 Square, Inc. 7450 Beverly Blvd. Los Angeles, CA 90036 UNITED STATES		


Goods/Services Affected by Opposition


Class 043. First Use: 2006/07/17 First Use In Commerce: 2006/07/17
All goods and services in the class are opposed, namely: Restaurant and catering services


Grounds for Opposition


Priority and likelihood of confusion	Trademark Act Section 2(d)
Fraud on the USPTO	In re Bose Corp., 580 F.3d 1240, 91 USPQ2d 1938 (Fed. Cir. 2009)
Other	abandonment (15 U.S.C. § 1127); failure to comply with § 1(a) (15 U.S.C. § 1051(a))

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3726776	Application Date	08/14/2006
Registration Date	12/15/2009	Foreign Priority Date	NONE
Word Mark	BLD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 2009/06/17 First Use In Commerce: 2009/06/17 restaurant services		

U.S. Registration No.	3736766	Application Date	06/11/2009
Registration Date	01/12/2010	Foreign Priority Date	NONE
Word Mark	BLD'S		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 2007/10/30 First Use In Commerce: 2007/10/30 Bar and restaurant services		

U.S. Application No.	86143373	Application Date	12/13/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BLD'S		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 2007/10/30 First Use In Commerce: 2007/10/30 bar and restaurant services		

U.S. Application No.	86143341	Application Date	12/13/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	BLD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 2009/06/17 First Use In Commerce: 2009/06/17 restaurant services		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	BLD		
Goods/Services	restaurant services		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	BLDÂ#S		

Goods/Services	bar and restaurant services
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Attachments	78951798#TMSN.png(bytes) 77757784#TMSN.png(bytes) 86143373#TMSN.png(bytes) 86143341#TMSN.png(bytes) FINAL_Notice of Opposition for BLD.pdf(153964 bytes)
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Signature	/Hillary A. Brooks/
Name	Hillary A. Brooks
Date	01/25/2018

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

In the matter of U.S. Trademark Appl. Ser. Nos. 85/586,768; 85/588,233
For the marks: BLD; BLD & design
Filed: April 2, 2012; April 3, 2012
Published: December 26, 2017

SAN PASQUAL CASINO,)	
DEVELOPMENT GROUP, INC.,)	Opposition No. _____
)	
Opposer,)	
)	
v.)	
)	
3 SQUARE, INC.,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

1. SAN PASQUAL CASINO DEVELOPMENT GROUP, INC., a tribally-chartered corporation formed under the laws of the San Pasqual Band of Indians, having its principal place of business at 16300 Nyemii Pass Road, Valley View, California 92082 (“Opposer”), believes that it will be damaged by registration of the mark BLD that is the subject of U.S. Trademark Application Serial No. 85/586,768, filed April 2, 2012 by 3 SQUARE, INC., a purported California corporation having an address of record of 7450 Beverly Boulevard, Los Angeles, California 90036 (“Applicant”); and by registration of the mark BLD & design that is the subject of U.S. Trademark Application Serial No. 85/588,233, filed April 3, 2012 by Applicant (collectively, “Applicant’s BLD Marks”). Opposer opposes registration of Applicant’s BLD Marks.

OPPOSER’S BLD MARKS

2. Opposer is the owner of all rights, title, and interest in and to the mark BLD for restaurant services, and the mark BLD’S for bar and restaurant services (collectively, “Opposer’s BLD Marks”).

3. Opposer has continuously used in commerce, and has not abandoned, the mark BLD for restaurant services since at least June 17, 2009, at 16300 Nyemii Pass Road, Valley View, California 92082.

4. Opposer has continuously used in commerce, and has not abandoned, the mark BLD'S for bar and restaurant services since at least October 30, 2007, at 16300 Nyemii Pass Road, Valley View, California 92082.

5. On August 14, 2006, Opposer filed U.S. Trademark Appl. Ser. No. 78/951,798 for the mark BLD for "restaurant services," which matured into U.S. Trademark Reg. No. 3,726,776 on December 15, 2009.

6. Opposer has constructive priority, nationwide in effect, in the BLD mark as of August 14, 2006, the date Opposer applied for federal registration of BLD.

7. Opposer additionally has priority in the BLD mark in Opposer's area of prior use as of at least June 17, 2009.

8. On June 11, 2009, Opposer filed U.S. Trademark Appl. Ser. No. 77/757,784 for the mark BLD'S for "Bar and restaurant services," which matured into U.S. Trademark Reg. No. 3,736,766 on January 12, 2010.

9. Opposer has constructive priority, nationwide in effect, in the BLD'S mark as of June 11, 2009, the date Opposer applied for federal registration of BLD'S.

10. Opposer additionally has priority in the BLD'S mark in Opposer's area of prior use as of at least October 30, 2007.

APPLICANT'S BLD MARKS

11. Applicant's first use in commerce of Applicant's BLD Marks allegedly occurred on July 17, 2006, at a restaurant located at 7450 Beverly Boulevard, Los Angeles, California, 90036.

12. At all times prior to Opposer's earliest priority date, Applicant's use of Applicant's BLD Marks was limited to 7450 Beverly Boulevard, Los Angeles, California, 90036, and a 10-mile radius thereof.

13. In May 2014, more than seven years after Opposer's earliest constructive nationwide priority date, and more than six years after Opposer's earliest first use in commerce date, a location using Applicant's BLD Marks opened past security in Terminal 7 of the Los Angeles International Airport, located at 1 World Way, Los Angeles, California 90045.

14. 1 World Way, Los Angeles, California 90045 is located within the 10-mile radius of 7450 Beverly Boulevard, Los Angeles, California, 90036.

CANCELLATION NO. 92056703

15. In April 2012, more than five years after Opposer's earliest constructive nationwide priority date, and more than four years after Opposer's earliest first use in commerce date, Applicant filed the challenged applications to register Applicant's BLD Marks.

16. The challenged applications contain no geographic restrictions, despite Applicant's alleged prior use of Applicant's BLD Marks being limited to 7450 Beverly Boulevard, Los Angeles, California 90036, and a 10-mile radius thereof.

17. On July 19, 2012, the Office rejected the challenged applications, citing Opposer's registrations for Opposer's BLD Marks.

18. On January 22, 2013, Applicant filed Cancellation No. 92056703, seeking to cancel Opposer's registrations for Opposer's BLD Marks, alleging priority in the mark BLD and likelihood of confusion with Applicant's BLD Marks.

19. In its petition, Applicant cited the challenged applications as its basis for cancellation of Opposer's registrations.

20. On June 22, 2017, the Board granted Applicant's petition to cancel Opposer's registrations, determining that Applicant established prior, common law use of Applicant's BLD Marks at the 7450 Beverly Boulevard restaurant as of July 17, 2006, less than one month before Opposer applied for federal registration.

OPPOSER'S CONCURRENT USE APPLICATIONS

21. On December 13, 2013, while the cancellation was pending, Opposer filed U.S. Trademark Appl. Ser. No. 86/143,373 for the mark BLD'S for "bar and restaurant services," and U.S. Trademark Appl. Ser. No. 86/143,341 for the mark BLD for "restaurant services," both applications seeking concurrent use registration limited to the area comprising the entire United States except for 7450 Beverly Boulevard, Los Angeles, California 90036, and a 10-mile radius thereof (collectively, "Opposer's Concurrent Use Applications").

22. On April 16, 2014, the Office suspended Opposer's Concurrent Use Applications, citing the challenged applications as earlier-filed, and has kept Opposer's Concurrent Use Applications suspended since then.

23. Because the Office has kept Opposer's Concurrent Use Applications in suspension since 2014 over the challenged applications, Opposer's Concurrent Use Applications have not made it through examination, and no concurrent use proceeding between Opposer's Concurrent Use Applications and the challenged applications has been instituted.

24. Applicant is not entitled to geographically unrestricted registrations at least because Opposer was the first to seek and obtain federal registrations of Opposer's BLD Marks, several years before Applicant applied to register Applicant's BLD Marks.

25. However, owing to the existence of the challenged, geographically unrestricted applications, which have kept Opposer's Concurrent Use Applications in suspension for nearly four

years, barring the instant opposition, Applicant will obtain geographically unrestricted registrations to which it is not entitled, to Opposer's damage and detriment.

APPLICANT'S BAD FAITH CONDUCT PERTAINING TO BEVERLY BOULEVARD

26. On or about January 31, 2017, while the cancellation was pending, Applicant closed its restaurant at 7450 Beverly Boulevard, Los Angeles, California, 90036, without notifying Opposer or the Board that it had done so.

27. Applicant announced it was closing its restaurant at 7450 Beverly Boulevard at least as early as January 12, 2017, six days before Applicant filed its reply brief in the cancellation, yet Applicant failed to disclose the impending closure to the Board or Opposer in its reply brief or elsewhere, and failed to notify the Board or Opposer of the closure after it occurred.

28. In its reply brief filed January 18, 2017, six days after it announced it was closing the restaurant at 7450 Beverly Boulevard, Applicant stated as a fact of the case that "[t]he restaurant on Beverly Boulevard has operated at that location continuously for 10 years."

29. On February 1, 2017, after learning of the closure through publicly available materials, Opposer filed a request for judicial notice of the closure of 7450 Beverly Boulevard, attaching articles and social media posts concerning the same.

30. Applicant did not respond to Opposer's request for judicial notice.

31. On information and belief, Applicant does not own the property located at 7450 Beverly Boulevard.

32. As of the filing date of this Notice of Opposition, 7450 Beverly Boulevard is listed on www.loopnet.com as available for lease, with a lease term through October 2032, and is offered on that site as a "fully equipped restaurant . . . with all equipment, hood, grease trap in place."

33. On information and belief, as of the filing date of this Notice of Opposition, 7450 Beverly Boulevard remains vacant; no restaurant, either under Applicant's BLD Marks or any other mark, is currently operating at the location.

APPLICANT'S BAD FAITH CONDUCT PERTAINING TO LAX

34. During the cancellation, Applicant represented to Opposer and the Board that it was the party that operated the BLD location at Los Angeles International Airport.

35. For instance, in a testimony deposition held on June 24, 2016, and filed with the Board on January 24, 2017, one of Applicant's principles, Amy Knoll Fraser, was asked if "BLD at LAX" was "your restaurant as well," to which she testified, "Yes. It is."

36. In a declaration filed in support of a motion for summary judgment, and later re-filed as evidence in trial, Ms. Fraser declared Applicant "operates two restaurants under the name and mark BLD," the second located at Los Angeles International Airport, which Ms. Fraser referred to as "our BLD location in LAX."

37. In Applicant's trial brief and again in Applicant's reply brief, Applicant listed as a fact of the case that Applicant "operates two highly regarded restaurants under the name and mark BLD," including the BLD at Los Angeles International Airport.

38. Also in Applicant's trial brief and again in Applicant's reply brief, Applicant listed as a fact of the case that Applicant's principles, Amy and Neal Fraser, "are co-owners of 3 Square, which operates the two restaurants under the name and mark BLD."

39. According to publicly available information, two third party concessionaires have been responsible for the operation and rendering of services at the BLD location at Los Angeles International Airport since that location opened.

40. On information and belief, Applicant does not currently operate the BLD location at Los Angeles International Airport.

41. On information and belief, Applicant has never operated the BLD location at Los Angeles International Airport.

42. On information and belief, Applicant does not currently render the applied-for services at the BLD location at Los Angeles International Airport.

43. On information and belief, Applicant has never rendered the applied-for services at the BLD location at Los Angeles International Airport.

44. On information and belief, no “catering services” have ever been rendered by anyone at or with respect to the BLD location at Los Angeles International Airport.

45. During discovery in the cancellation, Opposer sought discovery pertaining to the BLD location at Los Angeles International Airport, including discovery pertaining to Applicant’s relationship with the third party concessionaire that, according to publicly available materials, was operating the airport location at that time.

46. Applicant objected to Opposer’s discovery requests, stating it would produce “relevant, non-privileged documents that are responsive to [the] request[s] on a rolling basis as they become available, if any,” but never produced any responsive documents or other responsive information.

APPLICANT’S INTENT NOT TO RESUME USE OF BLD

47. In public announcements of the closure of its 7450 Beverly Boulevard restaurant, Applicant made statements from which intent not to resume use of Applicant’s BLD Marks can be inferred.

48. For instance, in a statement given by Ms. Fraser to *Eater*, which was also published on Applicant's Facebook page, Ms. Fraser stated, "Restaurants have a lifespan, and in our city, it's typically all too short. We have come to the end of ours. We have had a great run. We are lucky to have had such a time as we've had. We will move forward to projects, current and future, with all we have learned from this one."

49. As another example, in a January 27, 2017 post on Facebook, Applicant invited people to "[j]oin us on our last day, Tuesday, January 31st," and to "[c]ome and see us and bid us farewell."

50. As of the filing date of this Notice of Opposition, Applicant's website for BLD, www.bldrestaurant.com, "can't be reached" because it "took too long to respond."

51. Applicant relied heavily on the now-shuttered website www.bldrestaurant.com in the cancellation, as did the Board in its decision to cancel Opposer's registrations.

52. As of the filing date of this Notice of Opposition, Applicant's Facebook account for BLD, <https://www.facebook.com/BLDLA>, "isn't available right now."

53. As of the filing date of this Notice of Opposition, Applicant's Twitter account for BLD, <https://twitter.com/bldbeverly?lang=en>, has not been updated since February 1, 2017.

54. In the cancellation, Applicant relied heavily on the location of its restaurant at 7450 Beverly Boulevard to support supposed fame of Applicant's BLD Marks, for instance stating as a fact of the case in its trial brief that 7450 Beverly Boulevard was "located in one of the most popular tourist areas in the country."

55. On information and belief, Applicant does not own the property located at 7450 Beverly Boulevard.

56. As of the filing date of this Notice of Opposition, 7450 Beverly Boulevard is listed on www.loopnet.com as available for lease, with a lease term through October 2032, and is offered on that site as a “fully equipped restaurant . . . with all equipment, hood, grease trap in place.”

57. Opposer is unaware of, and has not located, any website or social media presence for the BLD location at Los Angeles International Airport, aside from its listing in a directory on the airport’s website, and its listing as one of “our” locations on the website of the third party concessionaire that is currently operating the airport BLD.

58. As of the filing date of this Notice of Opposition, according to publicly available records, Applicant failed to timely file the necessary paperwork with the California Secretary of State’s Office to maintain Applicant’s status in the State of California as an active domestic corporation.

59. According to publicly available information, Applicant’s principles, Amy and Neal Fraser, have moved on to other “concepts” that do not use Applicant’s BLD Mark.

GROUND #1: PRIORITY & LIKELIHOOD OF CONFUSION, § 2(d)

60. Opposer, since prior to Applicant’s filing date, has used by actual use and by virtue of constructive use provided by U.S. trademark laws, and has not abandoned, Opposer’s BLD Marks.

61. By virtue of having been the first to file for and obtain federal registration, Opposer has constructive priority, nationwide in effect, in Opposer’s BLD Marks as of August 14, 2006.

62. As against Opposer’s actual and constructive use of Opposer’s BLD Marks, Applicant’s alleged prior, common law use is limited to 7450 Beverly Boulevard, Los Angeles, California, 90036, and a 10-mile radius thereof.

63. As of at least January 31, 2017, Applicant abandoned its use of Applicant’s BLD Marks at 7450 Beverly Boulevard, Los Angeles, California 90036.

64. On information and belief, Applicant does not now, nor has it ever, used Applicant's BLD Marks at the BLD location at Los Angeles International Airport, use that in any event, cannot be relied upon to establish priority vis a vis Opposer's BLD Marks.

65. Owing to the nationwide priority yielded by Opposer's prior federal registrations, subject only to carve-outs for prior users, Applicant may only obtain at most a federal registration for Applicant's BLD Marks covering 7450 Beverly Boulevard, Los Angeles, California, 90036, and a 10-mile radius thereof.

66. Additionally, owing to Opposer's prior common law use vis a vis Applicant at Opposer's restaurant located at 16300 Nyemii Pass Road, Valley View, California 92082, which has been continuous, Applicant is not entitled to a geographically unrestricted registration, as such a registration would encompass Opposer's area of prior use.

67. The challenged applications do not include any geographic restrictions.

68. As against Opposer and Opposer's BLD Marks, Applicant is not entitled to obtain the geographically unrestricted registrations it seeks.

69. Absent the proper geographic restrictions, which can only be determined in a concurrent use proceeding, Applicant's BLD Marks so resemble Opposer's BLD Marks as to be likely, when used on or in connection with the applied-for services, to cause confusion, mistake, or deception.

70. Opposer attempted to obtain concurrent use registrations in 2013 for Opposer's BLD Marks, but Opposer's efforts were halted by the existence of Applicant's prior-filed, geographically unrestricted applications challenged herein.

71. Because Applicant is not entitled to the geographically unrestricted registrations it seeks, and because the proper geographic limitations can only be determined in a concurrent use

proceeding that has been held up for over four years by the challenged applications, registration to Applicant should be refused.

GROUND #2: ABANDONMENT

72. Applicant discontinued use of Applicant's BLD Marks at 7450 Beverly Boulevard on or about January 31, 2017, with intent not to resume such use.

73. On information and belief, Applicant does not now, nor has it ever, used Applicant's BLD Marks for any of the applied-for services at the BLD location at Los Angeles International Airport.

74. Alternatively, on information and belief, Applicant does not now, nor has it ever, used Applicant's BLD Marks for "catering services" at the BLD location at Los Angeles International Airport.

75. On information and belief, Applicant is not currently using Applicant's BLD Marks for the applied-for services at any location.

76. Applicant's BLD Marks therefore are abandoned pursuant to 15 U.S.C. § 1127.

77. Accordingly, registration to Applicant should be refused.

GROUND #3: FAILURE TO COMPLY WITH § 1(a)

78. Applicant filed the challenged applications under § 1(a) of the Lanham Act, 15 U.S.C. § 1051(a), which requires Applicant to verify and specify that the mark is in use in commerce, and that to the best of Applicant's knowledge and belief, no other person has the right to use the mark in commerce, or if concurrent use is known, specify 1) the concurrent use by others, 2) the goods on or in connection with which and the areas in which each concurrent use exists, 3) the periods of each use, and 4) the goods and area for which the applicant desires registration.

79. Regardless of what Applicant did or did not know when it filed the challenged applications in April 2012, Applicant now knows that Applicant is no longer using Applicant's BLD Marks in commerce, a requirement to obtain the registrations Applicant seeks under § 1(a).

80. Applicant has not notified the Office of its discontinued use of Applicant's BLD Marks.

81. Regardless of what Applicant did or did not know when it filed the challenged applications in April 2012, Applicant now knows, by virtue of information learned in the cancellation, that Opposer has the right to concurrently use the mark in commerce; the services on or in connection with which Opposer uses Opposer's BLD Marks, and the areas in which Opposer's concurrent use exists; the periods of Opposer's concurrent use; and the services and area for which Applicant desires registration.

82. Applicant has not notified the Office of Opposer's concurrent use, or the circumstances surrounding Opposer's concurrent use.

83. If the challenged applications mature into registrations granted under § 1(a) of the Trademark Act, 15 U.S.C. § 1051(a), then the Office will grant registrations that do not conform to the requirements of that section.

84. The Office has a duty to issue valid registrations and has broad authority to correct errors, including withdrawing applications from issuance.

85. Registrations issuing from the challenged applications would not be valid at least because Applicant is no longer using Applicant's BLD Marks in commerce, and because Opposer has the right to concurrently use Opposer's BLD Marks in commerce yet there are no geographic restrictions in the challenged applications.

86. Accordingly, registration to Applicant should be refused.

GROUND #4: FRAUD

87. In its petition to cancel Opposer's registrations for Opposer's BLD Marks, Applicant cited the challenged applications as its basis for cancellation.

88. In the cancellation, Applicant relied upon its alleged prior, ongoing, and continuous use at 7450 Beverly Boulevard, Los Angeles, California 90036 to support its claim for cancellation of Opposer's registrations.

89. While the cancellation was pending, Applicant closed its 7450 Beverly Boulevard location without notifying the Office, the Board, or Opposer that it had done so.

90. On information and belief, Applicant never operated the BLD location at Los Angeles International Airport and never rendered the applied-for services at that location, yet Applicant misrepresented to the Board in the cancellation proceeding that Applicant was the party operating that location and rendering services there.

91. There are not currently, and have never been, any other locations at which Applicant's BLD Marks are in use.

92. The challenged applications seek registration under § 1(a) of the Lanham Act, 15 U.S.C. § 1051(a), which requires actual use of the mark in commerce.

93. On information and belief, Applicant is no longer using Applicant's BLD Marks in commerce, and has not used the marks in commerce since on or about January 31, 2017, when Applicant closed 7450 Beverly Boulevard.

94. Applicant's failure to notify the Board or the Office of its cessation of use of Applicant's BLD Marks, despite that the Office is set to issue use-based registrations under § 1(a) of the Lanham Act, constitutes a knowing, material misrepresentation or omission of fact in connection

with the challenged applications with intent to deceive the USPTO into issuing registrations to which Applicant is not otherwise entitled.

95. Section 1(a) of the Lanham Act also requires the applicant to specify that to the best of its knowledge and belief, no other person has the right to use the mark in commerce, or if concurrent use is known, specify 1) the concurrent use by others, 2) the goods on or in connection with which and the areas in which each concurrent use exists, 3) the periods of each use, and 4) the goods and area for which the applicant desires registration.

96. Regardless of what Applicant did or did not know when it filed the challenged applications in April 2012, Applicant now knows, by virtue of information learned in the cancellation, that Opposer has the right to concurrently use the mark in commerce; the services on or in connection with which Opposer uses Opposer's BLD Marks, and the areas in which Opposer's concurrent use exists; the periods of Opposer's concurrent use; and the services and area for which Applicant desires registration.

97. Applicant has not notified the Office of Opposer's concurrent use, or the circumstances surrounding Opposer's concurrent use.

98. Applicant's failure to notify the Office of Opposer's concurrent use and the circumstances surrounding Opposer's concurrent use, despite that the Office is set to issue geographically unrestricted registrations under § 1(a) of the Lanham Act, constitutes a knowing, material misrepresentation or omission of fact in connection with the challenged applications with intent to deceive the USPTO into issuing registrations to which Applicant is not otherwise entitled.

99. Applicant's omissions and misrepresentations to the Board concerning its use of Applicant's BLD Marks, omissions and misrepresentations made in a proceeding in which Applicant relied upon the challenged applications as its basis for cancellation, were made with the intent to

mislead the Board into cancelling Opposer's registrations, thereby clearing the path for the challenged applications to issue as registrations to which Applicant is not entitled.

100. Accordingly, Applicant should be found to have committed fraud on the USPTO, and registration to Applicant should be refused.

Opposer prays that this opposition is sustained and that registration to Applicant is refused.

Dated this 25th day of January, 2018.

Respectfully submitted,

BROOKS QUINN, LLC

/Hillary A. Brooks/
Hillary A. Brooks
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Attorney for Opposer

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