

ESTTA Tracking number: **ESTTA952658**

Filing date: **02/07/2019**

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	IBRAHIM M NASSER		
Entity	Individual	Citizenship	United States
Address	P.O.Box 5626 CHULA VISTA, CA 91912 UNITED STATES		

Correspondence information	IBRAHIM M NASSER Owner SERIOUS SCENTS P.O.Box 5626 CHULA VISTA, CA 91912 UNITED STATES balweh@hotmail.com no phone number provided
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Applicant Information

Application No	88029184	Publication date	01/08/2019
Opposition Filing Date	02/07/2019	Opposition Period Ends	02/07/2019
Applicant	Brotten, Kevin A 22542 430th Ave Roseau, MN 56751 UNITED STATES		

Goods/Services Affected by Opposition


Class 040. First Use: 2010/03/04 First Use In Commerce: 2016/12/28
All goods and services in the class are opposed, namely: Silk screen printing


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)


Marks Cited by Opposer as Basis for Opposition

U.S. Application No.	86328012	Application Date	07/03/2014
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	SERIOUS SCENTS
Design Mark	
Description of Mark	The mark consists of a depiction of a grenade with a ring pull at the top with the words "SERIOUS SCENTS" written across the middle of the grenade.
Goods/Services	Class 003. First use: First Use: 1993/10/31 First Use In Commerce: 1993/10/31 Air fragrancing preparations Class 005. First use: First Use: 1993/10/31 First Use In Commerce: 1993/10/31 Air deodorizer; Air deodorizing preparations

U.S. Registration No.	3733162	Application Date	03/19/2008
Registration Date	01/05/2010	Foreign Priority Date	NONE
Word Mark	LITTLE GRENADE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1993/10/31 First Use In Commerce: 1993/10/31 air fresheners		

U.S. Registration No.	5163717	Application Date	06/01/2012
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Registration Date	03/21/2017	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	The mark consists of the design of a grenade.		
Goods/Services	Class 003. First use: First Use: 1993/10/31 First Use In Commerce: 1993/10/31 air fragrancng preparations Class 005. First use: First Use: 1993/10/31 First Use In Commerce: 1993/10/31 air deodorizing preparations		

Related Proceedings	LITTLE GRENADE AND DESIGN
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Attachments	86328012#TMSN.png(bytes) 77426625#TMSN.png(bytes) 85641084#TMSN.png(bytes) PETITION FOR Opposition .88029184 .pdf(5998124 bytes)
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Signature	/Ibrahim Nasser/
Name	IBRAHIM M NASSER
Date	02/07/2019

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

In re Application of : Kevin Broten
Serial No. : 88,029,184
Filed : July 8, 2018
Mark : PEACE GRENADE
Published : January 08, 2019

IBRAHIM NASSER and
SERIOUS SCENTS,

Opposers,

V.

KEVIN BROTEN,

Applicants.

Opposition No.: _____

Serial No.: 88,029,184

NOTICE OF OPPOSITION

Serious Scents, DBA Little Grenade a company organized and existing under the laws of California with an address at P.O.Box 5626 Chula Vista, CA 91912 (“Opposer”), by Himself, respectfully submits the following Notice of Opposition. Opposer believes that it will be damaged by the continued Application of the above-identified mark, and hereby opposes such registration. The grounds for Opposition are as follows:

1. By the application herein opposed, Serial No. 8,802,9184 (the “Application”) is Kevin Broten DBA Peace Grenades (“Respondent”), an individual with an address at 22542 430th Ave Roseau, Minnesota 56751, seeks registration of the mark depicted below in

International Class 40 for use in connection with “Silk screen printing”.

PEACE GRENADES and DESIGN

2. Applicant filed the Application on July 8, 2018, which Opposer have priority in connection with “air freshener for vehicles; air fragrancng preparations; air deodorizer; air deodorizing preparations and commercial brands in silk screen printing, T-shirts, hats and advertising”. The Application was published for opposition on January 08, 2019.

3. For over twenty six years since at least as early as October 31,1993, long before filing of the Application, Opposer, its licensees, and its predecessors have manufactured and marketed products using its distinctive Mark Serious Scents, Little Grenade as trademarks and Serious Scents identifiers, including the distinct Little Grenade Mark sold under the Serious Scents and Little Grenade brand directly and/or by license from Opposer and its predecessors and use rights and application. As a result of their long and extensive sale across the United States, Opposer’s products are well known and well received.

4. As a result of the long, extensive and widespread of the distinctive Little Grenade Marks, and brand products the general consuming public in the United States recognizes these Marks as exclusively associated with Opposer by and through the use in the commercial market.

5. The general consuming public associates Opposer and the distinctive Little Grenade Marks used on the T-shirt brand Grenade designs, Organic cans air fragrancng and other applications with the purposeful intent to convey concepts and existence of clothing, logo, hats, advertising, cleanliness and pleasing scents.

6. Opposer’s distinctive Little Grenade Mark that is used with Grenade designs, little Grenade, T-shirt brand Grenade designs well known and received throughout the United States.

7. Opposer owns the following federal trademark registrations for distinctive Serious Scents Mark and Little Grenade (collectively, the “Registrations”):

Mark	Registration No.	First Use Date	Goods/Services
Grenade Design	8,564,1084	OCTOBER 31,1993	air fragrancng, air deodorizer, in Class 3,5
Serious Scents	8,632,8012	OCTOBER 31,1993	air fragrancng, air deodorizer, in Class 3,5
Little Grenade	3,733,162	OCTOBER 31,1993	air fresheners, in class 5

8. Registrations 8,632,8012; 3,733,162; 8,564,1084; are incontestable pursuant to 15 U.S.C. § 1065.

9. The Little Grenade Marks are used extensively on a wide variety of air fresheners; air fragrancng; air deodorizer and related products and brand T-shirt used on the packaging Grenade designs, Organic cans air fragrancng advertising brand and T-shirt products offered in a variety of different fragrances and brand products. Opposer has spent, and continues to spend, significant amounts of time and money developing, testing and promoting air fresheners and air fragrancng, T-shirt designs, hats sold under the Little Grenade Marks.

10. The Little Grenade Marks are famous under 15 U.S.C. § 1125(c)(1), and acquired such fame well prior to the filing date and alleged first use date of the Application. The Little Grenade Mark are inherently distinctive and/or have acquired distinctiveness, represent valuable goodwill, have gained a reputation for quality belonging exclusively to Opposer, and are widely recognized by the general consuming public of the United States as designations of the source for Opposer's products.

11. The mark and the applications of Applicant, is exactly the same as the products and brands sold and marketed under the protected prior Mark of Opposer's.

12. If Applicant is granted registration of the mark herein opposed, Applicant would thereby obtain at least the prima facie exclusive right to use the applied-for mark. Such registration would be a significant source of damage and injury to Opposer, for the reasons set forth below.

13. Applicant's applied-for mark is confusingly similar in appearance, similarity, sound, connotation and commercial impression to Opposer's Little Grenade Marks.

PEACE GRENADES LITTLE GRENADE

14. Upon information and belief, Applicants adopted the applied-for mark with full knowledge of Opposer's rights in the Little Grenade prior Marks, and with the intent to trade off the hard-earned and far-reaching goodwill that Opposer has cultivated in the Little Grenade Marks for over twenty-six years.

15. Applicant's sale, use, and color/or distribution of T-shirts that copy or are substantially similar to the Little Grenade a line of advertising and brand products the difference since both are in the T-shirts business this becomes an issue.

16. Applicant's acts in bad faith with the purposeful intent of adopting the existing Trademark mark which is apparent from Applicant's specimen of the use filed in connection with the Application, which copycats the placement of their T-shirt silk screen printing of Opposer's wording and design Mark and set up of brand on silk screen

printing whom Opposer's own the copyrights from 1993 and 2006, as depicted below and sold under Grenade shape and Grenade wording and brands Design and by adapting only the usages of **GRENADE design** and a signature of **PG**.

Note: that the Trademark Examiner applies the design search codes was assigned to 23.0309 – Grenades .

USPTO TSDR Case Viewer

Case ID: 88029184 Document Description: 9, Design Search Code Corr Project Mail/Creation Date: Jul. 13, 2018 Download PDF Print Doc 1 of 3 Next Doc

From: TMDesignCodeComments
Sent: Friday, July 13, 2018 00:25 AM
To: peacegrenades@gmail.com
Cc: peacegrenades@gmail.com
Subject: Official USPTO Notice of Design Search Code: U.S. Trademark SN: 88029184: PEACE GRENADES (Stylized Design)

Docket/Reference Number:

The USPTO has assigned design search codes to your application (U.S. serial number: 88029184).

Design search codes assigned to your application:

23.03.09 - Grenades

If you would like to request that we add or delete a design search code, please email TMDesignCodeComments@USPTO.GOV. Include your name, application serial number, a list of design search codes you would like to add or delete, and a brief justification. We will process your request within two business days. If we approve your request, the updated list of design search codes will appear in our Trademark Status and Document Retrieval (TSDR) database, accessible at <https://tsdr.uspto.gov>, under the "Mark Information" tab.

Design search codes are numerical codes we assign to the prominent features of your mark's design. We call these features "design elements." A design element can be any component of your mark that is not a word, such as a depiction of a star or a flower. Assigning design search codes to your mark helps us more effectively search our database for marks that may conflict with yours. Design search codes have no legal significance and will not appear on the registration certificate.

For more information about design search codes, including why and how we use them and information on adding or deleting design search codes from your application, please visit our design search code webpage at <http://www.uspto.gov/DesignSearchCodes>. For a list of design search codes, see the design search code manual at <http://www.uspto.gov/trademarks/index.htm>.

For questions, please call 1-800-795-9199 (option 1) to speak to a Customer Service Representative in the Trademark Assistance Center. Please visit <http://www.uspto.gov/TrademarkAssistance> for additional information about the Trademark Assistance Center.

This notice will be available in TSDR in one business day.

PEACE GRENADES and DESIGN





LITTLE GRENADE

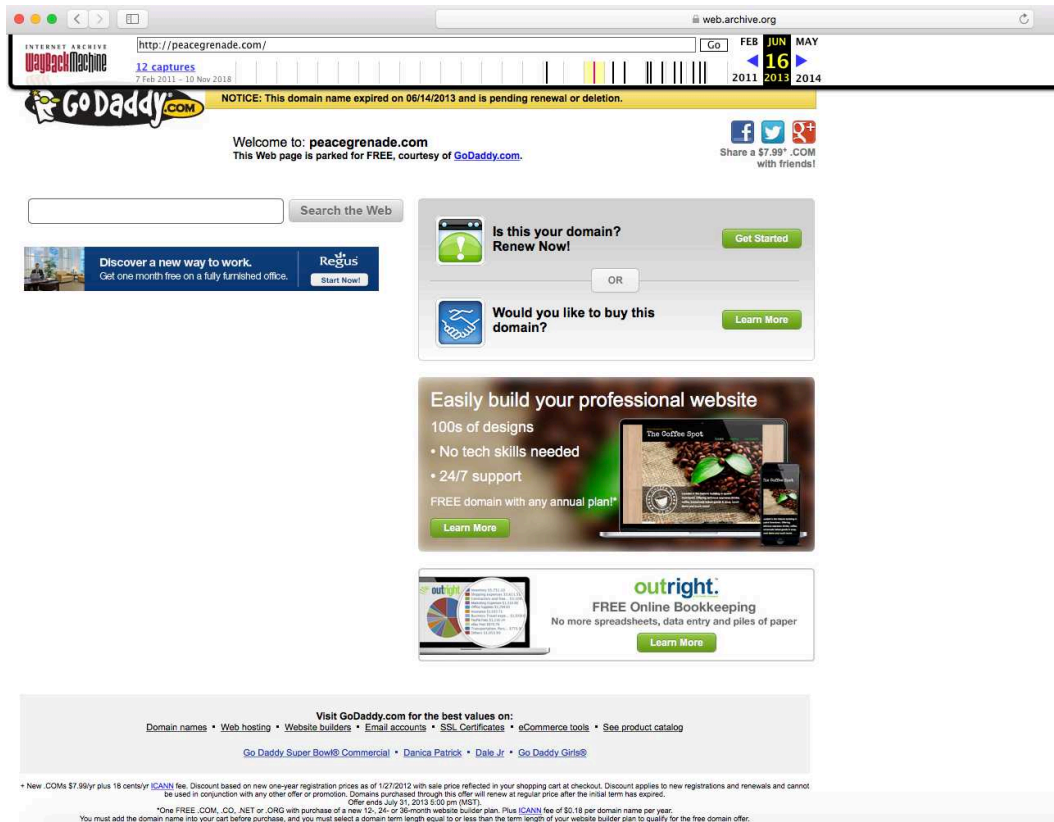




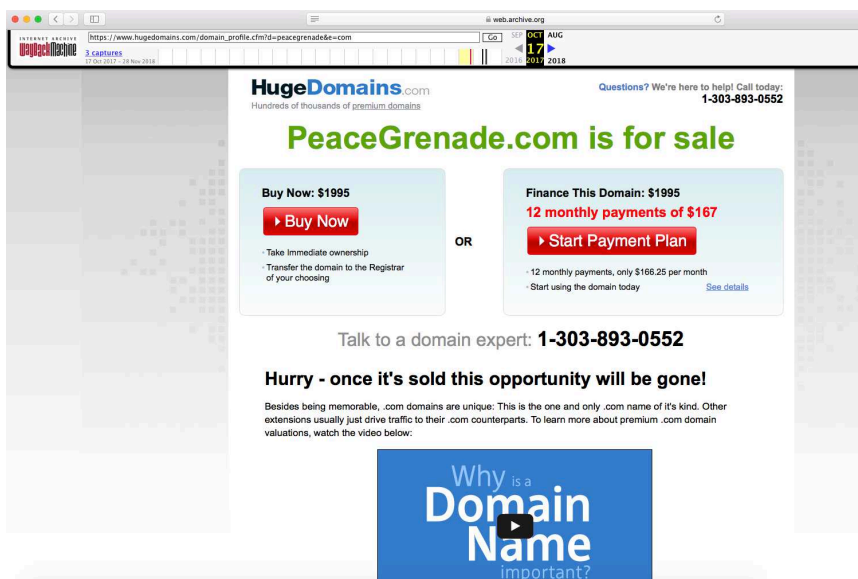
17. Registration of the applied-for mark is likely to cause confusion with Opposer's since Applicant's use of the applied mark PEACE GRENADES as (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS similar to LITTLE GRENADE Marks among the trade and the relevant purchasing public. Any use of the applied-for mark by Applicants will deceive consumers and the trade into believing that Applicant's products are affiliated with, sponsored by, or licensed by Opposer. Such confusion and deception would inevitably result in loss, damage, and injury to Opposer.

18. Applicant's Owned the name (**PEACE GRENADE**) only since 2011 till June 16, 2013 and not the altered **PEACE GRENADES AND GRENADE DESIGN** note that previous website name (**PEACE GRENADE**) never captured any products that is connected with the use of the Altered **PEACE GRENADES AND GRENADE DESIGN**.

Notice: This domain name expired on 06/14/2013 and is pending renewal or deletion. From 2013 till August 21, 2018 that website wasn't in use or in service. See Internet Archive below.



19. Applicant never used their website for any sales or to promote any products showing the usage of the PEACE GRENADES MARK Applicant has abandoned the previous Domain and website known as (PEACE GRENADE). From: 06/14/2013 till October 17, 2017 See Internet Archive below.



20. DESCRIPTION OF EVIDENCE FILE:

Screen shot of Peace Grenades homepage of website and a business card submitted to the Trademark Examiner.

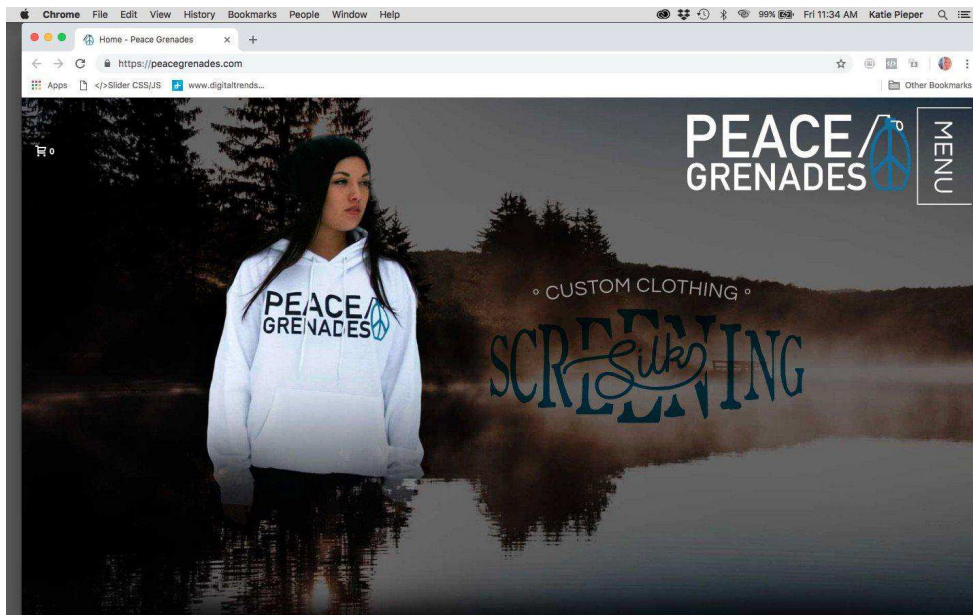
STATEMENT TYPE:

"The substitute (or new, or originally submitted, if appropriate) specimen(s) was/were in use in commerce at least as early as the filing date of the application" [for an application based on Section 1(a), Use in Commerce] OR "The substitute (or new, or originally submitted, if appropriate) specimen(s) was/were in use in commerce prior either to the filing of the Amendment to Allege Use or expiration of the filing deadline for filing a Statement of Use" [for an application based on Section 1(b) Intent-to-Use]. OR "The attached specimen is a true copy of the specimen that was originally submitted with the application, amendment to allege use, or statement of use" [for an illegible specimen].

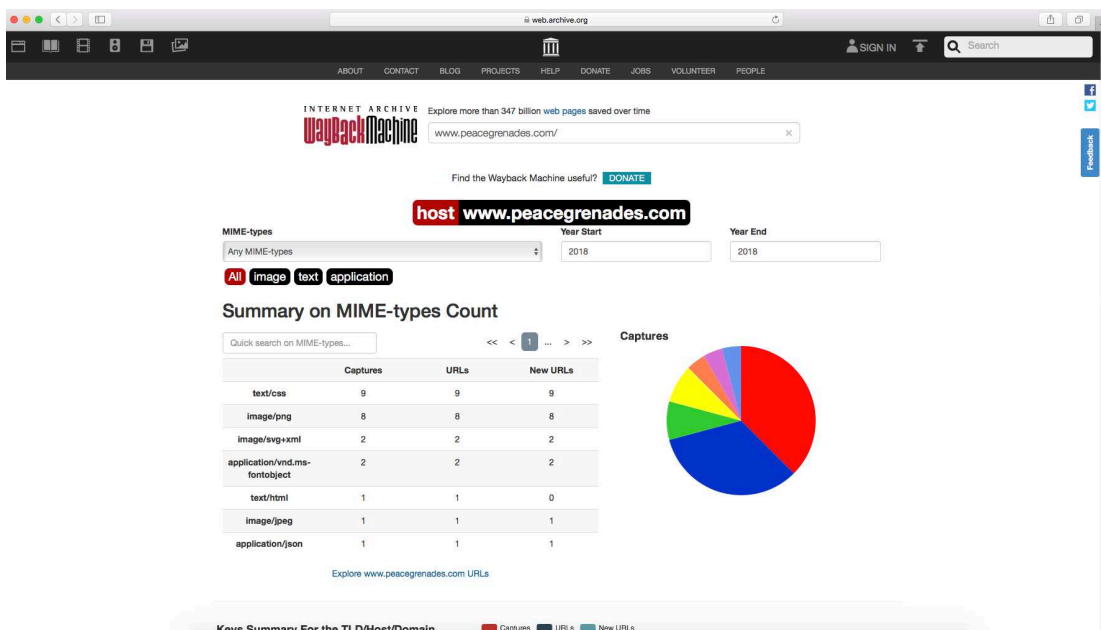
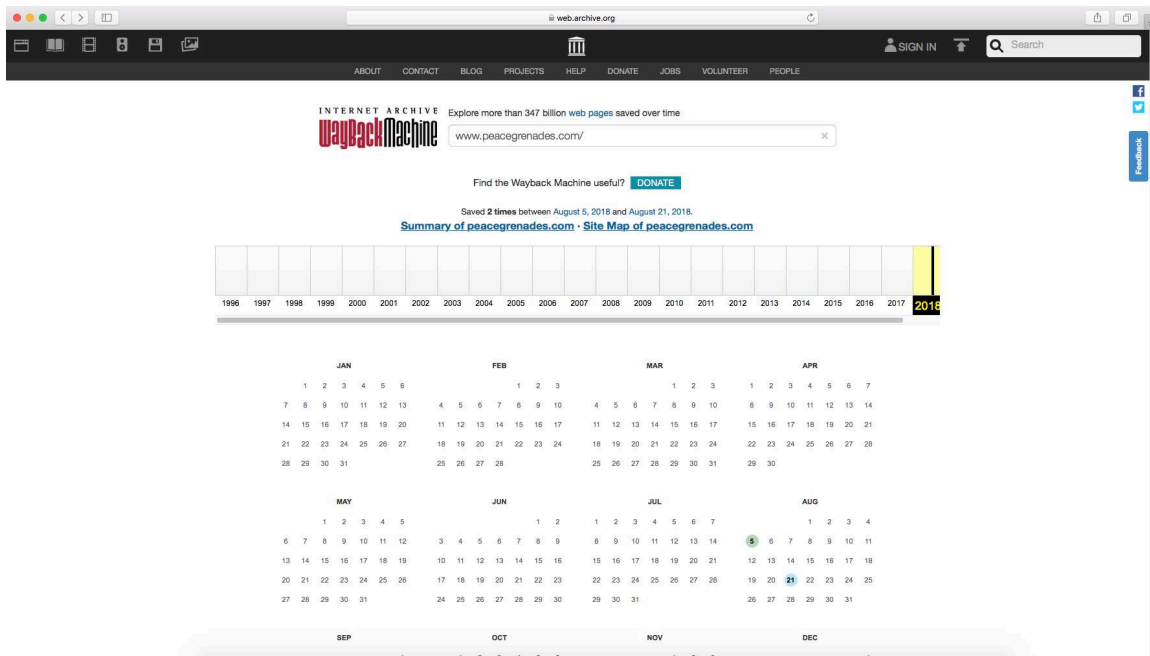
Actually the first use of the Applicant's website was downloaded on August 21, 2018 and not as early as the filing date of the application. **Please see Archive history.**

The specimen submitted on November 13, 2018 was created on November 10, 2018 by the Applicant's friend at Sandpieper Design, Inc. Katie Pieper computer as showing on the top right of the Specimen of the Screen shot of Peace Grenades homepage of website. Mrs. Catherine Pieper is the Chief Executive Officer at Sandpieper Design, Inc. located 411 Asplund Dr. SE Baudette, MN 56623 whom Applicant's believe that she helped committed a fraud designing the T-shirts for their client and friend Mr. Kevin Broten Applicant's for the purpose to mislead the Trademark Examiner to believe that the website was in use when Applicant's new Application was submitted.

Please see below: </>Slider CSS/JS it only register while working and preparing to launch a new website before it become accurate and active online as Opposer's explained the dirty and unprofessional, wrongfully work of Mrs. Catherine Pieper.



21. Applicant's started the uses of T-shirt Screen products images on its website on August 21, 2018 after the new Application was filed on July 8, 2018 and not as Applicant's stated the First use on March 4, 2010 where the website name PEACE GRENADE only was *deletion* on June 16, 2013 the totally opposite of what Applicant's noted on the Trademark Application No. 88,029,184. That show the use of Applicant's website was opened way after applying for the Trademark Application under The altered new name and grenade design PEACE GRENADES plus GRENADE DESIGN and that the Applicant's committed fraud and misleading the Trademark and Patent Office to believe that the accurate website been existing from March 4, 2010 or when the new Application was submitted for the exact name and logo **See Internet Archive below.**



22. Applicant's use of the applied-for mark in conjunction with the applied-for goods would dilute the distinctive quality of Opposer's Little Grenade Marks, thereby causing damage to Opposer.

Legal Points And Authorities In Support Of Opposition Of Opposer's

(1) The similarity or dissimilarity of the marks in their entireties as to appearance, sound, connotation and commercial impression; and

(2) The similarity or dissimilarity and nature of the goods or services as described in the application or registration or in connection with which a prior mark is in use; and

(3) Similarity of trade channels of the goods and/or services

23. By reason of the foregoing, registration of the mark herein opposed will cause significant damage and injury to Opposer. Thus, the Application should be denied and rejected pursuant to Sections 2(d) and 43(c) of the Trademark Act (15 U.S.C. §§ 1052(d) and 1125(c)).

24. Applicant's Mark without a doubt is and will cause confusion in the market place because of the similarity in appearance, name, grenade design and marketing to Petitioner's LITTLE GRENADE. Which include PEACE GRENADES and GRENADE DESIGN, The end consumer does not take time to study similar brand products.

25. Applicant's Mark is not only likely to cause confusion it will cause confusion with Opposer's Marks as it appears it was designed to accomplish that very mission among the trade and the relevant purchasing public. Use of Applicant's Mark is likely to deceive consumers and the trade into believing that Applicant's products are affiliated with, or sponsored by, or licensed by Opposer, which they are not. Such confusion and deception inevitably results in loss, damage, and injury to Opposer and market share while capitalizing on the unique nature, mark and wording of the products.

26. Use of Applicant's Mark in conjunction with T-shirts dilutes the distinctive quality of Petitioner's Little Grenade Marks, thereby causing damage to Opposer.

27. Applicants Trademark Application is in violation of the intent, purpose and protections afforded by trademark law by the attempted knowing and willing infringement on Opposer prior Trademark and copyright which Applicants knew or should have known of prior use of the Little Grenade wording and design of the products had rights of protection.

28. The issues that the Applicant can't overcome is the Opposer is the fact of Trademark First and prior use and the intent to infringement bars registration of an applied-for mark because they too resemble a registered mark that it is not only likely to confuse the end consumer it cannot but help cause and create a confused buyer who is selling grenade shape and wording on T-shirt products purchase while being mistakenly, deceived as to the source of the goods and/or services of the applicant and registrant. This perfectly describes the intentional acts and actions of Applicants Trademark Application violations

to exploit the key word search and processes of modern marketing for online sales via computer and cell phone which is now a dominate marketing channel with sale in the billions.



29. Opposer Little Grenade name and influence has expanded nationally and even internationally and that Opposer has developed both a national and international reputation since 1993 Further, 15 U.S.C. § 1057(b),.

30. As grounds for Opposition, Opposer alleges likelihood of confusion under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d), based on its use of the mark LITTLE GRENADE since “as early as October 31 1993 to the present” in connection with “Serious Scents, Little Grenade, such as, promoting business and air freshener in the United States.”

31. Opposer can prove by a preponderance of evidence that it had established prior proprietary rights by acquired distinctiveness in the mark LITTLE GRENADE long before Applicant Trademark Application.

32. Because the usages, advertisement and T-shirts products are related, Applicant’s mark PEACE GRENADES and GRENADE DESIGN in its entirety is highly similar to Opposer’s mark LITTLE GRENADE and GRENADE DESIGN in its entirety, confusion is likely.

33. Opposer's on January 24, 2019 has served on Applicant's a Cease and Desist demand letter regarding the infringement on Opposer's Mark LITTLE GRENADE and Grenade DESIGN.

34. Opposer's believe with all the evidence submitted above that the Applicant's is acting in bad faith committed a fraud by misleading the Examiner of the Trademark Office to believe all the statements of use are true.

35. DECLARATION: The Applicant's has agreed to The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that, if the applicant submitted the application or allegation of use (AOU) unsigned, all statements in the application or AOU and this submission based on the signatory's own knowledge are true, and all statements in the application or AOU and this submission made on information and belief are believed to be true.

WHEREFORE, Opposer respectfully request that this court denied Applicant trademark application. The Registration causes significant damage and injury to Opposer. Thus, the Applicants Trademark Application No. 88,029,184 should be cancelled and denied, and this Opposition be sustained.

Dated: February 7, 2019

Respectfully submitted,

Ibrahim M. Nasser
Owner/Serious Scents
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Chula Vista, CA 91912
Tel: (619) 253-9624
balweh@hotmail.com

/Ibrahim Nasser/

Ibrahim M. Nasser

CERTIFICATE OF SERVICE

I ROBY LISTER hereby certify that a true and correct copy of the *Petition for Opposition* was served upon Respondents' Kevin Broten Owner of record via first class mail, on the 7 day of February 2019, I am not a party to this cause of action. I am over the age of 18 years and reside at 356 Roosevelt St #2 Chula Vista, CA 91910.

Served via first class mail the following address:

Kevin Broten
22542 430th Ave
Roseau, Minnesota 56751

Catherine Pieper
P.O.Box 1235
1099 9th Ave SE
Baudette, MN 56623

/Roby Lister/

Roby Lister