

ESTTA Tracking number: **ESTTA1089259**

Filing date: **10/16/2020**

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	First Choice Appliance, LLC
Granted to Date of previous extension	10/17/2020
Address	606 MORAN MEADOWS RD CAREYWOOD, ID 83809 UNITED STATES

Correspondence information	VLADIMIR TSIRO FIRST CHOICE APPLIANCE, LLC 606 MORAN MEADOWS RD CAREYWOOD, ID 83809 UNITED STATES Primary Email: fcallc@gmx.com Secondary Email(s): t_elenal@yahoo.com, vt777@pm.me 208-610-3770
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Applicant Information

Application No.	88829427	Publication date	08/18/2020
Opposition Filing Date	10/16/2020	Opposition Period Ends	10/17/2020
Applicant	James Michael Morris 2664 GOOD FELLOWS STREET LAS VEGAS, NV 89135 UNITED STATES		

Goods/Services Affected by Opposition

Class 037. First Use: 2019/01/01 First Use In Commerce: 2019/01/01 All goods and services in the class are opposed, namely: Services, namely, appliance repair

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)

Attachments	Notice of opposition to 88829427.pdf(19791 bytes) Exhibit 1 Opposition to 88829427.pdf(75975 bytes) Exhibit 2 Opposition to 88829427.pdf(71127 bytes)
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Signature	/Vladimir Tsiro/
Name	VLADIMIR TSIRO
Date	10/16/2020

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

**IN THE MATTER OF APPLICATION SERIAL NO. 88829427
PUBLISHED IN THE OFFICIAL GAZETTE OF AUGUST 18, 2020**

FIRST CHOICE APPLIANCE, LLC,	§	
Opposer,	§	
v.	§	Opposition Proceeding No. _____
James Michael Morris,	§	
Applicant.	§	

NOTICE OF OPPOSITION

FIRST CHOICE APPLIANCE, LLC (“Opposer”), an Idaho limited liability company, believes it is being, and will be, damaged by the registration of the application by James Michael Morris (“Applicant”) for FIRST CHOICE APPLIANCE REPAIR mark, Application Serial No. 88829427, filed March 11, 2020, and hereby opposes the same.

The grounds for opposition are as follows:

1. Opposer has been in the business of appliance repair continuously for many years, and is now performing appliance repair, using the service name FIRST CHOICE APPLIANCE, LLC.
2. Opposer is the owner of Idaho service mark for FIRST CHOICE APPLIANCE.
3. Opposer has expended considerable amounts of time and effort in using, promoting, and developing public awareness of Opposer’s service mark and Opposer’s services. As a result of

such efforts, and of its services being of consistently high quality, Opposer's service mark has earned valuable goodwill and favorable reputation among the relevant public as symbol which identifies and distinguishes Opposer's services from those performed by others.

FIRST GROUND FOR RELIEF

Likelihood of Confusion

4. Opposer's rights in Opposer's service mark are prior to Applicant's rights in FIRST CHOICE APPLIANCE service mark.
5. Applicant's service mark FIRST CHOICE APPLIANCE REPAIR is confusingly similar to Opposer's service mark and is likely, when used in connection with the services identified in Applicant's Application in International Class 37, to cause confusion, or to cause mistake, or to deceive.
6. Applicant's services as set forth in its Application are identical to Opposer's services identified in Opposer's service mark registration and used by one or more of the same classes of customers, such that customers will be confused, mistaken, or deceived into believing that Applicant's services originate from, are authorized by or are in some way connected with Opposer.
7. Registration to Applicant of the FIRST CHOICE APPLIANCE REPAIR mark would be inconsistent with Opposer's rights, and would threaten to destroy Opposer's investment and goodwill in his mark.
8. For the foregoing reasons, Opposer will be damaged by registration of the FIRST CHOICE APPLIANCE REPAIR mark as shown in Application Serial No. 88829427.

SECOND GROUND FOR RELIEF

Fraud on the Trademark Office

9. When filling out the Trademark/servicemark Application, Applicant signed the statutory oath in the Opposed Application, swearing that “*To the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive.*” However, by that time Opposer had already contacted Applicant’s Registered Agent for FIRST CHOICE APPLIANCE REPAIR L.L.C., an Idaho limited liability company organized by Applicant; so the Applicant was made aware of the existence of Opposer, Opposer’s superior rights, and likelihood of confusion prior to filing. Applicant’s signature and submission of the oath was therefore a fraud on the Trademark Office, and the Opposed Application is void.
10. Applicant’s filing of the Application is in violation of Section 66(a) of the Trademark Act, 15 U.S.C. §1051(a).
11. For the foregoing reasons, Opposer will be damaged by registration of the FIRST CHOICE APPLIANCE REPAIR mark as shown in Application Serial No. 88829427.

WHEREFORE, Opposer, FIRST CHOICE APPLIANCE, LLC, prays that this Opposition be sustained and that registration be refused for the mark shown in Application Serial No. 88829427.

Respectfully submitted,

FIRST CHOICE APPLIANCE, LLC

EXHIBIT 1

State of Idaho

Office of the Secretary of State

CERTIFICATE REGISTRATION OF TRADEMARK-SERVICE MARK STATE OF IDAHO

I, LAWRENCE DENNEY, Secretary of State of Idaho and custodian of the records of Trademarks and Service Marks, do hereby certify to the following Trademark/Service Mark Registration filed on January 28, 2020.

Name of Registrant: **FIRST CHOICE APPLIANCE, LLC**
Business Address: **606 MORAN MEADOWS RD
CAREYWOOD, ID 83809**

File Number: **028252**

State of Domestication: **IDAHO**

Class: **International 37**

First Use in Idaho: **01/07/2013**

First Use Anywhere: **09/01/2010**

Expiration: **01/28/2030**

Goods or Services with which mark is used:

Household and commercial appliance repair, service and installation

Registered Trademark-Service Mark:

First Choice Appliance

Reproduction of the mark:

FIRST CHOICE APPLIANCE




Lawrence Denney
Secretary of State

Processed by: Business Division

EXHIBIT 2



**CERTIFICATE OF ORGANIZATION
LIMITED LIABILITY COMPANY**

(Instructions on back of application)

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SECRETARY OF STATE
STATE OF IDAHO

1. The name of the limited liability company is:

First Choice Appliance, LLC

2. The complete street and mailing addresses of the initial designated office:

606 Moran Meadows Rd, Careywood, ID 83809

(Street Address)

PO Box 38, Careywood, ID 83809

(Mailing Address, if different than street address)

3. The name and complete street address of the registered agent:

Vladimir Tsiro

(Name)

606 Moran Meadows Rd, Careywood, ID 83809

(Street Address)

4. The name and address of at least one member or manager of the limited liability company:

Name

Address

Vladimir Tsiro

606 Moran Meadows Rd, Careywood, ID 83809

5. Mailing address for future correspondence (annual report notices):

PO Box 38, Careywood, ID 83809

6. Future effective date of filing (optional): _____

Signature of a manager, member or authorized person.

Signature

Typed Name:

Vladimir Tsiro

Signature

Typed Name:

Secretary of State use only

IDAHO SECRETARY OF STATE
01/07/2013 05:00
CK: 1268 CT: 277945 SH: 1354648
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