

ESTTA Tracking number: **ESTTA1118823**

Filing date: **03/08/2021**

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 parties oppose registration of the indicated application.

Opposers Information

Name	BIG CAT RESCUE CORP.		
Entity	Corporation	Citizenship	Florida
Address	12802 EASY STREET TAMPA, FL 33625 UNITED STATES		

Name	Carole A. Baskin		
Entity	Individual	Citizenship	United States
Address	12802 EASY STREET TAMPA, FL 33625 UNITED STATES		

Attorney information	FRANK R. JAKES JOHNSON POPE BOKOR RUPPEL & BURNS LLP 401 E. JACKSON STREET, SUITE 3100 TAMPA, FL 33602 UNITED STATES Primary Email: frankj@jpfirm.com Secondary Email(s): pattit@jpfirm.com 813-225-2500		
Docket Number	124009		

Applicant Information

Application No.	88866324	Publication date	02/09/2021
Opposition Filing Date	03/08/2021	Opposition Period Ends	03/11/2021
Applicant	Brown, Daniel 5804 SOUTHERN HILLS DRIVE FLOWER MOUND, TX 75022 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Retail store services featuring shirts,hats, and general consumer merchandise;On-line retail store services featuringshirts, hats, and general consumer merchandise

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
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False suggestion of a connection with persons, living or dead, institutions, beliefs, or national symbols, or brings them into contempt, or disrepute	Trademark Act Section 2(a)
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Mark Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	HEY ALL YOU COOL CATS AND KITTENS		
Goods/Services	IC 036 & 041 Å# Educational services to advocate for the rights of big cats, end the abuse of big cats, including ending private ownership and the captive breeding of big cats and cub petting exploitation through the use of streaming videos, podcasts transmitted through various social media platforms; Charitable fundraising services for the advocacy of the rights of big cats, end the abuse of big cats, including ending private ownership and the captive breeding of big cats and cub petting exploitation through the use of streaming videos, podcasts transmitted through various social media platforms. IC 025 Å# Apparel, including T-shirts, tank tops and pants.		

Attachments	HEY YOU COOL CATS AND KITTENS - Notice of Opposition FINAL.pdf(153226 bytes)
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Signature	/Frank R. Jakes/
Name	Frank R. Jakes
Date	03/08/2021

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

In re Serial No.: 88/866324
Mark: HEY ALL YOU COOL CATS AND KITTENS
Published in the Official Gazette on February 9, 2021

CAROLE A. BASKIN and)	
BIG CAT RESCUE CORP.,)	
)	
Opposers,)	
)	
v.)	Opposition No.
)	
DANIEL BROWN,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

CAROLE A. BASKIN (“Baskin”), an individual, and BIG CAT RESCUE CORP. (“Big Cat Rescue”), a Florida not-for-profit corporation with an address of 12802 Easy Street, Tampa, Florida (“Opposers”), oppose the granting of the service mark application to register HEY ALL YOU COOL CATS AND KITTENS sought by DANIEL BROWN, an individual with an address of 5804 Southern Hills Drive, Flower Mound, Texas 75022 (“Applicant”) for “Retail store services featuring shirts, hats, and general consumer merchandise; On-line retail store services featuring shirts, hats, and general consumer merchandise” in International Class 35, which application was published in the Official Gazette of the United States Patent and Trademark Office on February 9, 2021. The grounds for the opposition are as follows:

1. Baskin is an internationally renowned Big Cat rights activist with a mission of ending abuse of big cats in captivity and preventing extinction of big cats in the wild. In the pursuit of her mission, she has led educational campaigns to end the personal ownership of big

cats and the attendant profligate breeding of big cats in captivity for the cub petting trade. Her efforts of drawing international attention to the plight of big cats have been extensively covered by the media such as CNN, Animal Planet, Discovery, U.S. News & World Report, People Magazine, The Today Show, Sports Illustrated, Netflix, Wondery, all of the local media outlets and many more national and international programs. She has worked with The International Fund for Animal Welfare, the Humane Society of the United States, Born Free, the World Wildlife Fund, the Animal Legal Defense Fund, the Wild Cat Conservation Legal Aid Society, World Council for Animal Rights, the Dean of the Massachusetts School of Law, Ian Somerhalder Foundation, and the Global Federation of Animal Sanctuaries in pursuit of her mission. Baskin has been pivotal in supporting and advancing the Big Cat Public Safety Act HR263 before Congress.

2. In 1992, Baskin founded Big Cat Rescue and serves as its CEO. Big Cat Rescue's mission is to provide the best home possible for the cats in its care, end abuse of big cats in captivity and prevent extinction of big cats in the wild. It serves as one of the largest sanctuaries in the United States for rescuing and caring for big cats abused in private captivity. Big Cat Rescue's goal is to go out of the sanctuary business when private ownership of big cats is eradicated.

3. As part of her educational activism and fund raising for Big Cat Rescue, Baskin regularly hosts the Big Cat TV channel on YouTube, hosts a live interview show with cat experts called CatChat, is active on a variety of social media platforms and publishes articles in conjunction with Big Cat Rescue.

4. Beginning at least as early as August 11, 2017, (*see* <https://youtu.be/6xEu4SI1nk0>), Baskin adopted a source-identifying tagline: HEY ALL YOU

COOL CATS AND KITTENS which she has regularly and continuously employed for her audio and audio-video programs.

5. Since adopting her HEY ALL YOU COOL CATS AND KITTENS tagline, the relevant consuming public has associated the tagline line as uniquely belonging to and identifying Baskin.

6. Given the public's clear and distinct recognition of the HEY ALL YOU COOL CATS AND KITTENS tagline as emanating from and uniquely identifying BASKIN, Big Cat Rescue has endeavored to further commercialize the tagline to enhance its fundraising efforts by branding apparel and merchandise with the tagline.

7. Baskin's passionate activism has attracted opposition particularly from those who profit from and traffic in the trade of big cats and cub petting. Some of those who oppose Baskin's mission have actually threatened Baskin's life. One of these antagonists, Joe Schreibvogel a/k/a Joe Exotic, is currently serving a 22-year federal sentence for a murder-for-hire scheme with Baskin the intended victim.

8. On March 20, 2020, Netflix released *Tiger King: Murder, Mayhem and Madness*, a documentary film series relating to Joe Exotic and his hatred of Baskin and her advocacy for Big Cat rights. Perhaps because the release coincided with the initial lock-down for the COVID pandemic, the series ranked as one of the most successful Netflix releases ever with a viewership of approximately 64 million households in the first month of its release. Included in the documentary is film footage of Baskin employing her HEY ALL YOU COOL CATS AND KITTENS tagline.

9. On information and belief, Applicant was one of these millions of viewers of the Netflix *Tiger King: Murder, Mayhem and Madness* documentary series in the spring of 2020. On

information and belief, Applicant saw Baskin employ her HEY ALL YOU COOL CATS AND KITTENS tagline and decided to appropriate and exploit Baskin's tagline for his own personal profit.

10. Without authorization from Opposers, Applicant filed the subject intent-to-use registration application for HEY ALL YOU COOL CATS AND KITTENS on April 9, 2020, less than three weeks after the Netflix release of *Tiger King: Murder, Mayhem and Madness*.

11. Applicant is seeking to register the term "HEY ALL YOU COOL CATS AND KITTENS" in International Class 35 for "Retail store services featuring shirts, hats, and general consumer merchandise; On-line retail store services featuring shirts, hats, and general consumer merchandise" ("Applied for Mark"). Applicant has yet to use the Applied for Mark in commerce.

COUNT I

12. Opposers reallege and incorporate their allegations in paragraphs 1-11 as if set forth herein.

13. The Applied for Mark, HEY ALL YOU COOL CATS AND KITTENS, is identical to the tagline long used by Baskin.

14. The Applied for Mark, HEY ALL YOU COOL CATS AND KITTENS, is unmistakably associated with a particular personality: Baskin.

15. The Applied for Mark, HEY ALL YOU COOL CATS AND KITTENS, is not connected with the activities performed by the Applicant under the mark

16. The fame or reputation of Baskin is such that, when the mark is used with the Applicant's proposed goods or services, a connection with Baskin would be presumed.

17. Applicant's use of the Applied for Mark in connection with its proposed services is likely to "falsely suggest a connection with persons [and] institutions," in violation of §2(a) of the Lanham Act, 15 U.S.C. §1052(a), since Applicant's intended use is intended to uniquely point to Baskin.

COUNT II

18. Opposers reallege and incorporate their allegations in paragraphs 1-11 as if set forth herein.

19. Opposers have been using the mark HEY ALL YOU COOL CATS AND KITTENS in commerce for educational and charitable fundraising streaming videos related to big cat rights advocacy through the media of television and radio and via the internet at least as early as August 11, 2017.

20. Opposers' distinctive HEY ALL YOU COOL CATS AND KITTENS mark has been in use prior to the acquisition of any rights Applicant may claim in its Applied for Mark or the filing of Applicant's application.

21. Applicant's Applied for Mark in its Section 1(b) Application No. 88/866324 is identical to and confusingly similar to Opposers' HEY ALL YOU COOL CATS AND KITTENS mark in sound, appearance and commercial impression.

22. Applicant's use of the mark HEY ALL YOU COOL CATS AND KITTENS in connection with its proposed services is likely to cause confusion, mistake or deception as to the source of origin of Applicant's services in that the public, the trade and others are likely to believe that Applicant's services are: (a) the same services as Opposers'; or (b) provided by, sponsored by, approved by, licensed by, affiliated with or in some other way legitimately connected to Opposers' services, goods, and/or licensed products.

WHEREFORE, Opposers respectfully request that this opposition be sustained and Applicant's application to register the mark HEY ALL YOU COOL CATS AND KITTENS be refused in all respects, and further relief be granted as may be deemed to be just and proper.

Respectfully submitted,

Dated: March 8, 2021

/s/ Frank R. Jakes
Frank R. Jakes, Esq. Fla. Bar No. 372226
JOHNSON, POPE, BOKOR, RUPPEL
& BURNS, LLP
401 E. Jackson Street, Suite 3100
Tampa, FL 33602
Telephone: (813) 225-2500
Facsimile: (813) 223-7118
E-mail: frankj@jpfirm.com
Attorneys for Opposers
Carole A. Baskin
Big Cat Rescue Corp.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Notice of Opposition has been furnished by e-mail to counsel for Applicant on this 8 day of March, 2021.

/s/ Frank R. Jakes
Frank R. Jakes, Esq.

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