

ESTTA Tracking number: **ESTTA1121168**

Filing date: **03/17/2021**

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 party opposes registration of the indicated application.

Opposer Information

Name	Diamond Tours, Inc.
Granted to Date of previous extension	03/20/2021
Address	13100 WESTLINKS TERRACE #1 FORT MYERS, FL 33919 UNITED STATES
Attorney information	STEPHEN BAKER BAKER AND RANNELLS 92 E MAIN ST SUITE 302 SOMERVILLE, NJ 08876 UNITED STATES Primary Email: officeactions@br-tmlaw.com Secondary Email(s): K.Hnasko@br-tmlaw.com, s.baker@br-tmlaw.com, s.cesaro@br-tmlaw.com, jmr@br-tmlaw.com 9087225640
Docket Number	

Applicant Information

Application No.	90039983	Publication date	01/19/2021
Opposition Filing Date	03/17/2021	Opposition Period Ends	03/20/2021
Applicant	Metropolitan Airports Commission 6040 28TH AVENUE SOUTH MINNEAPOLIS, MN 55450 UNITED STATES		

Goods/Services Affected by Opposition

Class 039. First Use: 2020/06/01 First Use In Commerce: 2020/06/01
All goods and services in the class are opposed, namely: Airport services; airport services, namely, a health safety program for air travelers

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. Registration	2856779	Application Date	06/05/2002
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No.			
Registration Date	06/22/2004	Foreign Priority Date	NONE
Word Mark	TRAVEL CONFIDENT		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 036. First use: First Use: 2002/06/00 First Use In Commerce: 2002/06/00 Travel insurance agency services, namely, providing travel insurance coverage for trip cancellation, trip interruption, personal effects or baggage loss, travel delay, emergency medical expenses and emergency medical transportation, [air flight and rental car damage;] world-wide travel assistance, namely, emergency cash transfers</p> <p>Class 039. First use: First Use: 2002/06/00 First Use In Commerce: 2002/06/00 [Arranging travel tours; travel agency services, namely, making reservations and bookings for transportation]</p> <p>Class 043. First use: First Use: 2002/06/00 First Use In Commerce: 2002/06/00 [Travel agency services, namely, making reservations and bookings for temporary lodging]</p>		

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	TRAVEL CONFIDENT		
Goods/Services	Travel insurance covering trip cancellation, trip interruption, cancellation as a result of sickness, injury or death, jury duty; strikes; baggage benefit; medical expense; emergency medical evacuation and the like		

Attachments	notice of opposition for filing.pdf(106234 bytes)
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Signature	/Stephen L. Baker/
Name	STEPHEN BAKER
Date	03/17/2021

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

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Diamond Tours, Inc.,

Opposer,

Mark: TRAVEL CONFIDENTLY MSP

v.

Serial No.: 90039983

Metropolitan Airports Commission

Applicant.

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NOTICE OF OPPOSITION
PURSUANT TO 15 U.S.C. SECTION 1063

In the matter of trademark application Serial No. 90039983, filed by Applicant, Metropolitan Airports Commission ("Applicant"), for TRAVEL CONFIDENTLY MSP as a trademark for Airport services; airport services, namely, a health safety program for air travelers ("Applicant's Services"), published for opposition in the Official Gazette of January 19, 2021, Opposer, Diamond Tours, Inc., a corporation organized and existing under the laws of the State of Florida and located and doing business at 13100 Westlinks Terrace #1, Fort Myers, FL 33913, believes that it will be damaged by the registration of the alleged Mark shown in Application Serial No. 90039983, and opposes the registration under the provisions of 15 U.S.C. §1063 (Trademark Act of 1946, Section 13), and as a result of fraud on the United States Patent and Trademark Office ("USPTO").

As grounds of opposition, it is alleged that:

AS AND FOR A FIRST CLAIM – PRIORITY OF USE

1. Opposer is the owner of the mark TRAVEL CONFIDENT ("Opposer's Mark") as a trademark, trade name, and as a service mark as applied to a wide range of services directed to wholesale and retail consumers, namely Travel insurance agency services, namely, providing travel insurance coverage for trip cancellation, trip interruption, personal effects or baggage loss, travel delay, emergency medical expenses and emergency medical transportation, world-wide travel assistance, namely, emergency cash transfers ("Opposer's Services").

2. Opposer is now and has been trading as and known by the Opposer's Mark, identifying Opposer as the source of a wide variety of services, namely Opposer's Services, the same being substantially identical to and generally related to Applicant's Services intended to be offered under its alleged Mark TRAVEL CONFIDENTLY MSP.

3. Opposer is now and has been prior to any date which may be claimed by Applicant, engaged in the use Opposer's Mark for Opposer's Services and services related thereto.

4. Opposer is now and has been prior to any date which may be claimed by Applicant, engaged in the offering of Opposer's Services and goods and services related thereto under Opposer's Mark.

5. Since prior to any date which may be claimed by Applicant, Opposer on its own behalf has been, and is now engaged in the offering of Opposer's

Services identified in paragraph 1 hereinabove under the Opposer's Mark in interstate commerce.

6. Upon information and belief, Applicant intends to offer its services through the same channels of trade as Opposer, and direct its respective services to the same ultimate consumer as Opposer.

7. Applicant is also the owner of pending application Ser. No. 90047430 for a stylized version of Applicant's Mark for Applicant's Services.

8. In the event pending application Ser. No. 90047430 matures into a registration, it is Opposer's intention to petition to cancel the same immediately upon issuance.

9. The Opposer's Mark and Applicant's Mark are confusingly similar when applied to the goods and services of the parties.

10. The Marks of both parties are substantially identical, and make the same commercial impression upon the consumer.

11. The services of Applicant and Opposer are likewise substantially identical, and Applicant's intended use of TRAVEL CONFIDENTLY MSP in connection with its services is without the consent or permission of Opposer.

DAMAGE TO OPPOSER

12. Opposer is the owner of U.S. Trademark Registration No. 2856779 for TRAVEL CONFIDENT, which is in good order, incontestable pursuant to 15 U.S.C. §1065, and in the name of and owned by the Opposer.

13. Since Opposer owns the Opposer's Mark by virtue of prior use, mistake or deception as to the source of origin of the services will arise and will injure and damage the Opposer and its goodwill.

14. The registration of the Mark TRAVEL CONFIDENTLY MSP to Applicant will cause the relevant purchasing public to erroneously assume and thus be confused, misled, or deceived, that Applicant's services are offered by, licensed by, controlled by, sponsored by, or in some way connected, related or associated with Opposer, all to Opposer's irreparable damage.

15. Opposer believes that it is and will be damaged by registration of the Mark applied for by Applicant.

WHEREFORE, Opposer prays that the application for registration of TRAVEL CONFIDENTLY MSP, Serial No. 90039983, filed on January 19, 2021, be denied and that this Opposition be sustained.

Respectfully submitted for
Opposer
Diamond Tours, Inc.



By:

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Dated: March 17, 2021

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via e-mail upon the correspondent identified by the TSDR, for Applicant, BARBARA J GRAHN bgrahn@foxrothschild.com on this, the 17th day of March, 2021.



Stephen L. Baker