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Filing date: **12/21/2021**

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	Cattle Cartel, LLC		
Entity	Limited Liability Company	Citizenship	Kentucky
Address	2525 WOLFPEN CREEK ROAD REDFOX, KY 41847 UNITED STATES		

Attorney information	MICHAEL S. HARGIS STITES & HARBISON, PLLC 250 W. MAIN STREET, SUITE 2300 LEXINGTON, KY 40507 UNITED STATES Primary email: StitesCOMPULAW@stites.com Secondary email(s): mhargis@stites.com, tgraves@stites.com 859-226-2332		
Docket no.	CA562X-21589		

Applicant information

Application no.	90432739	Publication date	12/21/2021
Opposition filing date	12/21/2021	Opposition period ends	01/20/2022
Applicant	Cattle Cartel 20320 MELLARD RD LUCAS, KS 67648 UNITED STATES		

Goods/services affected by opposition


Class 012. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Mud flap brackets as structural parts of vehicles; Mud flap hangers; Mud flap hold-downs; Mud flap holders; Mud flap weights; Mud flaps for vehicles; Land vehicle parts, namely, mud guards
Class 016. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Stickers; Sticker albums; Sticker books; Stickers and sticker albums; Stickers and decalcomanias; Stickers and transfers; Stickers for use as social distancing markers; Albums for stickers; Bumper stickers; Chalkboard label stickers; Decals and stickers for use as home decor; Decorative stickers for cars; Decorative stickers for helmets; Decorative stickers for soles of shoes; Magnetic bumper stickers; Personalized stickers; Removable stickers; Reusable stickers; Vehicle tailgate lettering stickers; Vehicle tire lettering stickers
Class 025. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Hats; Sweatshirts; Hat liners; Hats for infants, babies, toddlers and children; Long sleeve pullovers; Long sleeved vests; Outerwear, namely, coats, hats, gloves, shoes, do rags for use as headwear, knit face masks being headwear, and neck-

cloth in the nature of neck scarves and neck gaiters; Shirts and short-sleeved shirts; Shirts for infants, babies, toddlers and children; Apparel for dancers, namely, tee shirts, sweatshirts, pants, leggings, shorts and jackets; Athletic shirts; Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; Baseball caps and hats; Beach hats; Bucket hats; Business wear, namely, suits, jackets, trousers, blazers, blouses, shirts, skirts, dresses and footwear; Button down shirts; Button-front aloha shirts; Camouflage shirts; Chef hats; Chef shirts; Cloche hats; Clothing for babies, toddlers and children, treated with fire and heat retardants, namely, pajamas, jackets, shirts, pants, jumpers; Collared shirts; Cowboy hats; Dress shirts; Fascinator hats; Fashion hats; Fishing shirts; Flannel shirts; Fur hats; Gift packages sold as a unit consisting primarily of a sweatshirt and also including a photo frame, a coffee mug, and a tote bag; Golf shirts; Graphic T-shirts; Henley shirts; Hooded sweatshirts; Hooded sweat shirts; Hunting shirts; Leather hats; Long-sleeved shirts; Moisture-wicking sports shirts; Open-necked shirts; Over shirts; Paper hats for use as clothing items; Perspiration absorbent strap to be used in the bill of a hat; Polo shirts; Rain hats; Sedge hats (suge-gasa); Short-sleeved or long-sleeved t-shirts; Short-sleeve shirts; Short-sleeved shirts; Sleeves worn separate and apart from blouses, shirts and other tops; Small hats; Snap crotch shirts for infants and toddlers; Sport shirts; Sports shirts with short sleeves; Sports caps and hats; Stocking hats; Sweat shirts; T-shirts; Tee shirts; Tee-shirts; Toboggan hats; Toboggan hats, pants and caps; Tophats; Wearable garments and clothing, namely, shirts; Women's hats and hoods; Women's clothing, namely, shirts, dresses, skirts, blouses; Woolly hats; Woven shirts; Yoga shirts

Grounds for opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
No bona fide intent to use mark in commerce for identified goods or services	Trademark Act Section 1(b), 44(e) or 66(a)
Applicant not rightful owner of mark for identified goods or services	Trademark Act Section 1

Mark cited by opposer as basis for opposition

U.S. application no.	90483209	Application date	01/22/2021
Registration date	NONE	Foreign priority date	NONE
Word mark	CATTLE CARTEL		
Design mark			
Description of mark	NONE		
Goods/services	Class 025. First use: First Use: 2019/01/04 First Use In Commerce: 2020/12/01 Mud flap brackets as structural parts of vehicles; Mud flap hangers; Mud flap hold-downs; Mud flap holders; Mud flap weights; Mud flaps for vehicles; Land vehicle parts, namely, mud guards; Stickers; Sticker albums; Sticker books; Stickers; Stickers and sticker albums; Stickers and decalcomanias; Stickers and transfers; Stickers for use as social distancing markers; Albums for stickers; Bumper stickers; Chalkboard label stickers; Children's wall stickers and murals; Decals and stickers for use as home decor; Decorative stickers for cars; Decor-		

	<p>ative stickers for helmets; Decorative stickers for soles of shoes; Magnetic bumper stickers; Personalized stickers; Removable stickers; Reusable stickers; Vehicle tailgate lettering stickers; Vehicle tire lettering stickers; Hats; Sweat-shirts; Hat liners; Hats for infants, babies, toddlers and children; Long sleeve pullovers; Long sleeved vests; Outerwear, namely, coats, hats, gloves, shoes, rags, masks, neck cloth,; Shirts and short-sleeved shirts; Shirts for infants, babies, toddlers and children; Apparel for dancers, namely, tee shirts, sweatshirts, pants, leggings, shorts and jackets; Athletic shirts; Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; Baseball caps and hats; Beach hats; Bucket hats; Business wear, namely, suits, jackets, trousers, blazers, blouses, shirts, skirts, dresses and footwear; Button down shirts; Button-front aloha shirts; Camouflage shirts; Chef hats; Chef shirts; Cloche hats; Clothing for babies, toddlers and children, treated with fire and heat retardants, namely, pajamas, jackets, shirts, pants, jumpers; Collared shirts; Cowboy hats; Dress shirts; Fascinator hats; Fashion hats; Fishing shirts; Flannel shirts; Fur hats; Gift packages sold as a unit consisting primarily of a sweatshirt and also including a photo frame, a coffee mug, and a tote bag; Golf shirts; Graphic T-shirts; Henley shirts; Hooded sweatshirts; Hooded sweat shirts; Hunting shirts; Leather hats; Long-sleeved shirts; Moisture-wicking sports shirts; Open-necked shirts; Over shirts; Paper hats for use as clothing items; Perspiration absorbent strap to be used in the bill of a hat; Polo shirts; Rain hats; Sedge hats (suge-gasa); Short-sleeved or long-sleeved t-shirts; Short-sleeve shirts; Short-sleevedshirts; Sleeves worn separate and apart from blouses, shirts and other tops; Small hats; Snap crotch shirts for infants and toddlers; Sport shirts; Sports shirts with short sleeves; Sports caps and hats; Stocking hats; Sweat shirts; T-shirts; Tee shirts; Tee-shirts; Toboggan hats; Toboggan hats, pants and caps; Top hats; Wearable garments and clothing, namely, shirts; Women's hats and hoods; Women's clothing, namely, shirts, dresses, skirts, blouses; Woolly hats; Woven shirts; Yoga shirts, bathing suits, bathing suit coves, flip flops, beanies, lanyards, boggans, bags</p>
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Attachments	90483209#TMSN.png(bytes) Notice of Opposition.pdf(183591 bytes)
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Signature	/Michael S. Hargis/
Name	Michael S. Hargis
Date	12/21/2021

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

In the Matter of Registration Application Serial No. 90/432,739

Filed December 30, 2020
For the mark CATTLE CARTEL
Published in the *Official Gazette* on December 21, 2021

CATTLE CARTEL, LLC,	:	
	:	
Opposer,	:	
v.	:	OPPOSITION NO. _____
	:	
CATTLE CARTEL,	:	
	:	
Applicant.	:	

NOTICE OF OPPOSITION

Cattle Cartel, LLC (“Opposer”), a limited liability company of the Commonwealth of Kentucky, having a place of business at 2525 Wolfpen Creek Road, Redfox, Kentucky, 41847, believes that it will be damaged by registration of the mark CATTLE CARTEL in Registration Application Serial No. 90/432,739 in classes 12, 16, and 25, and hereby opposes the same. The fee under 37 CFR §2.6(a)(17)(\$600/class x 3) is being paid at the time of filing with ESTTA.

As grounds for opposition, it is alleged that:

1. Opposer is a limited liability company having a place of business at 2525 Wolfpen Creek Road, Redfox, Kentucky, 41847.
2. Opposer provides trucking and related services, primarily hauling livestock, in interstate commerce under the mark CATTLE CARTEL and has used the CATTLE CARTEL mark continuously since at least as early as 2019.

3. Opposer continues to use the word mark CATTLE CARTEL in association with its trucking and related services and filed an application (Registration App. Ser. No. 97/133,414) in the U.S. Patent and Trademark Office to register its mark for such services on November 19, 2021, which registration application remains pending.

4. Opposer provides online retail store services in interstate commerce under the mark CATTLE CARTEL and has used the CATTLE CARTEL mark continuously since prior to December 30, 2020.

5. Opposer continues to use the word mark CATTLE CARTEL in association with its online retail services featuring clothing and merchandise relating to the transportation industry and filed an application (Registration App. Ser. No. 97/133,414) in the U.S. Patent and Trademark Office to register its mark for such services on November 19, 2021, which registration application remains pending.

6. Opposer registered the domain name cattlecartelgear.com on December 21, 2020, created an online retail store to sell merchandise relating to the transportation industry, and began selling such merchandise, including clothing, through a website located at the domain name at least as early as December 24, 2020.

7. On information and belief, Applicant registered the domain name cattlecartel.com on December 27, 2020, but never used the domain name.

8. Opposer purchased the domain name cattlecartel.com in November 2021 and is currently using the cattlecartel.com domain name for its website through which it provides its online retail services, with the cattlecartelgear.com domain name redirecting internet traffic to the cattlecartel.com domain name.

9. Opposer filed an application (Ser. No. 90/483,209) seeking registration of the word mark CATTLE CARTEL (the “209 Application”) to identify various articles of clothing and merchandise relating to its trucking services in the U.S. Patent and Trademark Office.

10. On August 6, 2021, a first Office action issued in Opposer’s ‘209 Application wherein the Examining Attorney tentatively refused registration under Section 2(d) of the Trademark Act based on U.S. Registration App. Ser. No. 90/432,739 for the mark CATTLE CARTEL (the “739 Application”).

11. The Office action reads in pertinent part “[i]f the mark in the referenced application [the ‘793 Application] registers, [Opposer’s] mark may be refused registration under Trademark Act Section 2(d) because of a likelihood of confusion between the two marks.”

12. Applicant is the owner of the ‘739 Application which application was filed on December 30, 2020.

13. The ‘739 Application seeks registration based on an alleged intent to use the mark in commerce to identify:

“Mud flap brackets as structural parts of vehicles; Mud flap hangers; Mud flap hold-downs; Mud flap holders; Mud flap weights; Mud flaps for vehicles; Land vehicle parts, namely, mud guards” in international Class 12;

“Stickers; Sticker albums; Sticker books; Stickers and sticker albums; Stickers and decalcomanias; Stickers and transfers; Stickers for use as social distancing markers; Albums for stickers; Bumper stickers; Chalkboard label stickers; Decals and stickers for use as home decor; Decorative stickers for cars; Decorative stickers for helmets; Decorative stickers for soles of shoes; Magnetic bumper stickers; Personalized stickers;

Removable stickers; Reusable stickers; Vehicle tailgate lettering stickers; Vehicle tire lettering stickers” in international Class 16; and

“Hats; Sweatshirts; Hat liners; Hats for infants, babies, toddlers and children; Long sleeve pullovers; Long sleeved vests; Outerwear, namely, coats, hats, gloves, shoes, do rags for use as headwear, knit face masks being headwear, and neck cloth in the nature of neck scarves and neck gaiters; Shirts and short-sleeved shirts; Shirts for infants, babies, toddlers and children; Apparel for dancers, namely, tee shirts, sweatshirts, pants, leggings, shorts and jackets; Athletic shirts; Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; Baseball caps and hats; Beach hats; Bucket hats; Business wear, namely, suits, jackets, trousers, blazers, blouses, shirts, skirts, dresses and footwear; Button down shirts; Button-front aloha shirts; Camouflage shirts; Chef hats; Chef shirts; Cloche hats; Clothing for babies, toddlers and children, treated with fire and heat retardants, namely, pajamas, jackets, shirts, pants, jumpers; Collared shirts; Cowboy hats; Dress shirts; Fascinator hats; Fashion hats; Fishing shirts; Flannel shirts; Fur hats; Gift packages sold as a unit consisting primarily of a sweatshirt and also including a photo frame, a coffee mug, and a tote bag; Golf shirts; Graphic T-shirts; Henley shirts; Hooded sweatshirts; Hooded sweat shirts; Hunting shirts; Leather hats; Long-sleeved shirts; Moisture-wicking sports shirts; Open-necked shirts; Over shirts; Paper hats for use as clothing items; Perspiration absorbent strap to be used in the bill of a hat; Polo shirts; Rain hats; Sedge hats (suge-gasa); Short-sleeved or long-sleeved t-shirts; Short-sleeve shirts; Short-sleeved shirts; Sleeves worn separate and apart from blouses, shirts and other tops; Small hats; Snap crotch shirts for infants and toddlers; Sport shirts; Sports shirts with short sleeves; Sports caps and hats; Stocking hats; Sweat

shirts; T-shirts; Tee shirts; Tee-shirts; Toboggan hats; Toboggan hats, pants and caps; Top hats; Wearable garments and clothing, namely, shirts; Women's hats and hoods; Women's clothing, namely, shirts, dresses, skirts, blouses; Woolly hats; Woven shirts; Yoga shirts” in international Class 25.

14. On information and belief, Applicant has not used the mark CATTLE CARTEL in commerce to identify any of the goods listed in the ‘739 Application to date.

15. The basis of the ‘739 Application remains Applicant’s intent to use the mark.

16. At the time of filing, the ‘739 Application listed “Mindy Jo Montgomery DBA Cattle Cartel” as Applicant, and the entity type as “a Kansas limited liability company.”

17. In a first Office action dated November 4, 2021, the U.S. Patent and Trademark Office requested clarification regarding who the Applicant was because the “name of an individual person appears in the section of the application intended for the trademark owner’s name; however, the legal entity is set forth as a limited liability company.”

18. In response, Mindy Jo Montgomery amended the ‘739 Application listing “Cattle Cartel DBA Cattle Cartel” as the Applicant, and the entity type as “a Kansas limited liability company.”

19. The ‘739 Application published with “Cattle Cartel” as the Applicant, and the entity type as “a Kansas limited liability company.”

20. No entity by the name Cattle Cartel or starting with the words Cattle Cartel existed in the state of Kansas on the date the ‘739 Application was filed.

21. Limited Liability Company Articles of Organization were filed under the name “Cattle Cartel LLC” in the Kansas Secretary of State’s Office on January 19, 2021.

22. Opposer has continuously used the CATTLE CARTEL word mark in interstate commerce in association with its trucking services since at least as early as 2019 and to identify various articles of clothing since at least as early as December 24, 2021, and continues to use the mark to identify its goods and services. Therefore, Opposer has priority of use over any rights afforded by the later filed '739 Application.

23. On information and belief, Mindy Jo Montgomery is an individual having an address of 20320 Mellard Road, Lucas, Kansas 67648.

24. On information and belief, Cattle Cartel LLC became a Kansas limited liability company no earlier than January 19, 2021, and has an address of 20320 Mellard Road, Lucas, Kansas 67648.

COUNT I

LIKELIHOOD OF CONFUSION

25. Opposer repeats and realleges paragraphs 1-24.

26. Applicant's CATTLE CARTEL mark so resembles Opposer's CATTLE CARTEL mark as to be likely, when used on or in connection with Applicant's goods identified in the '739 Application, to cause confusion, to cause mistake, and/or to deceive under Section 2(d) of the Lanham Act, 15 U.S.C. §1052 (d).

27. The goods identified in the '739 Application are identical, highly similar, and/or related to those on which Opposer uses its CATTLE CARTEL mark.

28. The goods identified in the '739 Application are presumed to be sold and distributed through the same, similar, and/or overlapping channels of commerce with Opposer's identical and/or highly similar goods.

29. The identification of goods in the '739 Application does not include any condition(s) or limitation(s) on use.

COUNT II

LACK OF BONA FIDE INTENT TO USE MARK

30. Opposer repeats and realleges paragraphs 1-29.

31. Applicant lacked the requisite bona fide intent to use the CATTLE CARTEL mark in commerce on any of the goods listed in the '739 Application when the '739 Application was filed.

32. As a result of Applicant's lack of a bona fide intent to use the mark in commerce on any of the goods listed in the '739 Application when the '739 Application was filed, the '739 Application is void ab initio.

COUNT III

APPLICATION FILED IN NAME OF WRONG PARTY

33. Opposer repeats and realleges paragraphs 1-32.

34. Applicant did not exist as an entity at the time the '739 Application was filed.

35. The '739 Application was filed in the name of an entity that did not exist when the '739 Application was filed and, as a result, the entity could not own the mark or have an intention to use the mark in commerce and the '739 Application is void ab initio.

CLAIM FOR RELIEF/DAMAGE

36. By reason of the foregoing, Applicant's registration of the CATTLE CARTEL mark will cause injury and damage to Opposer as described above.

WHEREFORE, Opposer respectfully prays that the present opposition be sustained, and that the registration sought by the Applicant be refused.

Respectfully submitted,

Dated: December 21, 2021

By: /Michael S. Hargis/

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