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

Proceeding	94002429
Party	User Ticket Busters Inc., a New York Corporation
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Richard A. Harris, a Professional
Corporation,

CONCURRENT USE NO. 94002429

v.

Ticket Busters, Inc., a New York
Corporation,

I am the president of Ticket Busters, Inc. (TBI), a New York corporation whose principal place of business is 42-78 Main Street, Flushing NY 11355. I am completely familiar with the facts stated herein. I make this statement in opposition to applicant's motion for summary judgment and in support of TBI's cross motion for partial summary judgment.

Applicant states that "the purpose of [its summary-judgment motion] "is to obtain an order from the Board that Applicant is entitled to a concurrent use registration throughout the entire United States with the exception of within the geographic area of the New York City limits." TBI opposes that order and cross-moves for an order determining that Applicant is not entitled to a concurrent use registration that includes any part of the city of New York.

TBI services are limited to New York State, not New York

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City. TBI has indicated this consistently and repeatedly in written submissions in this case, including Applicant's Exhibit 5. However, Even assuming TBI did business in just NYC, excluding Applicant from an area somewhat larger than NYC would be reasonable to prevent confusion.

Applicant uses substantially the identical mark as TBI to perform substantially identical services as TBI, who was using its mark to perform those services years before Harris.



TBI First Use by Nov. 19, 2003 .



Applicant First Use by May 31, 2006.

Before adopting its mark, Applicant would, with due diligence, have discovered TBI's use and that Applicant's use will lead to consumer confusion. Presumably, the same undisclosed way Applicant discovered TBI's use of the mark after

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Applicant started using it, Applicant could have discovered TBI's use of the mark before Applicant started using it.

As affirmed in my affidavit sworn to November 13, 2009, and my statement dated May 9, 2010--both of which were served on applicant and filed with the board--

1. TBI is a business corporation organized under the laws of New York State on November 19, 2003. Since that time TBI has done business under the name "Ticket Busters, Inc.," and under no other name.

2. We have many clients throughout New York City--which comprises Bronx, Brooklyn, Manhattan, Queens, and Richmond--and outside of New York City.

3. We provide services, including, but not limited to, managing problems concerning parking, traffic, and building violations, serve more than 1,500 clients annually, and perform our services only in New York State.

4. We advertise our business inside and outside of New York State. We advertise our business by mail, in the newspapers, on the radio, on the internet, and by other means.

Applicant seeks to do the same work as TBI, to do that work in the same places as TBI, to use TBI's name while doing that work, and to exclude TBI from using TBI's own name while TBI does that work.

It does not matter in this concurrent use proceeding that applicant is a law firm and that TBI is not. They both do the same work--fight tickets before administrative tribunals; nor does TBI's website (at <http://tbiny.com/about.html>) support a different conclusion.

Administrative tribunals are not courts of record, so NY Judiciary Law does not prohibit non-lawyers from representing people before those tribunals (see *Matter of Board of Educ. of Union-Endicott Cent. School Dist. v New York State Pub. Empl. Relations Bd.*, 233 AD2d 602, 603 [3d Dept 1996] [permitting nonlawyer labor relations specialists to represent collective bargaining representatives at administrative hearings]).

TBI practices at administrative agencies, such as the NYC Environmental Control Board and the NYC Parking Violations Bureau, that allow laypersons to represent ticket recipients. Whether the practice of law or not, no court has decided that engaging in the business of contesting tickets for others or of representing others at those agencies is the *unauthorized* practice of law, so the administrative agency's decision that laypersons may practice before it governs. See generally *Unauthorized Practice of Law Comm. v. Employers Unity Inc.*, 716 P.2d 460 (Colo. 1986) (permitting nonlawyers to represent parties in unemployment compensation hearings).

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Applicant should have no right to use TBI's name or prevent TBI from using TBI's name where, as here, TBI has been doing business under that name for almost a decade and applicant now seeks to compete with TBI while using TBI's name.

Dated: February 23, 2015

Respectfully submitted,



Jing Gao, President
Ticket Busters, Inc.
Office & Mailing Address:
42-78 Main Street
Flushing NY 11355
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CERTIFICATE OF FILING AND SERVICE

The undersigned hereby certifies that a true copy of the foregoing statement is being filed electronically with the United States Patent and Trademark Office and being served by first class mail, postage prepaid, on February 23, 2015, on the following:

Lauri S. Thompson
Greenberg, Traurig, LLP
3773 Howard Hughes Parkway, Suite 400 N.
Las Vegas, NV 89169



/s/ June Wang

An employee of Ticket Busters, Inc., at
43-78 Main Street, Flushing, NY 11355