

ESTTA Tracking number: **ESTTA1020834**

Filing date: **12/06/2019**

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

Proceeding	91240829
Party	Plaintiff STX Financing, LLC
Correspondence Address	JILL M PIETRINI SHEPPARD MULLIN RICHTER & HAMPTON LLP 1901 AVE OF THE STARS STE 1600 LOS ANGELES, CA 90067 UNITED STATES jpietrini@smrh.com, ppost@smrh.com, baigboboh@smrh.com, shwang@smrh.com, mwilburn@sheppardmullin.com, mdanner@smrh.com, rw- alsh@smrh.com, rludson@sheppardmullin.com, LGlenn@sheppardmullin.com 310-228-3700
Submission	Plaintiff's Notice of Reliance
Filer's Name	Paul A. Bost
Filer's email	ppost@sheppardmullin.com, mdanner@sheppardmullin.com
Signature	/Paul Bost/
Date	12/06/2019
Attachments	Notice of Reliance - STX v. Terrazas 4835-8726-7246 v.pdf(125506 bytes) _NOR EXHIBITS 1-10.pdf(879425 bytes) _NOR EXHIBITS 11-22.pdf(1163214 bytes) NoR_Exhibit 23.pdf(1335935 bytes) _NOR EXHIBITS 24-34.pdf(2301170 bytes)

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

<p><i>In re Matter of Application Nos. 87/547,487 for the mark: BAD MOMS UNLIMITED in Classes 9, 16 and 25, and 87/547,298 for the mark: BAD MOMS BIBLE in Class 36</i></p> <p>STX Financing, LLC,</p> <p style="text-align: center;">Opposer,</p> <p style="text-align: center;">vs.</p> <p>Stacey Michelle Terrazas,</p> <p style="text-align: center;">Applicant.</p>	<p>Opposition No. 91-240829</p> <p>OPPOSER STX FINANCING, LLC'S NOTICE OF RELIANCE</p>
--	---

Pursuant to 37 C.F.R. §§ 2.122, 2.120(j) and the Federal Rules of Evidence, Opposer STX Financing, LLC (“Opposer”) hereby makes of record in connection with this Opposition proceeding the following evidence:

A. Registrations and Applications Owned by Opposer

Pursuant to TBMP § 704.03(b)(1)(A) and 37 C.F.R. 2.122(d), Opposer hereby makes of record the following registrations and applications owned by Opposer by attaching true, correct, and current printouts of the TESS and TSDR pages reflecting both the current status of and title to each registration and application. Opposer owns each of these registrations and applications and relies on them as grounds for its claims of likelihood of confusion as to its BAD MOMS, BAD DADS, and BADMOMLIFE marks and likelihood of dilution as to its BAD MOMS mark.

Exhibit #	Trademark	Class	Serial No.	Filing Date	Reg. No.	Reg. Date	Status
1	BAD DADS	32	86/719,464	8/10/15	4,922,649	3/22/16	Registered
2	BAD MOMS	3	87/978,144	8/9/17	5,567,301	9/18/18	Registered

Exhibit #	Trademark	Class	Serial No.	Filing Date	Reg. No.	Reg. Date	Status
3	BAD MOMS	18	87/978,156	8/9/17	5,567,305	9/18/18	Registered
4	BAD MOMS	21	87/978,157	8/9/17	5,567,306	9/18/18	Registered
5	BAD MOMS	3	87/562,322	8/9/17			Allowed
6	BAD MOMS	9	87/562,646	8/9/17			Suspended
7	BAD MOMS	18	87/562,365	8/9/17			Allowed
8	BAD MOMS	21	87/562,399	8/9/17			Allowed
9	BAD MOMS	25	87/562,482	8/9/17			Suspended
10	BAD MOMS	26	87/562,530	8/9/17			Allowed
11	BAD MOMS	33	87/562,556	8/9/17			Allowed
12	BAD MOMS	33	87/315,506	1/27/17			Allowed
13	BAD MOMS	41	87/562,696	8/9/17			Suspended
14	BAD MOMS	41	87/315,504	1/27/17			Allowed
15	BADMOMLIFE	9	87/562,582	8/9/17			Allowed
16	BADMOMLIFE	18	87/562,596	8/9/17			Allowed
17	BADMOMLIFE	25	87/562,616	8/9/17			Allowed
18	BADMOMLIFE	41	87/562,628	8/9/17			Allowed
19	BADMOMLIFE	43	87/562,655	8/9/17			Allowed

B. Interrogatory Answers by Applicant Stacey Michelle Terrazas (“Applicant”)

Pursuant to TBMP § 704.10 and 37 C.F.R. § 2.120(k)(3)(i), Opposer hereby makes of record the following responses by Applicant to Opposer’s interrogatories:

1. **Exhibit #20**. Opposer’s First Set of Interrogatories to Applicant, dated August 15, 2018.
2. **Exhibit #21**. Applicant’s initial responses to Opposer’s Interrogatory Nos. 1-8, 10, 13-15, 17, 18, 21, 23, and 33-37, dated September 14, 2018.

3. **Exhibit #22.** Applicant's supplemental responses to Opposer's Interrogatory Nos. 1-3, 8-10, 16, and 27-32 dated September 28, 2018.
4. **Exhibit #23.** Applicant's documents identified in her supplemental response to Interrogatory No. 16, namely, "All third party registrations produced to Opposer via Applicant's trademark search results." Applicant produced its search reports to Opposer in a .pdf bearing the file name 091800035.pdf.¹
5. **Exhibit #24.** Applicant's second supplemental responses to Opposer's Interrogatory No. 36 dated December 14, 2018.
6. **Exhibit #25.** Opposer's Second Set of Interrogatories to Applicant, dated May 23, 2019.
7. **Exhibit #26.** Applicant's responses to Opposer's Interrogatory Nos. 38-40, dated June 24, 2019.
8. **Exhibit #27.** Applicant's documents identified in her response to Interrogatory No. 40, namely, "Purchase order and invoice for the manufacture of products, showing a working relationship with a manufacturer to develop and produce the products. Documents showing commissioning of artwork designed specifically for the products, as well as tags produced for the sale of products. Documents showing specimens with BAD MOMS UNLIMITED on a tag attached to the goods. Sales receipts showing sale of goods. A Memo dated July 10, 2018 responding to Opposing counsel's request for proof of use, showing the BAD MOMS UNLIMITED trademark on a tag attached to the goods, namely, sunglasses, notebooks, tank tops, and hats. **Opposer is in possession of all documents referenced above which were produced in discovery.**" (Emphasis added.) Applicant produced the

¹ For the convenience of the Board, Opposer has applied Bates labels to Applicant's document production matching the documents' file names.

aforementioned documents to Opposer in .pdfs bearing the file names 091800026.pdf, 091800027.pdf, 091800028.pdf, 091800030.pdf, 091800031.pdf, 091800032.pdf, 091800033.pdf, and 091800034.pdf.²

Each of Applicant's initial and supplemental responses to Opposer's First Set of Interrogatories identified above, except for Interrogatory No. 36, is relevant to Opposer's claims that Applicant's BAD MOMS UNLIMITED and BAD MOMS BIBLE marks ("Applicant's Marks") are likely to cause confusion with Opposer's BAD MOMS, BAD DADS, and BADMOMLIFE marks and are likely to dilute its BAD MOMS mark. Applicant's initial and supplemental responses to Interrogatory No. 36 and responses to Interrogatory Nos. 38-40 are relevant to Opposer's claim that Applicant lacked a bona fide intent to use BAD MOMS UNLIMITED for all of the identified goods – except shirts, t-shirts, calendars and notebooks – as of the filing date of the intent-to-use application.

C. Admissions by Applicant

Pursuant to TBMP § 704.10 and 37 C.F.R. § 2.120(k)(3)(i), Opposer hereby makes of record the following admissions of Applicant to Opposer's requests for admission ("RFAs"):

1. **Exhibit #28**. Opposer's Revised First Set of RFAs to Applicant, dated September 17, 2018.
2. **Exhibit #29**. Applicant's responses to Opposer's RFA Nos. 7-12, 25-36, 43-50, and 58-65 dated October 17, 2018.

Each of Applicant's responses to Opposer's First Set of RFAs identified above is relevant to Opposer's claims that Applicant's Marks are likely to cause confusion with Opposer's BAD

² Despite Applicant's reference to it in her interrogatory response, Applicant never produced "[a] Memo dated July 10, 2018 responding to Opposing counsel's request for proof of use."

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.