

In re Registration No. 3,923,284  
Issued February 22, 2011  
and  
Registration No. 3,955,170  
Issued May 3, 2011  
CONCERNED CITIZENS  
FOR STURGIS, INC.  
Petitioner,  
v.  
STURGIS MOTORCYCLE RALLY,  
INC.  
Respondent.

Cancellation No. \_\_\_\_\_

Petitioner, Concerned Citizens for Sturgis, Inc. (“CCSI”) believes that it is and will be damaged by the continued existence of the above-identified registrations owned by Respondent, Sturgis Motorcycle Rally, Inc. (“SMRI”), and hereby petitions to cancel the same, pursuant to Section 14 of the Trademark Act of 1946. The specific grounds for cancellation are as follows:

1. Petitioner is a South Dakota non-profit trade association whose address is 3305 Cambell Street, Rapid City, South Dakota 57701.
2. Petitioner is a trade association that was founded in July 2011 with the purpose of (1) promoting a free and open business community for the greater Sturgis, South Dakota area; (2) promoting economic interests and development and improving the quality of life in greater Sturgis, South Dakota; (3) influencing public opinion germane to economic development and

quality of life in the greater Sturgis, South Dakota area; and (4) promoting the growth and health of the Sturgis Motorcycle Rally.

3. On information and belief, Respondent is a South Dakota non-profit economic development corporation whose address is 1612 Junction Avenue, Suite 4, Sturgis, South Dakota 57785.

4. Sturgis is the name and designator of a geographic place, namely, the town of Sturgis, South Dakota.

5. Black Hills is the name and designator of a geographic place, namely, a group of mountains in western South Dakota and northeastern Wyoming.

6. On information and belief, the Sturgis Motorcycle Rally is a motorcycle-related event that occurs in and near the city of Sturgis, South Dakota and the Black Hills region of South Dakota. First held in 1938, the Sturgis Motorcycle Rally brings visitors to this region from around the world, and serves as an economic stimulus for local business and vendors.

7. On information and belief, Respondent was founded in March 2010 with the purpose of promoting the Sturgis Motorcycle Rally.

8. On information and belief, for many years the terms “Sturgis” and “Black Hills” are and have been used for goods and services by non-licensed third-parties, including Petitioner’s members, in connection with the Sturgis Motorcycle Rally throughout the greater Sturgis, South Dakota area.

**Application Serial Nos. 76/201,759 and 76/979,104 for the Mark STURGIS**

9. On information and belief, Respondent is the alleged owner of U.S. Registration No. 3,923,284 (the “284 Registration”) for the mark STURGIS (the “STURGIS Mark”) for the

goods and services listed therein (the “SMRI Goods and Services”), a copy of which is attached as Exhibit A.

10. On information and belief, Respondent is the alleged owner of Application Serial No. 76/201,759 for the mark STURGIS (the “‘759 Application”), covering the goods and services listed therein, a copy of which is attached as Exhibit B.

11. The ‘759 Application was filed by Respondent’s predecessor-in-interest, the Sturgis Area Chamber of Commerce (the “Chamber”), on January 30, 2001 pursuant to Section 1(b) of the Lanham Act, and is still pending.

12. The PTO issued a Notice of Allowance for the ‘759 Application on August 24, 2010. Respondent filed a Request to Divide certain goods from the ‘759 Application which were claimed to be in commercial use. The SMRI Goods and Services, which were divided, resulted in Application Serial No. 76/979,104 (the “‘104 Application”), which subsequently issued as the ‘284 Registration.

13. For purposes of clarity, the ‘759 Application and the ‘104 Application will hereinafter be referred to as the ‘104 Application.

14. Pursuant to U.S. Patent and Trademark Office (“PTO”) requirements, as part of the ‘104 Application, on January 30, 2001, the Chamber submitted a declaration stating in part that “to the best of his knowledge and belief no other person, firm, corporation, or association has the right to use the [STURGIS] mark in commerce, either in the identical form thereof or in such near resemblance thereto as may be likely . . . to cause confusion” (the “Sturgis Declaration”).

15. On information and belief, prior to January 30, 2001 and thereafter, numerous entities and businesses, unlicensed by the Chamber, used the designation “Sturgis” to market and promote goods and services related to the SMRI Goods and Services associated with the Sturgis

Motorcycle Rally. Those companies included, but were not limited to, motorcycle clubs, camp grounds, and local Sturgis, South Dakota businesses.

16. On information and belief, the Chamber, and by assignment Respondent, knew that these nonlicensed entities and businesses sold and have continued to sell and offer goods and services bearing the geographic location “Sturgis.”

17. On information and belief, the Sturgis Declaration was knowingly false, made with the intent to deceive the PTO, and constituted a material factor in obtaining the ‘284 Registration.

18. The PTO refused registration of the ‘104 Application based on a likelihood of confusion with three registrations and on the ground that the mark was primarily merely geographically descriptive pursuant to Sections 2(d) and 2(e)(2) of the Lanham Act, respectively.

19. The Section 2(d) refusal was based on (1) Registration No. 1,260,886 for the mark STURGIS covering motorcycles and embroidered patches for clothing; (2) Registration No. 1,959,099 for the mark STURGIS covering prepared alcoholic cocktails; and (3) Registration No. 2,293,727 for the mark STURGIS covering cigars.

20. To overcome the refusal with respect to Registration Nos. 1,260,886 and 1,959,099, the Chamber entered into a coexistence agreement with the owner of these registrations. The Chamber deleted the conflicting goods to overcome the refusal based on Registration No. 2,293,727.

21. In response to the Section 2(e)(2) refusal, the Chamber filed a statement and affidavit under Section 2(f) of the Lanham Act (the “Sturgis 2(f) Affidavit”) claiming that the STURGIS Mark had acquired distinctiveness as a result of the Chamber’s “substantially exclusive and continuous use” of the term “Sturgis” in connection with the SMRI Goods and Services for at least five years before November 8, 2001, the filing date of the Sturgis 2(f) Affidavit.

22. In addition to the 2(f) Affidavit, the Chamber submitted a claim that the STURGIS Mark was entitled to a finding of acquired distinctiveness based its ownership of Registration No. 1,948,097 of the mark BLACK HILLS MOTOR CLASSIC STURGIS RALLY & RACES BLACK HILLS S.D. & Design.

23. The apparent acceptance of Registration No. 1,948,097 as the basis for acquired distinctiveness was incorrect since the BLACK HILLS MOTOR CLASSIC STURGIS RALLY & RACES BLACK HILLS S.D. & Design mark is not the legal equivalent of the STURGIS Mark as required by the PTO's rules.

24. On information and belief, for more than five years prior to November 8, 2001, numerous entities and businesses, unlicensed by the Chamber, used the designation "Sturgis" to market and promote goods and services related to the SMRI Goods and Services and associated with the Sturgis Motorcycle Rally. Those companies included, but were not limited to, motorcycle clubs, camp grounds, and local Sturgis, South Dakota businesses.

25. On information and belief, the Chamber, and by assignment Respondent, knew that these nonlicensed entities and businesses sold and have continued to sell and offer goods and services bearing the geographic location "Sturgis."

26. Accordingly, the Chamber, and by assignment Respondent, could not have engaged in "substantially exclusive" use of the STURGIS mark.

27. On information and belief, the Chamber, and by assignment Respondent, was aware at the time of filing the Sturgis 2(f) Affidavit that it had not engaged in "substantially exclusive" use of the term "Sturgis" for the SMRI Goods and Services, and does not do so currently today.

28. As a result of Respondent's claim of acquired distinctiveness and supporting affidavit, the PTO withdrew the refusal and subsequently allowed the '284 Registration to issue.

Therefore, the Sturgis 2(f) Affidavit was material to the examination and issuance of the '284 registration.

29. On information and belief, the Sturgis 2(f) Affidavit was knowingly false, made with the intent to deceive the PTO, and constituted a material factor in obtaining the '284 Registration.

30. After withdrawing the 2(d) and 2(e)(2) refusals, the PTO published the '104 Application on October 15, 2002 and subsequently issued a Notice of Allowance.

31. On information and belief, relying on the '284 Registration and its alleged rights in the STURGIS Mark, Respondent has attempted to prevent third-parties, including members of Petitioner, from using the term "Sturgis" in connection with goods and services bearing the term "Sturgis."

32. Respondent's activities prevent members of Petitioner from engaging in its business activities and interfere with Petitioner's purpose. As a result, Petitioner has been damaged and will be damaged by the continued registration of the STURGIS Mark.

#### **Opposition of the '104 Application**

33. Upon publication of the '104 Application on October 15, 2002, the '104 Application was opposed by Sturgis Motorcycles, Inc. d/b/a Black Hills Harley-Davidson d/b/a Sturgis Harley-Davidson (the "Harley Opposition") and Good Sports Sturgis, Inc. (the "Good Sports Opposition").

34. The Good Sports Opposition alleged that as a result of Good Sports' continuous use of the name "Sturgis" for goods and services related to the Sturgis Motorcycle Rally since at least 1985, as well as use of the name "Sturgis" by many other vendors, the Chamber was not entitled to registration of the mark "Sturgis." *See* Good Sports Opposition, attached as Exhibit C.

35. As grounds for the opposition, Good Sports asserted that the term STURGIS was primarily geographically descriptive, merely descriptive, had not acquired distinctiveness under Section 2(f) of the Lanham Act, was incapable of trademark protection due to the Chamber's uncontrolled licensing and that the Chamber had engaged in fraud on the PTO. *Id.*

36. The allegations in the Good Sports Opposition, including those statements regarding use of the term "Sturgis" by Good Sports and numerous other entities, were sworn to by Jerry Berkowitz, the President of Good Sports Sturgis, Inc. *Id.*

37. The Harley Opposition, a copy of which is attached as Exhibit D, raised allegations similar to those in the Good Sports Opposition and asserted that Sturgis Motorcycles had used the term "Sturgis" for goods and services related to the Sturgis Motorcycle Rally since at least 1981. The Harley Opposition also stated that over 700 vendors used the name "Sturgis" in connection with the Sturgis Motorcycle Rally each year.

38. The allegations in the Harley Opposition, including those statements regarding use of the term STURGIS by Sturgis Motorcycles and numerous other entities, were sworn to by Jim Doyle, the Vice President of Sturgis Motorcycles, Inc. Exhibit D.

39. On March 31, 2010, Jerry Berkowitz of Good Sports, Jim Burgess of Sturgis Motorcycles, Inc., John Johnson of First Interstate Bank, and Dean Kinney of HomeSlice and the Chamber formed Respondent.

40. On June 30, 2010, the Chamber assigned the '104 Application to Respondent and the assignment was recorded with the PTO on July 21, 2010.

41. On July 2, 2010, Good Sports and Sturgis Motorcycles withdrew the Good Sports and Harley Oppositions, respectively.

42. On information and belief, as an officer of Good Sports and director of Respondent, Jerry Berkowitz knew of the false and material statements made in connection with the prosecution of the '104 Application, including that the Chamber had engaged in "substantially exclusive" use of the STURGIS Mark and that numerous entities had used the term "Sturgis" in connection with goods and services to promote the Sturgis Motorcycle Rally.

43. On information and belief, Jerry Berkowitz did not notify the PTO of these knowingly false and material statements.

**Registration No. 3,955,170 for the Mark BLACK HILLS**

44. On information and belief, Respondent is the alleged owner of U.S. Registration No. 3,955,170 (the "'170 Registration") for the mark BLACK HILLS (the "BLACK HILLS Mark") for the goods and services listed therein (the "Black Hills Goods and Services"), a copy of which is attached as Exhibit E.

45. Application Serial No. 76/979,109 for the BLACK HILLS Mark (the "'109 Application") was filed by Respondent's predecessor-in-interest, the Chamber, on January 30, 2001 and issued as the '170 Registration.

46. Pursuant to PTO requirements, as part of the '109 Application, on January 30, 2001, the Chamber submitted a declaration stating in part that "to the best of his knowledge and belief no other person, firm, corporation, or association has the right to use the [BLACK HILLS] mark in commerce, either in the identical form thereof or in such near resemblance thereto as may be likely . . . to cause confusion" (the "Black Hills Declaration").

47. On information and belief, prior to January 30, 2001 and thereafter, numerous entities and businesses, unlicensed by the Chamber, used the designation "Black Hills" to market and promote goods and services related to the Black Hills Goods and Services and associated with



the Sturgis Motorcycle Rally. Those companies included, but were not limited to, motorcycle clubs, camp grounds, and local Sturgis, South Dakota businesses.

48. On information and belief, the Chamber, and by assignment Respondent, knew that these nonlicensed entities and businesses sold and have continued to sell and offer goods and services bearing the geographic location “Black Hills.”

49. On information and belief, the Black Hills Declaration was knowingly false, made with the intent to deceive the PTO, and constituted a material factor in obtaining the ‘170 Registration.

50. The PTO refused registration of the ‘109 Application based on the ground that the mark was primarily merely geographically descriptive pursuant to Section 2(e)(2) of the Lanham Act.

51. In response to the Section 2(e)(2) refusal, the Chamber filed a statement and affidavit under Section 2(f) of the Lanham Act (the “Black Hills 2(f) Affidavit”) claiming that the BLACK HILLS Mark had acquired distinctiveness as a result of Respondent’s “substantially exclusive and continuous use” of the term “Black Hills” in connection with the Black Hills Goods and Services for at least five years before November 2, 2001, the filing date of the Black Hills 2(f) Affidavit.

52. In addition to the 2(f) Affidavit, the Chamber submitted a claim that the BLACK HILLS Mark was entitled to a finding of acquired distinctiveness based on its ownership of Registration No. 1,948,097 of the mark BLACK HILLS MOTOR CLASSIC STURGIS RALLY & RACES BLACK HILLS S.D. & Design.

53. The apparent acceptance of Registration No. 1,948,097 as the basis for acquired distinctiveness was incorrect since the BLACK HILLS MOTOR CLASSIC STURGIS RALLY

& RACES BLACK HILLS S.D. & Design mark is not the legal equivalent of the BLACK HILLS Mark as required by the PTO's rules.

54. On information and belief, for more than five years prior to November 2, 2001, numerous entities and businesses, unlicensed by the Chamber, used the designation "Black Hills" to market and promote goods and services related to the Black Hills Goods and Services and associated with the Sturgis Motorcycle Rally. Those companies included, but were not limited to, motorcycle clubs, camp grounds, and local Sturgis, South Dakota businesses.

55. On information and belief, the Chamber, and by assignment Respondent, knew that these nonlicensed entities and businesses sold and have continued to sell and offer goods and services bearing the geographic location "Black Hills."

56. Accordingly, the Chamber, and by assignment Respondent, could not have engaged in "substantially exclusive" use of the BLACK HILLS Mark.

57. On information and belief, the Chamber, and by assignment Respondent, was aware at the time of filing the Black Hills 2(f) Affidavit that it had not engaged in "substantially exclusive" use of the term "Black Hills" for the Black Hills Goods and Services, and does not do so currently today.

58. As a result of the Chamber's claim of acquired distinctiveness and supporting affidavit, the PTO withdrew the refusal and subsequently allowed the '170 Registration to issue. Therefore, the Black Hills 2(f) Affidavit was material to the examination and issuance of the '170 Registration.

59. On information and belief, the Black Hills 2(f) Affidavit was knowingly false, made with the intent to deceive the PTO, and constituted a material factor in obtaining the '170 Registration.

60. After withdrawing the 2(e)(2) refusal, the PTO published the '109 Application on September 3, 2002, which subsequently issued as the '170 Registration.

61. On June 30, 2010, the Chamber assigned the '109 Application to Respondent and the assignment was recorded with the PTO on July 21, 2010.

62. Relying on the '170 Registration and its alleged rights in the BLACK HILLS Mark, Respondent has attempted to prevent third-parties, including members of Petitioner, from using the term "Black Hills" in connection with goods and services bearing the term "Black Hills."

63. Respondent's activities prevent members of Petitioner from engaging in its business activities and interfere with Petitioner's purpose. As a result, Petitioner has been damaged and will be damaged by the continued registration of the BLACK HILLS Mark

**Count One**

**Respondent was not and is not Entitled to Trademark Rights in the Term "Sturgis"**

64. Petitioner restates, realleges and incorporates by reference the allegations set forth in paragraphs 1 through 63 above.

65. Long prior to the filing of the '104 Application, numerous third-parties used the term "Sturgis" to identify goods and services related to the SMRI Goods and Services and the Sturgis Motorcycle Rally.

66. Such third-party use of the term "Sturgis" to identify goods and services related to the SMRI Goods and Services and the Sturgis Motorcycle Rally continues today.

67. As a result of widespread third-party use of the term "Sturgis" to identify goods and services related to the SMRI Goods and Services and the Sturgis Motorcycle Rally, the term "Sturgis" is not exclusively associated with any one entity for goods and services related to the SMRI Goods and Services and the Sturgis Motorcycle Rally.

68. Accordingly, at the time of filing the '104 Application and today, the term "Sturgis" was not and is not sufficiently distinctive to warrant trademark protection. Therefore, Respondent was not and is not entitled to trademark rights in the STURGIS Mark at the time of filing the '104 Application, and the '284 Registration should be cancelled.

**Count Two**  
**Fraudulent Procurement of the '284 Registration**

69. Petitioner restates, reallages and incorporates by reference the allegations set forth in paragraphs 1- 68 above.

70. In filing the '104 Application for the mark STURGIS, Respondent was required to submit the Sturgis Declaration.

71. At the time of filing the '104 Application and today, numerous unlicensed entities used the term "Sturgis" for goods and services related to the SMRI Goods and Services.

72. At the time of filing the '104 Application, Respondent knew of these third-party uses and therefore knew that its statements in the Sturgis Declaration were false and made with the intent to deceive the PTO into issuing the '284 Registration.

73. The submission of the Sturgis Declaration resulted in the issuance of the '284 Registration and was therefore material.

74. Respondent's false statements and actions with respect to the Sturgis Declaration constituted fraud on the PTO and therefore warrant cancellation of the '284 Registration.

**Count Three**  
**Fraudulent Procurement of the '284 Registration**

75. Petitioner restates, reallages and incorporates by reference the allegations set forth in paragraphs 1- 74 above.

76. In obtaining the '284 Registration for the STURGIS Mark, Respondent was required to demonstrate that the mark had acquired distinctiveness pursuant to Section 2(f) of the Lanham Act, and did this by claiming that it had engaged in "substantially exclusive and continuous use" of the term "Sturgis" for the SMRI Goods and Services for five years before the filing date of the Sturgis 2(f) Affidavit.

77. At the time of filing the Sturgis 2(f) Affidavit and today, numerous unlicensed entities used the term "Sturgis" for goods and services related to the SMRI Goods and Services.

78. At the time of filing the Sturgis 2(f) Affidavit, Respondent knew of these third-party uses and therefore knew that it had not engaged in "substantially exclusive and continuous use" of the term "Sturgis" for the SMRI Goods and Services for at least the five years preceding the filing of the Sturgis 2(f) Affidavit.

79. The Sturgis 2(f) Affidavit was therefore submitted with the intent to deceive the PTO into issuing the '284 Registration.

80. The submission of the Sturgis 2(f) Affidavit resulted in the removal of the PTO's refusal based on Section 2(e)(2) of the Lanham Act and was therefore material to the issuance of the '284 Registration.

81. Respondent's statements and actions with respect to the Sturgis 2(f) Affidavit constituted fraud on the PTO and therefore warrant cancellation of the '284 Registration.

**Court Four**  
**The STURGIS Mark is Primarily Geographically Descriptive**

82. Petitioner restates, realleges and incorporates by reference the allegations set forth in paragraphs 1- 81 above.

83. The name "Sturgis" is primarily a designator of a geographic place, namely, the town of Sturgis, South Dakota where the annual Sturgis Motorcycle Rally is held.

84. The name “Sturgis” is primarily geographically descriptive of the SMRI Goods and Services, since they are related to or associated with the town of Sturgis, South Dakota.

85. Respondent is not entitled to rights in or registration of the STURGIS Mark because the name “Sturgis” is primarily geographically descriptive under Section 2(e) of the Lanham Act and, therefore the ‘284 Registration should be cancelled.

**Count Five**  
**The STURGIS Mark Lacks Secondary Meaning**

86. Petitioner restates, realleges and incorporates by reference the allegations set forth in paragraphs 1 through 85 above.

87. The term “Sturgis” is primarily a designator of a geographic place, namely, the town of Sturgis, South Dakota.

88. The term “Sturgis” is geographically descriptive of the SMRI Goods and Services as being related to or originating from the town of Sturgis, South Dakota.

89. For more than five years prior to the filing of the Sturgis Affidavit, numerous businesses and entities used and continue to use the term “Sturgis” to identify goods and services related to the SMRI Goods and Services in connection with the Sturgis Motorcycle Rally.

90. Respondent’s statements in the Sturgis 2(f) Affidavit to establish acquired distinctiveness of the STURGIS Mark were false in that Respondent had not engaged in and does not currently engage in “substantially exclusive and continuous use” of the mark at the time of the Sturgis 2(f) Affidavit.

91. As a result, Respondent was not entitled to a finding of acquired distinctiveness and the STURGIS Mark is primarily geographically descriptive. Therefore, the ‘284 Registration should be cancelled.

**Count Six**

**Respondent was not and is not Entitled to Trademark Rights in the Term “Black Hills”**

92. Petitioner restates, realleges and incorporates by reference the allegations set forth in paragraphs 1 through 91 above.
93. Long prior to the filing of the ‘109 Application, numerous third-parties used the term “Black Hills” to identify goods and services related to the Black Hills Goods and Services and the Sturgis Motorcycle Rally.
94. Such third-party use of the term “Black Hills” to identify goods and services related to the Black Hills Goods and Services and the Sturgis Motorcycle Rally continues today.
95. As a result of widespread third-party use of the term “Black Hills” to identify goods and services related to the Black Hills Goods and Services and the Sturgis Motorcycle Rally, the term “Black Hills” was not and is not exclusively associated with any one entity for goods and services related to the Black Hills Goods and Services and the Sturgis Motorcycle Rally.
96. Accordingly, at the time of filing the ‘109 Application and today, the term “Black Hills” was not and is not sufficiently distinctive to warrant trademark protection. Therefore, Respondent was not entitled to trademark rights in the BLACK HILLS Mark at the time of filing the ‘109 Application, and the ‘170 Registration should be cancelled.

**Count Seven**

**Fraudulent Procurement of the ‘170 Registration**

97. Petitioner restates, realleges and incorporates by reference the allegations set forth in paragraphs 1- 96 above.
98. In filing the ‘109 Application for the BLACK HILLS Mark, Respondent was required to submit the Black Hills Declaration.
99. At the time of filing the ‘109 Application and today, numerous unlicensed entities used the term “Black Hills” for goods and services related to the Black Hills Goods and Services.

100. At the time of filing the '109 Application, Respondent knew of these third-party uses and therefore knew that its statements in the Black Hills Declaration were false and made with the intent to deceive the PTO into issuing the '170 Registration.

101. The submission of the Black Hills Declaration with false statements resulted in the issuance of the '170 Registration and was therefore material.

102. Respondent's false statements and actions with respect to the Black Hills Declaration constituted fraud on the PTO and therefore warrant cancellation of the '170 Registration.

**Count Eight**  
**Fraudulent Procurement of the '170 Registration**

103. Petitioner restates, reallages and incorporates by reference the allegations set forth in paragraphs 1- 102 above.

104. In obtaining the '170 Registration for the BLACK HILLS Mark, Respondent was required to demonstrate that the mark had acquired distinctiveness pursuant to Section 2(f) of the Lanham Act, and did this by claiming that it had engaged in "substantially exclusive and continuous use" of the term "Black Hills" for the Black Hills Goods and Services for five years before the filing date of the Black Hills 2(f) Affidavit.

105. At the time of filing the Black Hills 2(f) Affidavit and today, numerous unlicensed entities used the term "Black Hills" for goods and services related to the Black Hills Goods and Services.

106. At the time of filing the Black Hills 2(f) Affidavit, Respondent knew of these third-party uses and therefore knew that it had not engaged in "substantially exclusive and continuous use" of the term "Black Hills" for the Black Hills Goods and Services for at least the five years preceding the filing of the Black Hills 2(f) Affidavit.



107. The Black Hills 2(f) Affidavit was therefore submitted with the intent to deceive the PTO into issuing the '170 Registration.

108. The submission of the Black Hills 2(f) Affidavit resulted in the removal of the PTO's refusal based on Section 2(e)(2) of the Lanham Act and was therefore material to the issuance of the '170 Registration.

109. Respondent's statements and actions with respect to the Black Hills 2(f) Affidavit constituted fraud on the PTO and therefore warrant cancellation of the '170 Registration.

**Court Nine**  
**The BLACK HILLS Mark is Primarily Geographically Descriptive**

110. Petitioner restates, realleges and incorporates by reference the allegations set forth in paragraphs 1- 109 above.

111. The name "Black Hills" is primarily a designator of a geographic place, namely, a group of mountains in western South Dakota, where the annual Sturgis Motorcycle Rally is held.

112. The name "Black Hills" is primarily geographically descriptive of the Black Hills Goods and Services, since they are related to or associated with the Black Hills mountain region.

113. Respondent is not entitled to rights in or registration of the BLACK HILLS Mark because the name "Black Hills" is primarily geographically descriptive under Section 2(e) of the Lanham Act, and therefore the '170 Registration should be cancelled.

**Count Ten**  
**The BLACK HILLS Mark Lacks Secondary Meaning**

114. Petitioner restates, realleges and incorporates by reference the allegations set forth in paragraphs 1 through 113 above.

115. The term "Black Hills" is primarily a designator of a geographic place, namely, a group of mountains in western South Dakota.

116. The term "Black Hills" is geographically descriptive of the Black Hills Goods and Services as being related to or originating from the Black Hills mountain region.

117. For more than five years prior to the filing of the Black Hills 2(f) Affidavit, numerous businesses and entities used and continue to use the term "Black Hills" to identify goods and services related to the Black Hills Goods and Services in connection with the Sturgis Motorcycle Rally.

118. Respondent's statements in the Black Hills 2(f) Affidavit to establish acquired distinctiveness of the BLACK HILLS Mark were false in that Respondent had not engaged in and does not currently engage in "substantially exclusive and continuous use" of the mark at the time of the Black Hills 2(f) Affidavit.

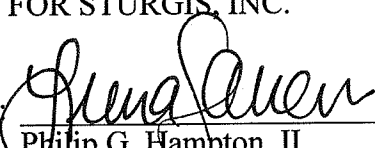
119. As a result, Respondent was not entitled to a finding of acquired distinctiveness and the BLACK HILLS Mark is primarily geographically descriptive. Therefore, the '170 Registration should be cancelled.

WHEREFORE, Petitioner prays that this Petition be granted and that Registration Nos. 3,923,284 for the mark STURGIS and 3,955,170 for the mark BLACK HILLS be cancelled.

Respectfully submitted,

CONCERNED CITIZENS  
FOR STURGIS, INC.

Dated: 10/21/11

By:   
Philip G. Hampton, II  
Luna M. Samman  
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Certificate of Service

I hereby certify that a true copy of the foregoing Petition for Cancellation was served upon the following attorney of record for Respondent by first class mail, this 21st day of October, 2011:

Jason Sneed, Esq.  
Sneed PLLC  
610 Jetton Street, Suite 120-107  
Davidson, North Carolina 28036



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## EXHIBIT A

# United States of America

United States Patent and Trademark Office

## STURGIS

**Reg. No. 3,923,284**

**Registered Feb. 22, 2011**

**Int. Cls.: 6, 8, 9, 13, 16,  
20, 21, 24, 25, 26, 28, 32,  
33, 35, and 41**

**TRADEMARK**

**SERVICE MARK**

**PRINCIPAL REGISTER**

STURGIS MOTORCYCLE RALLY, INC. (SOUTH DAKOTA NON-PROFIT ECONOMIC  
DEVELOPMENT CORPORATION)  
1612 JUNCTION AVE, SUITE 4  
STURGIS, SD 57785

FOR: METAL KEY RINGS, ALL OF THE AFOREMENTIONED GOODS RELATING TO THE  
STURGIS MOTORCYCLE RALLY, IN CLASS 6 (U.S. CLS. 2, 12, 13, 14, 23, 25 AND 50).

FIRST USE 8-31-2006; IN COMMERCE 8-31-2006.

FOR: HAND-OPERATED HAND TOOLS, NAMELY, HUNTING KNIVES, POCKET KNIVES,  
SIDEARM KNIVES, FOLDING KNIVES, SPORT KNIVES, KNIVES MADE OF PRECIOUS  
METAL, ALL OF THE AFOREMENTIONED GOODS RELATING TO THE STURGIS MOTOR-  
CYCLE RALLY, IN CLASS 8 (U.S. CLS. 23, 28 AND 44).

FIRST USE 5-31-1985; IN COMMERCE 5-31-1985.

FOR: SUNGLASSES, MAGNETS AND MOTORCYCLE HELMETS, ALL OF THE AFORE-  
MENTIONED GOODS RELATING TO THE STURGIS MOTORCYCLE RALLY, IN CLASS 9  
(U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 8-31-1995; IN COMMERCE 8-31-1995.

FOR: FIREARMS, ALL OF THE AFOREMENTIONED GOODS RELATING TO THE STURGIS  
MOTORCYCLE RALLY, IN CLASS 13 (U.S. CLS. 2 AND 9).

FIRST USE 6-30-1998; IN COMMERCE 6-30-1998.

FOR: PENS; AND PAPER GOODS AND PRINTED MATTER, NAMELY, POSTERS; BUMPER  
STICKERS; DECALS; IRON-ON AND PLASTIC TRANSFERS; WINDOW STICKERS; NOTE  
PADS; MOUNTED PHOTOGRAPHS, AND UNMOUNTED PHOTOGRAPHS; PRINTS,  
NAMELY, COLOR PRINTS, PHOTOGRAPHIC PRINTS, AND PICTORIAL PRINTS; PAPER  
AND PLASTIC BAGS FOR PACKAGING; AND POSTCARDS; ALL OF THE AFOREMEN-  
TIONED GOODS RELATING TO THE STURGIS MOTORCYCLE RALLY, IN CLASS 16 (U.S.  
CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 8-31-1987; IN COMMERCE 8-31-1987.

FOR: NON-METAL KEY RINGS AND JEWELRY BOXES NOT OF METAL, ALL OF THE  
AFOREMENTIONED GOODS RELATING TO THE STURGIS MOTORCYCLE RALLY, IN  
CLASS 20 (U.S. CLS. 2, 13, 22, 25, 32 AND 50).

FIRST USE 8-31-2002; IN COMMERCE 8-31-2002.



*David J. Kybas*

Director of the United States Patent and Trademark Office

**Reg. No. 3,923,284** FOR: GLASSWARE, NAMELY, SHOT GLASSES, DRINKING GLASSES, DRINKING CUPS, AND DRINKING MUGS; INSULATING SLEEVE HOLDERS MADE OF RUBBER, PLASTIC OR FOAM FOR BEVERAGE CANS; INSULATING SLEEVE HOLDERS MADE OF RUBBER, PLASTIC OR FOAM FOR BEVERAGE BOTTLES; COASTERS NOT OF PAPER AND NOT BEING TABLE LINEN; BOTTLE OPENERS; AND BEER STEINS; ALL OF THE AFOREMENTIONED GOODS RELATING TO THE STURGIS MOTORCYCLE RALLY, IN CLASS 21 (U.S. CLS. 2, 13, 23, 29, 30, 33, 40 AND 50).

FIRST USE 8-31-1995; IN COMMERCE 8-31-1995.

FOR: CLOTH FLAGS, CLOTH BANNERS, AND QUILTS, ALL OF THE AFOREMENTIONED GOODS RELATING TO THE STURGIS MOTORCYCLE RALLY, IN CLASS 24 (U.S. CLS. 42 AND 50).

FIRST USE 8-31-2004; IN COMMERCE 8-31-2004.

FOR: CLOTHING, NAMELY, SHIRTS, T-SHIRTS, LONG SLEEVE T-SHIRTS, SLEEVELESS T-SHIRTS, DENIM SHIRTS, GOLF SHIRTS, JACKETS, COATS, TANK TOPS, POLO SHIRTS, SWEATSHIRTS, PULLOVERS, WOMEN'S TOPS, CHEMISES, CLOTH WRAPS, HEAD WEAR, BANDANNAS, CAPS, CLOTH HEADWRAPS, HATS, SCARVES, BELTS, CHAPS, GLOVES, AND SUN VISORS, ALL OF THE AFOREMENTIONED GOODS RELATING TO THE STURGIS MOTORCYCLE RALLY, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 8-31-1984; IN COMMERCE 8-31-1984.

FOR: CLOTH AND EMBROIDERED PATCHES FOR CLOTHING, ORNAMENTAL CLOTH PATCHES, HAT PINS FOR SECURING HATS, BELT BUCKLES NOT OF PRECIOUS METAL, AND NOVELTY ORNAMENTAL PINS, ALL OF THE AFOREMENTIONED GOODS RELATING TO THE STURGIS MOTORCYCLE RALLY, IN CLASS 26 (U.S. CLS. 37, 39, 40, 42 AND 50).

FIRST USE 8-31-1986; IN COMMERCE 8-31-1986.

FOR: CHRISTMAS TREE ORNAMENTS AND GAMING CHIPS, ALL OF THE AFOREMENTIONED GOODS RELATING TO THE STURGIS MOTORCYCLE RALLY, IN CLASS 28 (U.S. CLS. 22, 23, 38 AND 50).

FIRST USE 6-30-2001; IN COMMERCE 6-30-2001.

FOR: BOTTLED SPRING WATER AND BEER, ALL OF THE AFOREMENTIONED GOODS RELATING TO THE STURGIS MOTORCYCLE RALLY, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 6-30-2005; IN COMMERCE 6-30-2005.

FOR: DISTILLED LIQUOR, ALL OF THE AFOREMENTIONED GOODS RELATING TO THE STURGIS MOTORCYCLE RALLY, IN CLASS 33 (U.S. CLS. 47 AND 49).

FIRST USE 6-30-2002; IN COMMERCE 6-30-2002.

FOR: PROMOTING SPORTS COMPETITIONS OF OTHERS, NAMELY, MOTORCYCLE AND VEHICLE RALLIES, EXHIBITS, AND COMPETITIONS; PROMOTING THE GOODS AND SERVICES OF OTHERS BY ARRANGING FOR SPONSORS TO AFFILIATE THEIR GOODS AND SERVICES WITH THE STURGIS MOTORCYCLE RALLY; PROMOTING ECONOMIC DEVELOPMENT IN THE CITY OF STURGIS AND THE BLACK HILLS AREA OF SOUTH DAKOTA AND WYOMING; AND ON-LINE RETAIL STORE SERVICES RELATING TO THE STURGIS MOTORCYCLE RALLY, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

**Reg. No. 3,923,284** FIRST USE 6-30-2002; IN COMMERCE 6-30-2002.

FOR: ENTERTAINMENT SERVICES IN THE NATURE OF ORGANIZING AND CONDUCTING MOTORCYCLE AND VEHICLE EXHIBITIONS AND RALLIES; ORGANIZING AND CONDUCTING THE ENTERTAINMENT EVENTS OF OTHERS, NAMELY, MOTORCYCLE AND VEHICLE EXHIBITIONS, RALLIES, AND COMPETITIONS; AND ENTERTAINMENT SERVICES IN THE NATURE OF LIVE CIVIC PRODUCTIONS, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 6-30-2002; IN COMMERCE 6-30-2002.

OWNER OF U.S. REG. NO. 1,948,097.

SEC. 2(F).

SN 76-979,104, FILED 1-30-2001.

BARBARA GAYNOR, EXAMINING ATTORNEY

EXHIBIT B



APPLICANT:

Sturgis Area Chamber of Commerce

GOODS AND SERVICES (continued):

Entertainment services in the nature of organizing, sponsoring, promoting, and conducting a motorcycle and vehicle exhibitions and rallies; and entertainment services in the nature of organizing, sponsoring, promoting, and conducting civic productions and live music concerts (Int. Class 41).

**STURGIS**



01-30-2001

U.S. Patent & TMO/TM Mail Rpt Dt. #54

**TRADEMARK**



76201759

76201759

TRADEMARK APPLICATION SERIAL NO. \_\_\_\_\_

U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE  
FEE RECORD SHEET

02/02/2001 SWILSON 00000043 76201759

01 FC:361

6825.00 OP

Express Mail No. EL004184137US

## ALSTON & BIRD LLP

1211 East Morehead Street  
P. O. Drawer 34009  
Charlotte, NC 28234-4009

704-331-6000  
Fax: 704-334-2014  
www.alston.com

Henry B. Ward, III

E-mail: hward@alston.com

January 30, 2001

**Box NEW APP - FEE**

Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

**CERTIFICATE OF EXPRESS MAILING**

Express mailing label number EL004184137US

Date of Deposit January 30, 2001

I hereby certify that this paper or fee is being deposited  
with the United States Postal Service "Express Mail Post  
Office to Addressee" on the date indicated above and is  
addressed to: Assistant Commissioner for Trademarks,  
2900 Crystal Drive, Arlington, VA 22202-3515.

Gail B. Stewart  
Gail B. Stewart

Sir:

Enclosed is an **INTENT-TO-USE** application for registration of the **STURGIS** mark for filing on behalf of Sturgis Area Chamber of Commerce, including a drawing of the mark, and the requisite Government filing fee of \$6,825.00.

If the enclosed check is not sufficient to cover the current government fees for filing the enclosed document, please obtain any necessary additional amount from our Deposit Account No. 16-0605.

Respectfully submitted,

Henry B. Ward, III  
Henry B. Ward, III

HBW:gbs:cg

CLT01/4462784v1

File No.: 41949.193173

One Atlantic Center  
1201 West Peachtree Street  
Atlanta, GA 30309-3424  
404-881-7000  
Fax: 404-881-7777

3605 Glenwood Avenue  
Suite 310  
Raleigh, NC 27612-4957  
919-420-2200  
Fax: 919-420-2260

601 Pennsylvania Avenue, N.W.  
North Building, 11th Floor  
Washington, DC 20004-2601  
202-756-3300  
Fax: 202-756-3333

TRADEMARK AND SERVICE MARK

**STURGIS**

Int. Class 6  
Metal Goods

Int. Class 8  
Hand Tools

Int. Class 9  
Electrical and Scientific Apparatus

Int. Class 11  
Environmental Control Apparatus

Int. Class 12  
Vehicles

Int. Class 13  
Firearms

Int. Class 14  
Jewelry

Int. Class 16  
Paper Goods and Printed Matter

Int. Class 18  
Leather Goods

Int. Class 20  
Furniture and Articles Not Otherwise Classified

Int. Class 21  
Housewares and Glass

Int. Class 24  
Fabrics

Int. Class 25  
Clothing

Int. Class 26  
Fancy Goods

Int. Class 27  
Floor Coverings

Int. Class 28  
Toys and Sporting Goods

Int. Class 32  
Light Beverages

Int. Class 33  
Wines and Spirits

Int. Class 34  
Smokers Articles

Int. Class 35  
Advertising and Business

Int. Class 41  
Education and Entertainment

TO THE ASSISTANT COMMISSIONER FOR TRADEMARKS:

Sturgis Area Chamber of Commerce  
a South Dakota corporation  
Post Office Box 504  
Sturgis, South Dakota 57785

The above-identified Applicant requests registration of the above-identified mark, as shown in the accompanying drawing, in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. §1051 *et seq.*, as amended) for the following goods and services: METAL KEY RINGS, METAL LICENSE PLATES,

METAL BOXES, AND METAL SIGNS (Int. Class 6); HAND TOOLS (Int. Class 8);  
SUNGLASSES, NOVELTY TELEPHONES, PRE-RECORDED VIDEOS, DIE-CAST  
BANKS, COMPUTER MOUSE PADS, MAGNETS, ELECTRONIC VIDEO GAME  
SOFTWARE, HELMETS, COMPUTER SCREEN SAVERS, AND NEON SIGNS (Int. Class  
9); LAMPS (Int. Class 11); LICENSE PLATE HOLDERS AND HANDLEBAR GRIPS (Int.  
Class 12); FIREARMS (Int. Class 13); JEWELRY, WATCH BANDS, BELT BUCKLES OF  
PRECIOUS METAL, COINS, MEDALLIONS, TOKENS, CIGARETTE LIGHTERS OF  
PRECIOUS METAL, CLOCKS, AND WATCHES (Int. Class 14); PENCILS; PENS; AND  
PAPER GOODS AND PRINTED MATTER, NAMELY, POSTERS; BUMPER STICKERS;  
TRADING CARDS; DECALS; TRANSFERS; WINDOW STICKERS; WALL CALENDARS;  
NOTE PADS; DESK SETS; LITHOGRAPHS; MOUNTED PHOTOGRAPHS; UNMOUNTED  
PHOTOGRAPHS; PRINTS, NAMELY, ART PRINTS, CARTOON PRINTS, COLOR  
PRINTS, PHOTOGRAPHIC PRINTS, LITHOGRAPHIC PRINTS, AND PICTORIAL  
PRINTS; BROCHURES AND BOOKS DIRECTED TO MOTORCYCLES, AUTOMOBILES,  
AND TRUCKS; PAPER PENNANTS; PAPER BANNERS; TEMPORARY TATTOS; PAPER  
AND PLASTIC BAGS FOR PACKAGING; PAPER AND PLASTIC GIFT BAGS;  
POSTCARDS; AND PICTURE FRAME MAT BOARDS (Int. Class 16); WALLET, BAGS,  
DOG COLLARS AND LEASHES FOR ANIMALS (Int. Class 18); NON-METAL KEY  
RINGS, PLASTIC NOVELTY LICENSE PLATES, AND JEWELRY BOXES NOT OF  
METAL (Int. Class 20); GLASSWARE, NAMELY, SHOT GLASSES, DRINKING GLASSES,  
DRINKING CUPS, AND DRINKING MUGS; INSULATING SLEEVE HOLDERS MADE OF  
RUBBER, PLASTIC OR FOAM FOR BEVERAGE CANS; INSULATING SLEEVE

HOLDERS MADE OF RUBBER, PLASTIC OR FOAM FOR BEVERAGE BOTTLES; PAPER CUPS; GREASE AND POLISH RAGS; PORTABLE COOLERS; COASTERS; BOTTLE OPENERS; WATER BOTTLES SOLD EMPTY; SPORTS BOTTLES SOLD EMPTY; BEER STEINS; AND KITCHEN UTENSILS (Int. Class 21); AFGHANS, TOWELS, CLOTH FLAGS, CLOTH PENNANTS, CLOTH BANNERS, AND QUILTS (Int. Class 24); CLOTHING (Int. Class 25); CLOTH AND EMBROIDERED PATCHES, HAT PINS, BELT BUCKLES NOT OF PRECIOUS METAL, AND NOVELTY PINS (Int. Class 26); FLOOR MATS FOR VEHICLES, TEXTILE FLOOR MATS FOR USE IN THE HOME, RUBBER FLOOR MATS FOR USE AS DOOR MATS, TEXTILE FLOOR MATS FOR USE AS DOOR MATS, AND RUGS (Int. Class 27); MINIATURE TOY VEHICLES, ELECTRIC MINIATURE TOY VEHICLES, RADIO CONTROLLED VEHICLES, MODEL VEHICLES, MINIATURE BANKS IN THE SHAPE OF VEHICLES, CHRISTMAS TREE ORNAMENTS, FISHING LURES, BALLOONS, GAMING CHIPS, SPORTS BALLS, AND WIND SOCKS (Int. Class 28); BOTTLED WATER AND BEER (Int. Class 32); LIQUOR (Int. Class 33); ASHTRAYS, CIGARS, CIGAR CUTTERS, CIGARETTE LIGHTERS NOT OF PRECIOUS METAL, AND MATCHES (Int. Class 34); ORGANIZING, SPONSORING, PROMOTING, AND CONDUCTING EVENTS OF OTHERS, NAMELY, MOTORCYCLE AND VEHICLE RALLIES, EXHIBITS, AND COMPETITIONS; PROMOTING ECONOMIC DEVELOPMENT IN THE CITY OF STURGIS AND THE BLACK HILLS AREA OF SOUTH DAKOTA AND WYOMING; AND MAIL ORDER, CATALOG, RETAIL STORE, WHOLESALE STORE, ON-LINE RETAIL STORE, AND RETAIL TELEVISION STORE SERVICES FEATURING A VARIETY OF GENERAL MERCHANDISE AND PRODUCTS (Int. Class 35); and ENTERTAINMENT

SERVICES IN THE NATURE OF ORGANIZING, SPONSORING, PROMOTING, AND CONDUCTING MOTORCYCLE AND VEHICLE EXHIBITIONS AND RALLIES; AND ENTERTAINMENT SERVICES IN THE NATURE OF ORGANIZING, SPONSORING, PROMOTING, AND CONDUCTING CIVIC PRODUCTIONS AND LIVE MUSIC CONCERTS (Int. Class 41).

Applicant has a bona fide intention to use the mark in commerce on or in connection with the above-identified goods and services in accordance with 15 U.S.C. § 1051(b).

Applicant hereby appoints Henry B. Ward, III, Dickson M. Lupo, George M. Taulbee, Martha Gayle Barber, and Brian M. Davis, members of the Bar of the State of North Carolina, and members of ALSTON & BIRD LLP, Post Office Drawer 34009, Charlotte, North Carolina 28234, (704) 331-6000, as Applicant's representative upon whom notice or process in the proceedings affecting the mark may be served and to prosecute this application for registration, to transact all business in the U.S. Patent and Trademark Office connected therewith, and to receive the Certificate of Registration.

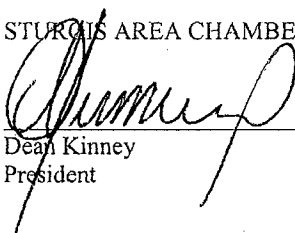


DECLARATION

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he is properly authorized to execute this application on behalf of the Applicant; that he believes the Applicant to be the owner of the mark sought to be registered, or, if the application is being filed under 15 U.S.C. § 1051(b), that he believes the Applicant to be entitled to use such mark in commerce; that to the best of his knowledge and belief no other person, firm, corporation, or association has the right to use the above-identified mark in commerce, either in the identical form thereof or in such near resemblance thereto as may be likely, when used on or in connection with the goods and/or services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his own knowledge are true and all statements made on information and belief are believed to be true.

Date: 12-19-00

STURGIS AREA CHAMBER OF COMMERCE

  
\_\_\_\_\_  
Dean Kinney  
President

APPLICANT: Sturgis Area Chamber of Commerce

ADDRESS: Post Office Box 504  
Sturgis, South Dakota 57785

USE: Applicant has a bona fide intention to use the mark in commerce.

GOODS AND SERVICES: Metal key rings, metal license plates, metal boxes, and metal signs (Int. Class 6);  
Hand tools (Int. Class 8);  
Sunglasses, novelty telephones, pre-recorded videos, die-cast banks, computer mouse pads, magnets, electronic video game software, helmets, computer screen savers, and neon signs (Int. Class 9);  
Lamps (Int. Class 11);  
License plate holders and handlebar grips (Int. Class 12);  
Firearms (Int. Class 13);  
Jewelry, watch bands, belt buckles of precious metal, coins, medallions, tokens, cigarette lighters of precious metal, clocks, and watches (Int. Class 14);  
Pencils; pens; and paper goods and printed matter, namely, posters; bumper stickers; trading cards; decals; transfers; window stickers; wall calendars; note pads; desk sets; lithographs; mounted photographs; unmounted photographs; prints, namely, art prints, cartoon prints, color prints, photographic prints, lithographic prints, and pictorial prints; brochures and books directed to motorcycles, automobiles and trucks; paper pennants; paper banners; temporary tattoos; paper and plastic bags for packaging; paper and plastic gift bags; postcards, and picture frame mat boards (Int. Class 16);  
Wallets, bags, dog collars, and leashes for animals (Int. Class 18);  
Non-metal key rings, plastic novelty license plates, and jewelry boxes not of metal (Int. Class 20);

APPLICANT:

Sturgis Area Chamber of Commerce

GOODS AND SERVICES (continued):

Glassware, namely, shot glasses, drinking glasses, drinking cups, and drinking mugs; insulating sleeve holders made of rubber, plastic or foam for beverage cans; insulating sleeve holders made of rubber, plastic or foam for beverage bottles; paper cups; grease and polish rags; portable coolers; coasters; bottle openers; water bottles sold empty; sports bottles sold empty; beer steins; and kitchen utensils (Int. Class 21);  
Afghans, towels, cloth flags, cloth pennants, cloth banners, and quilts (Int. Class 24);  
Clothing (Int. Class 25);  
Cloth and embroidered patches, hat pins, belt buckles not of precious metal, and novelty pins (Int. Class 26);  
Floor mats for vehicles, textile floor mats for use in the home, rubber floor mats for use as door mats, textile floor mats for use as door mats, and rugs (Int. Class 27);  
Miniature toy vehicles, electric miniature toy vehicles, radio controlled vehicles, model vehicles, miniature banks in the shape of vehicles, Christmas tree ornaments, fishing lures, balloons, gaming chips, sports balls, and wind socks (Int. Class 28);  
Bottled water and beer (Int. Class 32);  
Liquor (Int. Class 33);  
Ashtrays, cigars, cigar cutters, cigarette lighters not of precious metal, and matches (Int. Class 34);  
Organizing, sponsoring, promoting, and conducting events of others, namely, motorcycle and vehicle rallies, exhibits, and competitions; promoting economic development in the City of Sturgis and the Black Hills area of South Dakota and Wyoming; and mail order, catalog, retail store, wholesale store, on-line retail store, and retail television store services featuring a variety of general merchandise and products (Int. Class 35); and

## EXHIBIT C

TAB

"EXPRESS MAIL" MAILING LABEL

NUMBER EL702049969US

DATE OF DEPOSIT December 11, 2002

I HEREBY CERTIFY THAT THIS PAPER OR FEE IS BEING  
DEPOSITED WITH THE UNITED STATES POSTAL SERVICE  
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Christina A. Nahmias  
(TYPED OR PRINTED NAME OF PERSON MAILING  
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Christina A. Nahmias  
(SIGNATURE OF PERSON MAILING PAPER OR FEE)



12-11-2002

U.S. Patent & TMO/TM Mail Rcpt Dt. #7

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

In the matter of:	)	
	)	Opposition No.:
Application Serial No. 76/201,759	)	
	)	
Applicant: Sturgis Area Chamber	)	
of Commerce	)	Atty. Docket No. 6633-01
	)	
Filed on: January 30, 2001	)	
	)	
Mark: STURGIS	)	
	)	
Published: October 15, 2002	)	

Assistant Commissioner for Trademarks  
Trademark Trial and Appeal Board  
2900 Crystal Drive  
Arlington, VA 22202-3513

**NOTICE OF OPPOSITION**

Good Sports Sturgis, Inc., (Good Sports) a South Dakota corporation, having a  
place of business located at 349 Progress Drive, Manchester, Connecticut 06045,  
believes that it will be damaged by registration of the mark in the following  
application:

12/27/2002 CHAY11 00000211 76201759

01 FC:6402

1500.00 OP

Application Serial No. 76/201,759 (Application) filed January 30, 2001 by the Sturgis Area Chamber of Commerce (Applicant) and published for opposition in the Official Gazette on October 15, 2002 on Page TM 121, seeking registration of the mark STURGIS in non-stylized form for the goods and/or services listed in the following classifications:

**International Class: 006**

Metal key rings, metal license plates, metal boxes, non-luminous and non-mechanical metal signs, and metal die-cast piggy banks, all of the aforementioned goods relating to the STURGIS motorcycle rally.

**International Class: 008**

Hand-operated hand tools, namely, hunting knives, fishing knives, pocket knives, sidearm knives, folding knives, sport knives, knives made of precious metal, wrenches, pliers, socket sets, namely, socket wrenches and sockets, all of the aforementioned goods relating to the STURGIS motorcycle rally.

**International Class: 009**

Sunglasses, novelty telephones, pre-recorded videotapes featuring live music concerts, music videos, documentaries, and footage of vehicle rallies, exhibits and competitions, and footage of the Black Hills area of South Dakota and Wyoming, computer mouse pads, magnets, electronic video game software, protective or safety helmets, motorcycle helmets, bicycle helmets, screen saver computer software, and neon signs, all of the aforementioned goods relating to the STURGIS motorcycle rally.

**International Class: 011**

Lamps, all of the aforementioned goods relating to the STURGIS motorcycle rally.

**International Class: 012**

License plate holders and motorcycle handlebar grips, and motorcycle bags, all of the aforementioned goods relating to the STURGIS motorcycle rally.

**International Class: 013**

Firearms, all of the aforementioned goods relating to the STURGIS motorcycle rally.

**International Class: 014**

Jewelry, watch bands, belt buckles of precious metal, non-monetary coins, medallions, non-monetary tokens, clocks, and watches, all of the aforementioned goods relating to the STURGIS motorcycle rally.

**International Class: 016**

Pencils; pens; and paper goods and printed matter, namely, posters; bumper stickers; trading cards; decals; iron-on and plastic transfers; window stickers; wall calendars; note pads; desk sets; lithographs; mounted photographs; unmounted photographs; prints, namely, art prints, cartoon prints, color prints, photographic prints, lithographic prints, and pictorial prints; brochures and books about motorcycles, automobiles and trucks; paper pennants; paper banners; temporary tattoos; paper and plastic bags for packaging; paper and plastic gift bags; postcards, and picture frame mat boards, all of the aforementioned goods relating to the STURGIS motorcycle rally.

**International Class: 018**

Wallets, athletic bags, all purpose sport bags, beach bags, book bags, carry-on bags, duffel bags, gym bags, shoulder bags, tote bags, travel bags, overnight bags, dog collars, and leashes for animals, all of the aforementioned goods relating to the STURGIS motorcycle rally.

**International Class: 020**

Non-metal key rings, plastic novelty license plates, and jewelry boxes not of metal, all of the aforementioned goods relating to the STURGIS motorcycle rally.

**International Class: 021**

Glassware, namely, shot glasses, drinking glasses, drinking cups, and drinking mugs; insulating sleeve holders made of rubber, plastic or foam for beverage cans; insulating sleeve holders made of rubber, plastic or foam for beverage bottles; paper cups; grease and polish rags; portable coolers; coasters not of paper and not

being table linen; bottle openers; water bottles sold empty; sports bottles sold empty; beer steins; and kitchen utensils, namely, spatulas, turners, tongs, pan scrappers, grill scrappers, and grill baskets, all of the aforementioned goods relating to the STURGIS motorcycle rally.

**International Class: 024**

Afghans, towels, cloth flags, cloth pennants, cloth banners, and quilts, all of the aforementioned goods relating to the STURGIS motorcycle rally.

**International Class: 025**

Clothing, namely, shirts, T-shirts, long sleeve T-shirts, sleeveless T-shirts, denim shirts, woven shirts, knit shirts, golf shirts, sport shirts, sweaters, jackets, anoraks, coats, tank tops, polo shirts, sweatshirts, pullovers, boxer shorts, sleepwear, women's tops, chemises, cloth wraps, bikinis, beachwear, bathing suits, swim wear, head wear, bandannas, caps, cloth headwraps, berets, hats, scarves, head bands, belts, chaps, jeans, dungarees, boots, footwear, gloves, and sun visors, all of the aforementioned goods relating to the STURGIS motorcycle rally.

**International Class: 026**

Cloth and embroidered patches for clothing, ornamental cloth patches, hat pins for securing hats, belt buckles not of precious metal, and novelty ornamental pins, all of the aforementioned goods relating to the STURGIS motorcycle rally.

**International Class: 027**

Floor mats for vehicles, textile floor mats for use in the home, rubber floor mats for use as door mats, textile floor mats for use as door mats, and rugs, all of the aforementioned goods relating to the STURGIS motorcycle rally.

**International Class: 028**

Miniature toy vehicles, electric miniature toy vehicles, radio controlled toy vehicles, toy model vehicles, miniature toy banks in the shape of vehicles, Christmas tree ornaments, fishing lures, balloons, gaming chips, sports balls, and toy and/or decorative wind socks; die-cast toy



banks; and toy helmets, all of the aforementioned goods relating to the STURGIS motorcycle rally.

International Class: 032

Bottled spring water and beer, all of the aforementioned goods relating to the STURGIS motorcycle rally.

International Class: 033

Distilled liquor, all of the aforementioned goods relating to the STURGIS motorcycle rally.

International Class: 035

Promoting sports competitions of others, namely, motorcycle and vehicle rallies, exhibits, and competitions; promoting the goods and services of others by arranging for sponsors to affiliate their goods and services with the STURGIS motorcycle rally; promoting economic development in the City of Sturgis and the Black Hills area of South Dakota and Wyoming; and mail order, catalog, retail store, wholesale store, on-line retail store, and retail television store services featuring general merchandise and souvenirs relating to the STURGIS motorcycle rally.

International Class: 041

Entertainment services in the nature of organizing and conducting motorcycle and vehicle exhibitions and rallies; organizing and conducting the entertainment events of others, namely, motorcycle and vehicle exhibitions, rallies, and competitions; and entertainment services in the nature of live civic productions and live music concerts.

Accordingly, Good Sports opposes the Application, and in particular opposes registration in the following international classes (IC):

- 1) IC: 14, Jewelry;
- 2) IC: 21, Housewares and glass;
- 3) IC: 25, Clothing;
- 4) IC: 26, Fancy goods; and
- 5) IC: 35, Advertising and business.

The grounds for the Opposition are as follows:

1. Good Sports has continuously used the name STURGIS in commerce on or in connection with the sale of "Rally Products" as defined in the Application, including, clothing, t-shirts, bandanas, jewelry, pins, patches, and glassware at the

Sturgis Motorcycle Rally (Rally), also as defined in the Application, held in and around Sturgis in the Black Hills area of South Dakota each year since at least 1985.

2. Good Sports has continuously used the name STURGIS in the promotion of the Rally since at least 1985.

3. Good Sports' use of the name STURGIS in its sales of Rally Products at the Rally has been through the same channels of trade and to the same class of customers as the Rally Products allegedly offered by the Applicant at the Rally and bearing the mark BLACK HILLS MOTOR CLASSIC STURGIS RALLY & RACES BLACK HILLS S.D. and Design of Applicant's Trademark Registration No. 1,948,097 (the '097 Registration).

4. Good Sports has had gross sales of Rally Products totaling approximately \$1.5 million each year at the Rally since at least the year 2000.

5. Good Sports has had gross sales of Rally Products totaling approximately \$7.5 million since 1987.

6. Good Sports has had gross sales of Rally Products bearing the name STURGIS totaling approximately \$2.6 million since 1987.

7. Good Sports has owned and operated an on-line retail store since 1996 featuring Rally Products and promoting the Rally on the Internet at the web sites [www.hotleathers.com](http://www.hotleathers.com) and [www.good-sports.com](http://www.good-sports.com).

8. Many of over 700 vendors use the name STURGIS in connection with the sale of Rally Products each year at the Rally.

9. Many of over 700 vendors use the name STURGIS in connection with the promotion of the Rally.

**First Ground of Opposition**

**The name STURGIS is Primarily Geographically Descriptive**

10. Good Sports repeats and realleges all of the above allegations as if fully restated herein.

11. STURGIS is the name of a city in the State of South Dakota.

12. The name STURGIS is primarily recognized in the State of South Dakota as the identifier for the city of Sturgis, South Dakota.

13. Applicant admitted in the application for the mark in the '097 Registration that the name STURGIS is primarily geographically descriptive.

14. The Rally is held each year in and around the City of Sturgis, South Dakota since at least 1938.

15. The name STURGIS is primarily geographically descriptive when used on or in connection with Rally Products and related services.

**Second Ground of Opposition**

**The name STURGIS is Merely Descriptive**

16. Good Sports repeats and realleges all of the above allegations as if fully restated herein.

17. The name STURGIS is merely descriptive when used on or in connection with Rally Products and related services.

### **Third Ground of Opposition**

**The name STURGIS has not become distinctive of Applicant's goods or services as alleged by Applicant to establish its claim under Section 2(f), (15 U.S.C. § 1052(f))**

**a) Applicant and its licensees have not been substantially exclusive users of the name STURGIS in connection with the sale of Rally Products or the Promotion of the Rally for at least five years preceding November 1, 2001**

18. Good Sports repeats and realleges all of the above allegations as if fully restated herein.

19. Good Sports, as well as others, has used the name STURGIS continuously since at least as early as 1982 in connection with the sale of Rally Products at the Rally and elsewhere.

20. Good Sports, as well as others, has used the name STURGIS continuously since at least as early as 1985 in connection with promoting the Rally.

21. Good Sports, as well as others, continues to use the name STURGIS in commerce on or in connection with the sale of Rally Products at the Rally and otherwise.

22. Good Sports, as well as others, continues to use the name STURGIS in connection with promoting the Rally.

**b) The name STURGIS is not the same as or similar to the mark in the '097 Registration**

23. Good Sports repeats and realleges all of the above allegations as if fully restated herein.

24. Applicant's claim of acquired distinctiveness under § 2(f) of the Lanham Act is based on Applicant's use of the mark BLACK HILLS MOTOR CLASSIC STURGIS RALLY & RACES BLACK HILLS S.D. and Design identified on the Principal Register as Registration No. 1,948,097 (the '097 Registration).

25. The mark in the '097 Registration is a combined word and design mark.

26. The name STURGIS is not the same as the mark of the '097 Registration.

27. The name STURGIS is not the legal equivalent of the mark of the '097 Registration.

28. Applicant has previously distinguished the name STURGIS from the mark of the '097 Registration as follows: "Applicant's mark, on the other hand, is not merely STURGIS, but is a composite design mark including ten stars, an eagle, a pair of motorcyclists, a procession of six bison and two groups of feathers, along with the words BLACK HILLS MOTOR CLASSIC and STURGIS RALLY & RACES ....". (See Amendment filed January 31, 1995 in Application No. 74/533,873 for the '097 Registration, p. 2, ll. 3 - 7).

29. Applicant asserted in the application for the '097 Registration that there is no likelihood of confusion between the name STURGIS and the mark of the '097 Registration.

30. The name STURGIS does not create the same continuing commercial impression as the BLACK HILLS MOTOR CLASSIC STURGIS RALLY & RACES BLACK HILLS S.D. and Design mark registered in the '097 Registration such that a consumer would consider them the same mark.

31. The name STURGIS is not a dominant part of the mark of the '097 Registration.

32. The name STURGIS is not a separable element of the mark of the '097 Registration.

33. Applicant has acknowledged that the name STURGIS is not the same as or similar to the mark in the '097 Registration.

**c) Rally Products are not the same as or similar to or related to the services identified in the '097 Registration**

34. Good Sports repeats and realleges all of the above allegations as if fully restated herein.

35. Rally Products are unrelated to the services in International Class 35 for "promoting sports competitions and/or events of others, namely motorcycle rallies, exhibits and competitions and promoting economic development in the city of Sturgis and the Black Hills area of South Dakota and Wyoming."

36. The source of Rally Products sold at or in connection with the Rally is not likely to be perceived to be the same as the source of the promotional services identified in the '097 Registration.

**d) Applicant's reliance on its prior trademark registration, the '097 Registration, is improper and unavailing**

37. Good Sports repeats and realleges all of the above allegations as if fully restated herein.

38. Applicant admitted in the '097 Registration that the name STURGIS is geographically descriptive.

39. Due to Applicant's admission of the name STURGIS being geographically descriptive, Applicant's '097 Registration cannot be deemed prima facie evidence of distinctiveness or of any evidentiary value with respect to Applicant's claim of acquired distinctiveness for the name STURGIS.

e) **Applicant's claim for distinctiveness is based on a defective Declaration**

40. Good Sports repeats and realleges all of the above allegations as if fully restated herein.

41. Applicant's Declaration of November 1, 2001, claims substantially exclusive and continuous use of the name STURGIS in connection with the marketing and promotion of the Rally.

42. Applicant's Declaration of November 1, 2001 claims distinctiveness of STURGIS on Rally Products by association with Applicant's marketing and promotional services.

43. Applicant's Declaration of November 1, 2001 fails to claim substantially exclusive and continuous use of STURGIS on Rally Products.

**Fourth Ground of Opposition**

**The mark in U.S. Trademark Registration No. 1,948,097 is not distinctive because Applicant has failed to supervise and control the nature of the quality of goods and services of its licensees**

44. Good Sports repeats and realleges all of the above allegations as if fully restated herein.

45. Applicant has failed to supervise and control the use of the name STURGIS on Rally Products.

46. Because Applicant has failed to supervise and control the use of the name STURGIS, the mark is not distinctive and cannot serve as a trademark.

**Fifth Ground of Opposition**

**Applicant has attempted to procure registration  
of the name STURGIS by fraud**

47. Good Sports repeats and realleges all of the above allegations as if fully restated herein.

48. Applicant knows it has not used the name STURGIS substantially exclusively in conjunction with the sale of Rally Products in the five years preceding November 1, 2001.

49. Applicant has knowledge of the substantial use by others of the name STURGIS in conjunction with the promotion of the Rally.

50. Applicant knows that many of over 700 vendors use the name STURGIS on or in connection with Rally Products.

51. At least as early as 1990, Applicant knew of Good Sports use of the name STURGIS in commerce in connection with the sale of Rally Products.

52. Applicant's claim of acquired distinctiveness of the name STURGIS is fraudulent and contains false information because on November 1, 2001, Applicant knew of the substantial use of the name STURGIS by Good Sports and others, in commerce, on or in connection with the sale of Rally Products.



**WHEREFORE** Opposer requests that Trademark Application Serial No. 76/201,759 be denied and rejected on the following grounds:

1. STURGIS used on Rally Products is primarily geographically descriptive, 15 U.S.C. § 1052(e)(2).
2. STURGIS used on Rally Products is merely descriptive, 15 U.S.C. § 1052(e)(1).
3. STURGIS used on Rally Products has not become distinctive of Applicant's goods or services, 15 U.S.C. § 1052(f), because:
  - a) Applicant never claimed or established substantially exclusive use of the name STURGIS on Rally Products;
  - b) STURGIS is not the same as or similar to the mark in Trademark Registration No. 1,948,097;
  - c) Rally Products bearing the name STURGIS are not the same as or related to the services in Trademark Registration No. 1,948,097;
  - d) Use of the STURGIS name on Rally Products by Applicant or its licensees has not been substantially exclusive for the five years prior to November 2001, nor at any time since 1981; and
  - e) Applicant's admission of the geographically descriptiveness of the name STURGIS in the application for Trademark Registration No. 1,948,097 precludes Applicant's ownership of the '097 Registration from being deemed prima facie evidence of distinctiveness or of any evidentiary value with respect to Applicant's claim of acquired distinctiveness for the name STURGIS.
4. Rally Products have been sold under mark in Trademark Registration 1,948,097 without proper supervision or control of the products by Applicant.

5. Rally Products bearing the name STURGIS have been sold by many vendors over the past five years and longer at the Rally and elsewhere without supervision or control by Applicant.

6. Applicant has attempted to procure a registration for the name STURGIS by fraud by submitting a declaration in support of its claim of acquired distinctiveness containing statements known by Applicant to be false.

#### POWER OF ATTORNEY

The undersigned hereby appoints John C. Linderman, Donald K. Huber, John C. Hilton, Frederick J. Haesche, J. Kevin Grogan, Arthur F. Dionne, Richard R. Michaud, Daniel G. Mackas, Marina F. Cunningham, Nicholas J. Tuccillo, Wm. Tucker Griffith, Susan C. Oygard, Stephen P. Scuderi, Richard D. Getz, William Gowanlock, Donald J. MacDonald, Timothy A. Johnson, all of the firm of McCORMICK, PAULDING & HUBER LLP, CityPlace II, 18th Floor, 185 Asylum Street, Hartford, CT 06103-4102, (860) 549-5290, its attorneys with full power of substitution and revocation to prosecute this Opposition, to make alterations and amendments therein and to transact all business in the U.S. Patent and Trademark Office and elsewhere in connection therewith.

**DECLARATION**

The undersigned, declares that he is an officer of GOOD SPORTS STURGIS, INC. named in the foregoing NOTICE OF OPPOSITION and that he has been warned that willful false statements and the like so made herein are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code; he further declares that he is duly appointed and authorized to execute this instrument on behalf of said corporation; that he has read signed the foregoing NOTICE and knows the contents thereof, and that all statements made of his own knowledge are true and all statements made on information and belief are believed to be true.

12/9/02  
Date

GOOD SPORTS STURGIS, INC.

Jerry Berkowitz  
Jerry Berkowitz  
President



**McCormick, Paulding & Huber LLP**  
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December 11, 2002

BOX TTAB - FEE  
Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513



12-11-2002

U.S. Patent & TMO/TM Mail Rcpt Dt. #:

Re: Notice of Opposition for U.S. Trademark  
Application No. 76/201,759 for mark STURGIS  
(Our File No. 6633-01)

Dear Sirs:

Attached hereto, in duplicate in accordance with Rule 2.104, is a Notice of Opposition to be filed against U.S. Trademark Application Serial No. 76/201,759 for the mark STURGIS in the following International Classes (IC):

- 1) IC: 14, Jewelry;
- 2) IC: 21, Housewares and glass;
- 3) IC: 25, Clothing;
- 4) IC: 26, Fancy goods; and
- 5) IC: 35, Advertising and business.

A check in the amount of \$1,500.00 is enclosed in payment of the Notice of Opposition filing fee. Please charge any deficiency in this fee, and any additional fees which may be due to our Deposit Account No. 13-0235.

Very truly yours,

**McCormick, Paulding & Huber LLP**

By

  
Donald J. MacDonald

DJM/can  
Enclosures

## EXHIBIT D



12-13-2002

U.S. Patent & TMO/TM Mail Rcpt Dt. #78

"EXPRESS MAIL" MAILING LABEL  
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DATE OF DEPOSIT December 13, 2002  
I HEREBY CERTIFY THAT THIS PAPER OR FEE IS BEING  
DEPOSITED WITH THE UNITED STATES POSTAL SERVICE  
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UNDER 37 CFR 1.10 ON THE DATE INDICATED ABOVE  
AND IS ADDRESSED TO THE ASSISTANT COMMISSIONER OF  
TRADEMARKS, 2900 CRYSTAL DRIVE, ARLINGTON, VA 22202-3513.

Christina A. Nahmias  
(TYPED OR PRINTED NAME OF PERSON MAILING  
PAPER OR FEE)

Christina A. Nahmias  
(SIGNATURE OF PERSON MAILING PAPER OR FEE)

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

In the matter of:	)	
	)	Opposition No.:
Application Serial No. 76/201,759	)	
	)	
Applicant: Sturgis Area Chamber	)	
of Commerce	)	Atty. Docket No. 6858-01
	)	
Filed on: January 30, 2001	)	
	)	
Mark: STURGIS	)	
	)	
Published: October 15, 2002	)	

Assistant Commissioner for Trademarks  
Trademark Trial and Appeal Board  
2900 Crystal Drive  
Arlington, VA 22202-3513

**NOTICE OF OPPOSITION**

Sturgis Motorcycles, Inc., d/b/a Black Hills Harley-Davidson, d/b/a  
Sturgis Harley-Davidson, (collectively Sturgis Motorcycles), a corporation of  
the State of South Dakota, having its principal place of business located at  
3030 Lange Road, Rapid City, SD 57702, believes that it will be damaged by  
registration of the mark in the following application:

12/23/2002 TSMITH 00000136 76201759

01 FC:6402

6000.00 OP

Application Serial No. 76/201,759 (Application) filed January 30, 2001 by the Sturgis Area Chamber of Commerce (Applicant) and published for opposition in the Official Gazette on October 15, 2002 on Page TM 121, seeking registration of the mark STURGIS in non-stylized form for the goods and/or services listed in the following classifications:

**International Class: 006**

Metal key rings, metal license plates, metal boxes, non-luminous and non-mechanical metal signs, and metal die-cast piggy banks, all of the aforementioned goods relating to the STURGIS motorcycle rally.

**International Class: 008**

Hand-operated hand tools, namely, hunting knives, fishing knives, pocket knives, sidearm knives, folding knives, sport knives, knives made of precious metal, wrenches, pliers, socket sets, namely, socket wrenches and sockets, all of the aforementioned goods relating to the STURGIS motorcycle rally.

**International Class: 009**

Sunglasses, novelty telephones, pre-recorded videotapes featuring live music concerts, music videos, documentaries, and footage of vehicle rallies, exhibits and competitions, and footage of the Black Hills area of South Dakota and Wyoming, computer mouse pads, magnets, electronic video game software, protective or safety helmets, motorcycle helmets, bicycle helmets, screen saver computer software, and neon signs, all of the aforementioned goods relating to the STURGIS motorcycle rally.

**International Class: 011**

Lamps, all of the aforementioned goods relating to the STURGIS motorcycle rally.

**International Class: 012**

License plate holders and motorcycle handlebar grips, and motorcycle bags, all of the aforementioned goods relating to the STURGIS motorcycle rally.

**International Class: 013**

Firearms, all of the aforementioned goods relating to the STURGIS motorcycle rally.

**International Class: 014**

Jewelry, watch bands, belt buckles of precious metal, non-monetary coins, medallions, non-monetary tokens, clocks, and watches, all of the aforementioned goods relating to the STURGIS motorcycle rally.

**International Class: 016**

Pencils; pens; and paper goods and printed matter, namely, posters; bumper stickers; trading cards; decals; iron-on and plastic transfers; window stickers; wall calendars; note pads; desk sets; lithographs; mounted photographs; unmounted photographs; prints, namely, art prints, cartoon prints, color prints, photographic prints, lithographic prints, and pictorial prints; brochures and books about motorcycles, automobiles and trucks; paper pennants; paper banners; temporary tattoos; paper and plastic bags for packaging; paper and plastic gift bags; postcards, and picture frame mat boards, all of the aforementioned goods relating to the STURGIS motorcycle rally.

**International Class: 018**

Wallets, athletic bags, all purpose sport bags, beach bags, book bags, carry-on bags, duffel bags, gym bags, shoulder bags, tote bags, travel bags, overnight bags, dog collars, and leashes for animals, all of the aforementioned goods relating to the STURGIS motorcycle rally.

**International Class: 020**

Non-metal key rings, plastic novelty license plates, and jewelry boxes not of metal, all of the aforementioned goods relating to the STURGIS motorcycle rally.



**International Class: 021**

Glassware, namely, shot glasses, drinking glasses, drinking cups, and drinking mugs; insulating sleeve holders made of rubber, plastic or foam for beverage cans; insulating sleeve holders made of rubber, plastic or foam for beverage bottles; paper cups; grease and polish rags; portable coolers; coasters not of paper and not being table linen; bottle openers; water bottles sold empty; sports bottles sold empty; beer steins; and kitchen utensils, namely, spatulas, turners, tongs, pan scrappers, grill scrappers, and grill baskets, all of the aforementioned goods relating to the STURGIS motorcycle rally.

**International Class: 024**

Afghans, towels, cloth flags, cloth pennants, cloth banners, and quilts, all of the aforementioned goods relating to the STURGIS motorcycle rally.

**International Class: 025**

Clothing, namely, shirts, T-shirts, long sleeve T-shirts, sleeveless T-shirts, denim shirts, woven shirts, knit shirts, golf shirts, sport shirts, sweaters, jackets, anoraks, coats, tank tops, polo shirts, sweatshirts, pullovers, boxer shorts, sleepwear, women's tops, chemises, cloth wraps, bikinis, beachwear, bathing suits, swim wear, head wear, bandannas, caps, cloth headwraps, berets, hats, scarves, head bands, belts, chaps, jeans, dungarees, boots, footwear, gloves, and sun visors, all of the aforementioned goods relating to the STURGIS motorcycle rally.

**International Class: 026**

Cloth and embroidered patches for clothing, ornamental cloth patches, hat pins for securing hats, belt buckles not of precious metal, and novelty ornamental pins, all of the aforementioned goods relating to the STURGIS motorcycle rally.

**International Class: 027**

Floor mats for vehicles, textile floor mats for use in the home, rubber floor mats for use as door mats, textile floor mats for use as door mats, and rugs, all of the aforementioned goods relating to the STURGIS motorcycle rally.

**International Class: 028**

Miniature toy vehicles, electric miniature toy vehicles, radio controlled toy vehicles, toy model vehicles, miniature toy banks in the shape of vehicles, Christmas tree ornaments, fishing lures, balloons, gaming chips, sports balls, and toy and/or decorative wind socks; die-cast toy banks; and toy helmets, all of the aforementioned goods relating to the STURGIS motorcycle rally.

**International Class: 032**

Bottled spring water and beer, all of the aforementioned goods relating to the STURGIS motorcycle rally.

**International Class: 033**

Distilled liquor, all of the aforementioned goods relating to the STURGIS motorcycle rally.

**International Class: 035**

Promoting sports competitions of others, namely, motorcycle and vehicle rallies, exhibits, and competitions; promoting the goods and services of others by arranging for sponsors to affiliate their goods and services with the STURGIS motorcycle rally; promoting economic development in the City of Sturgis and the Black Hills area of South Dakota and Wyoming; and mail order, catalog, retail store, wholesale store, on-line retail store, and retail television store services featuring general merchandise and souvenirs relating to the STURGIS motorcycle rally.

**International Class: 041**

Entertainment services in the nature of organizing and conducting motorcycle and vehicle exhibitions and rallies; organizing and conducting the entertainment events of others, namely, motorcycle and vehicle exhibitions, rallies, and competitions; and entertainment services in the nature of live civic productions and live music concerts.

Accordingly, Sturgis Motorcycles opposes the Application in all classes identified in the Application, namely, the following twenty international classes (IC):

- 1) IC: 6, Metal Goods;
- 2) IC: 8, Hand Tools;
- 3) IC: 9, Electrical and scientific apparatus;
- 4) IC: 11, Environmental control apparatus;

- 5) IC: 12, Vehicles;
- 6) IC: 13, Firearms;
- 7) IC: 14, Jewelry;
- 8) IC: 16, Paper goods and printed matter;
- 9) IC: 18, Leather goods;
- 10) IC: 20, Furniture and articles not otherwise classified;
- 11) IC: 21, Housewares and glass;
- 12) IC: 24, Fabrics;
- 13) IC: 25, Clothing
- 14) IC: 26, Fancy goods;
- 15) IC: 27, Floor coverings;
- 16) IC: 28, Toys and sporting goods;
- 17) IC: 32, Light beverages;
- 18) IC: 33, Wines and spirits;
- 19) IC: 35, Advertising and business; and
- 20) IC: 41, Education and entertainment.

The grounds for the Opposition are as follows:

1. Sturgis Motorcycles and its predecessors have continuously used the name STURGIS in commerce on or in connection with the sale of "Rally Products" as defined in the Application, including, motorcycle parts and accessories, clothing, t-shirts, bandanas, jewelry, pins, patches, knives, money clips, videos, music CDs and tapes, key chains, tools, lighters, leather goods, toys, train sets, signs, license plates, grease and polish rags, calendars, posters, decals, bumper stickers, post cards, paper bags, plastic bags, drinking glasses, shot glasses, mugs, insulated cup holders, portable coolers, bottled water and beer at the Sturgis Motorcycle Rally (Rally), also as defined in the Application, held in and around Sturgis, including Rapid City, SD, in the Black Hills area of South Dakota each year since at least 1981.

2. Sturgis Motorcycles and its predecessors have continuously used the name STURGIS in commerce in connection with the promotion of the Rally including organizing and sponsoring events at the Rally since at least 1991.

3. Sturgis Motorcycles' use of the name STURGIS in its sales of Rally Products at the Rally has been through the same channels of trade and to the same class of customers as the Rally Products allegedly offered by the Applicant at the Rally and bearing the mark BLACK HILLS MOTOR CLASSIC STURGIS RALLY & RACES BLACK HILLS S.D. and Design of Applicant's Trademark Registration No. 1,948,097 (the '097 Registration).

4. Sturgis Motorcycles operates a retail store under the name "STURGIS HARLEY-DAVIDSON" located at 1040 Junction Avenue, Sturgis, SD 57785 wherein Rally Products are sold to the public during the Rally and throughout the year.

5. Sturgis Motorcycles operates a motorcycle dealership and retail store under the name "BLACK HILLS HARLEY-DAVIDSON" currently located at 3030 Lange Road, Rapid City, SD 57702 wherein Rally Products are sold to the public during the Rally and throughout the year, many of which Rally Products bear the name STURGIS.

6. Sturgis Motorcycles has owned and operated an on-line retail store for the sale of Rally Products and promoting the Rally available on the Internet through the web site [www.sturgisHD.com](http://www.sturgisHD.com) since 1997.

7. Sturgis Motorcycles has owned and operated an on-line retail store for the sale of Rally Products and promoting the Rally available on the Internet through the web site [www.blackhillsHD.com](http://www.blackhillsHD.com) since 1997.

8. Sturgis Motorcycles has gross sales of Rally Products totaling approximately \$12.6 million sold in connection with the name STURGIS since the year 2000.

9. Sturgis Motorcycles has had gross sales of Rally Products bearing the name STURGIS totaling approximately \$9 million since 2000.

10. Sturgis Motorcycles has had gross sales of Rally Products bearing the name STURGIS totaling approximately \$3 million each year at the Rally since at least the year 2000.

11. Many of over 700 vendors use the name STURGIS in connection with the sale of Rally Products each year at the Rally.

12. Many of over 700 vendors use the name STURGIS in connection with the promotion of the Rally.

### **First Ground of Opposition**

#### **The name STURGIS is Primarily Geographically Descriptive**

13. Sturgis Motorcycles, repeats and realleges all of the above allegations as if fully restated herein.

14. STURGIS is the name of a city in the State of South Dakota.

15. The name STURGIS is primarily recognized in the State of South Dakota as the identifier for the city of Sturgis, South Dakota.

16. The Rally has been held each year in and around the City of Sturgis, South Dakota since at least 1938.

17. The name STURGIS is primarily geographically descriptive when used on or in connection with Rally Products and related services.

18. Applicant admitted in the application for the mark in the '097 Registration that the name STURGIS is primarily geographically descriptive.

### **Second Ground of Opposition**

#### **The name STURGIS is Merely Descriptive**

19. Sturgis Motorcycles, repeats and realleges all of the above allegations as if fully restated herein.

20. The name STURGIS is merely descriptive when used in connection with Rally Products and related services.

### **Third Ground of Opposition**

#### **The name STURGIS has not become distinctive of Applicant's goods or services as alleged by Applicant to establish its claim under Section 2(f), (15 U.S.C. § 1052(f))**

##### **a) Applicant and its licensees have not been the substantially exclusive user of the name STURGIS in connection with the sale of Rally Products or the Promotion of the Rally for at least five years preceding November 1, 2001**

21. Sturgis Motorcycles, repeats and realleges all of the above allegations as if fully restated herein.

22. Sturgis Motorcycles and its predecessors, as well as others, have used the name STURGIS continuously since at least as early as 1981 in connection with the sale of Rally Products at the Rally and elsewhere.

23. Sturgis Motorcycles and its predecessors, as well as others, have used the name STURGIS continuously since at least as early as 1991 in connection with promoting the Rally.

24. Sturgis Motorcycles, as well as others, continue to use the name STURGIS in commerce in connection with the sale of Rally Products at the Rally and year-round.

25. Sturgis Motorcycles, as well as others, continue to use the name STURGIS in connection with promoting the Rally.

**b) The name STURGIS is not the same as or similar to the mark in the '097 Registration**

26. Sturgis Motorcycles, repeats and realleges all of the above allegations as if fully restated herein.

27. Applicant's claim of acquired distinctiveness under § 2(f) of the Lanham Act is based on Applicant's use of the mark BLACK HILLS MOTOR CLASSIC STURGIS RALLY & RACES BLACK HILLS S.D. and Design currently registered on the Principal Register under Registration No. 1,948,097 (the '097 Registration).

28. The mark in the '097 Registration is a combined word and design mark.

29. The name STURGIS is not the same as the mark of the '097 Registration.

30. The name STURGIS is not the legal equivalent of the mark of the '097 Registration.

31. Applicant admitted that the name STURGIS is not the same or similar to the mark of the '097 Registration as follows: "Applicant's mark, on the other hand, is not merely STURGIS, but is a composite design mark including ten stars, an eagle, a pair of motorcyclists, a procession of six bison and two groups of feathers, along with the words BLACK HILLS MOTOR CLASSIC and STURGIS RALLY & RACES ....". (See Amendment filed January 31, 1995 in Application No. 74/533,873 for the '097 Registration, p. 2, II. 3 - 7).

32. Applicant admitted in the application for the '097 Registration that there is no likelihood of confusion between the name STURGIS and the mark of the '097 Registration.

33. The name STURGIS does not create the same continuing commercial impression as the BLACK HILLS MOTOR CLASSIC STURGIS RALLY & RACES BLACK HILLS S.D. and Design mark registered in the '097 Registration such that a consumer would consider them the same mark.

34. The name STURGIS is not a dominant part of the mark of the '097 Registration.

35. The name STURGIS is not a separable element of the mark of the '097 Registration.

**c) Rally Products are not same as or similar or related to the services identified in the '097 Registration**

36. Sturgis Motorcycles, repeats and realleges all of the above allegations as if fully restated herein.

37. Rally Products are unrelated to the services in International Class 35 for "promoting sports competitions and/or events of others, namely motorcycle rallies, exhibits and competitions and promoting economic development in the city of Sturgis and the Black Hills area of South Dakota and Wyoming."

38. The source of Rally Products sold at or in connection with the Rally is not likely to be perceived to be the same as the source of the promotional services identified in the '097 Registration.



**d) Applicant's reliance on its prior trademark registration, the '097 Registration is improper and unavailing**

39. Sturgis Motorcycles, repeats and realleges all of the above allegations as if fully restated herein.

40. Applicant admitted in the '097 Registration that the name STURGIS is geographically descriptive.

41. Due to Applicant's admission of the name STURGIS being geographically descriptive, Applicant's '097 Registration cannot be deemed prima facie evidence of distinctiveness or of any evidentiary value with respect to Applicant's claim of acquired distinctiveness for the name STURGIS.

**e) Applicant's claim for distinctiveness is based on a defective Declaration**

42. Sturgis Motorcycles, repeats and realleges all of the above allegations as if fully restated herein.

43. Applicant's Declaration of November 1, 2001 claims substantially exclusive and continuous use of STURGIS in connection with the marketing and promotion of the Rally.

44. Applicant's Declaration of November 1, 2001 claims distinctiveness of STURGIS on Rally Products by association with Applicant's marketing and promotional services.

45. Applicant's Declaration of November 1, 2001 fails to claim substantially exclusive and continuous use of STURGIS on Rally Products.

#### **Fourth Ground of Opposition**

**The mark in U.S. Trademark Registration No. 1,948,097 is not distinctive because Applicant has failed to control the nature of the quality of goods and services of its licensees**

46. Sturgis Motorcycles, repeats and realleges all of the above allegations as if fully restated herein.

47. Applicant has failed to control the use of the name STURGIS by its licensees.

48. Because Applicant has failed to control the use of the mark of the '097 Registration, the mark is not distinctive and cannot serve as prima facie evidence of distinctiveness of STURGIS.

#### **Fifth Ground of Opposition**

**Applicant has attempted to procure registration of the name STURGIS by fraud and misrepresentation**

49. Sturgis Motorcycles, repeats and realleges all of the above allegations as if fully restated herein.

50. Applicant knows it has not used the name STURGIS substantially exclusively in conjunction with the sale of Rally Products in the five years preceding November 1, 2001.

51. Applicant has knowledge of the substantial use of the name STURGIS by Sturgis Motorcycles and others in conjunction with the promotion of the Rally.

52. Applicant knows that many of over 700 vendors use the name STURGIS in connection selling Rally Products at the Rally.

53. Sturgis Motorcycles spends more than \$50,000 annually for advertising space on approximately 15 - 20 large billboards in the Black Hills Region of South Dakota for displaying signs for marketing Rally Products during the Rally and throughout the remainder of the year, including signs featuring the name STURGIS.

54. Sturgis Motorcycles owns and operates a retail store under the name Sturgis Harley-Davidson located at 1040 Junction Avenue, Sturgis, S.D. 57785 wherein it sells Rally Products to the public at the Rally and throughout the year.

55. Sturgis Motorcycles owns and operates a motorcycle dealership and retail store under the name Black Hills Harley-Davidson currently located at 3030 Lange Road, Rapid City, SD 57702 wherein it sells Rally Products to the public at the Rally and throughout the year, including Rally Products bearing the name STURGIS.

56. At least one large sign on the Sturgis Harley-Davidson building, currently located at 1040 Junction Avenue, Sturgis, S.D. 57785 has displayed the name of the store, as "STURGIS HARLEY-DAVIDSON" since at least the year 1987.

57. In early 2000, David Allen, of Champion Motor Sports, Inc. (Champion), a marketing agency under contract with the Applicant at the time, approached Jim Doyle, Al Rieman and Jim Burgess, owners of Sturgis Motorcycles, and solicited a royalty bearing license for Sturgis Motorcycles for the use of the name STURGIS in connection with Sturgis Motorcycles' sale of Rally Products.

58. In Spring 2000, Dean Kenny, then President of the Board of Directors of the Sturgis Area Chamber of Commerce, (Applicant) and David Allen of Champion, visited the Black Hills Harley-Davidson dealership in Rapid City, SD, spoke with Jim Doyle, and again solicited a royalty bearing license for the continuing use of the name STURGIS in connection with Sturgis Motorcycles' sale of Rally Products at the Rally and throughout the year.

59. In Spring 2000, Dean Kenny and Marlin Martin, then President and Vice President respectively, of the Board of Directors of the Sturgis Area Chamber of Commerce, (Applicant) met with Jim Doyle, Jim Burgess, Al Rieman and Clay Trulson, all co-owners of Sturgis Motorcycles, at Lynn's Inc., headquarters in Rapid City, SD wherein Kenny and Martin spoke with the above-identified co-owners of Sturgis Motorcycles and again solicited a royalty bearing license for the continuing use of the name STURGIS in connection with Sturgis Motorcycles' sale of Rally Products at the Rally and throughout the year.

60. In August 2000, Marlin Martin, then incoming President of the Board of Directors of the Sturgis Area Chamber of Commerce, (Applicant) and Declarant in the Application, invited Jim Burgess of Sturgis Motorcycles to dinner at his house, and, during the visit, Marlin Martin again suggested that Sturgis Motorcycles enter into a royalty bearing license agreement with the Applicant wherein Sturgis Motorcycles would pay a royalty to Applicant for the continuing use of the name STURGIS in connection with Sturgis Motorcycles' sale of Rally Products at the Rally and otherwise.

61. In the Spring 2000, Conrad Clemens, CEO of Featherlite Trailer Co. of Sanford, Florida, an associate of David Allen of Champion, and on behalf of Applicant, contacted Jim Burgess of Sturgis Motorcycles for the purpose of further discussing a license agreement wherein Sturgis Motorcycles would obtain a license for the continuing use of the name STURGIS in connection with Sturgis Motorcycles' sale of Rally Products in exchange for a royalty paid to the Applicant.

62. At each instance described in Paragraphs 58 - 62 above, the solicitation to take a license for the continuing use of the name STURGIS was refused by Opposer Sturgis Motorcycles.

63. Applicant's claim of acquired distinctiveness of the name STURGIS is fraudulent and contains false information because on November 1, 2001, Applicant knew of the substantial use of the name STURGIS by Sturgis Motorcycles and others, in commerce, in connection with the sale of Rally Products and the promotion of the Rally.

64. Applicant's claim of acquired distinctiveness of the name STURGIS is fraudulent and contains false information because on November 1, 2001, Marlin Martin, Declarant in the Application, knew of the substantial and continuing use of the name STURGIS by Sturgis Motorcycles and others, in commerce, in connection with the sale of Rally Products and the promotion of the Rally.

**WHEREFORE** Opposer requests that Trademark Application Serial No. 76/201,759 be denied and rejected on the following grounds:

1. STURGIS used on Rally Products is primarily geographically descriptive, 15 U.S.C. § 1052(e)(2);
2. STURGIS used on Rally Products is merely descriptive, 15 U.S.C. § 1052(e)(1);
3. STURGIS used on Rally Products has not become distinctive of Applicant's goods or services, 15 U.S.C. § 1052(f), because:
  - a) Applicant never claimed or established substantially exclusive use of the name STURGIS on Rally Products;
  - b) STURGIS is not the same as or similar to the mark in Trademark Registration No. 1,948,097, as alleged by Applicant;
  - c) Rally Products are not the same as or related to goods or services in Trademark Registration No. 1,948,097, as alleged by Applicant
  - d) Use of the STURGIS name on Rally Products by Applicant or its licensees has not been substantially exclusive for the five years prior to November 2001, or at any time since 1981.
  - e) Applicant's admission of the geographically descriptiveness of the name STURGIS in the application for Trademark Registration No. 1,948,097 precludes Applicant's ownership of the '097 Registration from being deemed prima facie evidence of distinctiveness or of any evidentiary value with respect to Applicant's claim of acquired distinctiveness for the name STURGIS.
4. Rally Products have been sold under mark in Trademark Registration 1,948,097 without proper supervision or control of the products by Applicant since 1986.

5. Rally Products bearing the name STURGIS have been sold by many vendors over the past five years and longer at the Rally and elsewhere without supervision or control by Applicant.
6. Applicant has attempted to procure a registration for the name STURGIS by fraud by submitting a declaration in support of its claim of acquired distinctiveness containing statements known to be false as to Applicant's substantially exclusive use.
7. Applicant has misrepresented to the Trademark Examiner that the name STURGIS is not descriptive by pointing out that the name STURGIS was not disclaimed in the application of the '097 Registration when in fact Applicant admitted to the geographic descriptiveness of the name STURGIS in the application of the '097 Registration.

#### POWER OF ATTORNEY

The undersigned hereby appoints John C. Linderman, Donald K. Huber, John C. Hilton, Frederick J. Haesche, J. Kevin Grogan, Arthur F. Dionne, Richard R. Michaud, Daniel G. Mackas, Marina F. Cunningham, Nicholas J. Tuccillo, Wm. Tucker Griffith, Susan C. Oygard, Stephen P. Scuderi, Richard D. Getz, William Gowanlock, Donald J. MacDonald, Timothy A. Johnson, all of the firm of McCORMICK, PAULDING & HUBER LLP, CityPlace II, 18th Floor, 185 Asylum Street, Hartford, CT 06103-4102, (860) 549-5290, its attorneys with full power of substitution and revocation to prosecute this Opposition, to make alterations and amendments therein and to transact all business in the U.S. Patent and Trademark Office and elsewhere in connection therewith.

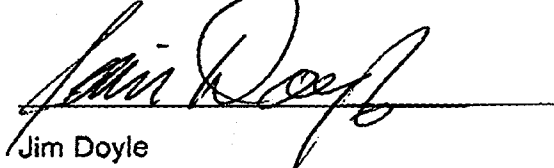
DECLARATION

The undersigned, declares that he is an officer of Sturgis Motorcycles, Inc. named in the foregoing NOTICE OF OPPOSITION and that he has been warned that willful false statements and the like so made herein are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code; he further declares that he is duly appointed and authorized to execute this instrument on behalf of said corporation; that he has read signed the foregoing NOTICE and knows the contents thereof; and that all statements made of his own knowledge are true and all statements made on information and belief are believed to be true.

STURGIS MOTORCYCLES, INC.

12-11-02

Date

A handwritten signature in black ink, appearing to read "Jim Doyle", is written over a horizontal line.

Jim Doyle

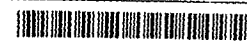
Vice President



TTAB



McCormick, Paulding & Huber LLP  
*Intellectual Property Law*



12-13-2002

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #7\*

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Of Counsel  
Donald K. Huber\*  
John C. Hilton\*  
Frederick J. Haesche\*  
Charles E. Sohl\*  
John J. Dempsey\*

December 13, 2002

BOX TTAB - FEE  
Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

Re: Notice of Opposition for U.S. Trademark  
Application No. 76/201,759 for the mark STURGIS  
(Our File No. 6858-01)

Dear Sirs:

Attached hereto, in duplicate in accordance with Rule 2.104, is a Notice of Opposition to be filed against U.S. Trademark Application Serial No. 76/201,759 for the mark STURGIS in the following International Classes (IC):

- 1) IC: 6, Metal Goods;
- 2) IC: 8, Hand Tools;
- 3) IC: 9, Electrical and scientific apparatus;
- 4) IC: 11, Environmental control apparatus;
- 5) IC: 12, Vehicles;
- 6) IC: 13, Firearms;
- 7) IC: 14, Jewelry;
- 8) IC: 16, Paper goods and printed matter;
- 9) IC: 18, Leather goods;
- 10) IC: 20, Furniture and articles not otherwise classified;
- 11) IC: 21, Housewares and glass;
- 12) IC: 24, Fabrics;
- 13) IC: 25, Clothing
- 14) IC: 26, Fancy goods;
- 15) IC: 27, Floor coverings;
- 16) IC: 28, Toys and sporting goods;
- 17) IC: 32, Light beverages;
- 18) IC: 33, Wines and spirits;
- 19) IC: 35, Advertising and business; and
- 20) IC: 41, Education and entertainment.

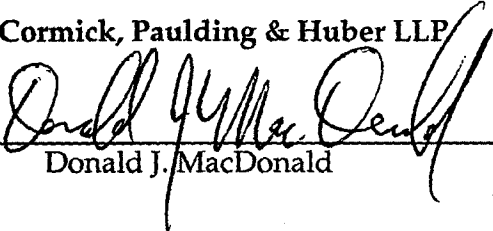
M.G.

BOX TTAB - FEE  
December 13, 2002  
Page 2

A check in the amount of \$6,000.00 is enclosed in payment of the Notice of Opposition filing fee. Please share any deficiency in this fee, and any additional fees which may be due to our Deposit Account No. 13-0235.

Very truly yours,

McCormick, Paulding & Huber LLP

By   
Donald J. MacDonald

DJM/can  
Enclosures

EXHIBIT E

# United States of America

United States Patent and Trademark Office

## BLACK HILLS

**Reg. No. 3,955,170**

**Registered May 3, 2011**

**Int. Cls.: 6, 9, 13, 14, 16,  
20, 21, 24, 25, 26, 28, 32,  
33, 34, 35, and 41**

**TRADEMARK**

**SERVICE MARK**

**PRINCIPAL REGISTER**

STURGIS MOTORCYCLE RALLY, INC. (SOUTH CAROLINA NON-PROFIT ECONOMIC DEVELOPMENT CORP.)  
1612 JUNCTION AVE., SUITE 4  
STURGIS, SD 57785

FOR: METAL KEY RINGS, ALL OF THE AFOREMENTIONED GOODS RELATING TO THE STURGIS MOTORCYCLE RALLY, IN CLASS 6 (U.S. CLS. 2, 12, 13, 14, 23, 25 AND 50).

FIRST USE 8-31-2006; IN COMMERCE 8-31-2006.

FOR: SUNGLASSES, MAGNETS AND PROTECTIVE HELMETS, ALL OF THE AFOREMENTIONED GOODS RELATING TO THE STURGIS MOTORCYCLE RALLY, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 8-31-1995; IN COMMERCE 8-31-1995.

FOR: FIREARMS, ALL OF THE AFOREMENTIONED GOODS RELATING TO THE STURGIS MOTORCYCLE RALLY, IN CLASS 13 (U.S. CLS. 2 AND 9).

FIRST USE 6-30-1998; IN COMMERCE 6-30-1998.

FOR: JEWELRY AND CLOCKS, ALL OF THE AFOREMENTIONED GOODS RELATING TO THE STURGIS MOTORCYCLE RALLY, IN CLASS 14 (U.S. CLS. 2, 27, 28 AND 50).

FIRST USE 6-30-2010; IN COMMERCE 6-30-2010.

FOR: PENS; AND PAPER GOODS AND PRINTED MATTER, NAMELY, POSTERS; BUMPER STICKERS; DECALS; IRON-ON AND PLASTIC TRANSFERS; WINDOW STICKERS; NOTE PADS; MOUNTED PHOTOGRAPHS; UNMOUNTED PHOTOGRAPHS; PRINTS, NAMELY, COLOR PRINTS, PHOTOGRAPHIC PRINTS, AND PICTORIAL PRINTS; PAPER AND PLASTIC BAGS FOR PACKAGING; AND POSTCARDS; ALL OF THE AFOREMENTIONED GOODS RELATING TO THE STURGIS MOTORCYCLE RALLY, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 8-31-1987; IN COMMERCE 8-31-1987.

FOR: NON-METAL KEY RINGS AND JEWELRY BOXES NOT OF METAL, ALL OF THE AFOREMENTIONED GOODS RELATING TO THE STURGIS MOTORCYCLE RALLY, IN CLASS 20 (U.S. CLS. 2, 13, 22, 25, 32 AND 50).

FIRST USE 8-31-2002; IN COMMERCE 8-31-2002.

FOR: GLASSWARE, NAMELY, SHOT GLASSES, DRINKING GLASSES, DRINKING CUPS, AND DRINKING MUGS; INSULATING SLEEVE HOLDERS MADE OF RUBBER, PLASTIC OR FOAM FOR BEVERAGE CANS; INSULATING SLEEVE HOLDERS MADE OF RUBBER,



*David J. Kappas*

Director of the United States Patent and Trademark Office

**Reg. No. 3,955,170** PLASTIC OR FOAM FOR BEVERAGE BOTTLES; COASTERS NOT OF PAPER AND NOT BEING TABLE LINEN; BOTTLE OPENERS; AND BEER STEINS; ALL OF THE AFOREMENTIONED GOODS RELATING TO THE STURGIS MOTORCYCLE RALLY, IN CLASS 21 (U.S. CLS. 2, 13, 23, 29, 30, 33, 40 AND 50).

FIRST USE 8-31-1995; IN COMMERCE 8-31-1995.

FOR: CLOTH FLAGS AND QUILTS, ALL OF THE AFOREMENTIONED GOODS RELATING TO THE STURGIS MOTORCYCLE RALLY, IN CLASS 24 (U.S. CLS. 42 AND 50).

FIRST USE 8-30-2004; IN COMMERCE 8-30-2004.

FOR: CLOTHING, NAMELY, SHIRTS, T-SHIRTS, LONG SLEEVE T-SHIRTS, SLEEVELESS T-SHIRTS, DENIM SHIRTS, HENLEY SHIRTS, KNIT SHIRTS, SPORT SHIRTS, GOLF SHIRTS, JACKETS, COATS, TANK TOPS, POLO SHIRTS, SWEATSHIRTS, PULLOVERS, WOMEN'S TOPS, CHEMISES, CLOTH WRAPS, HEAD WEAR, BANDANNAS, CAPS, CLOTH HEADWRAPS, HATS, SCARVES, BELTS, CHAPS, GLOVES, AND SUN VISORS, ALL OF THE AFOREMENTIONED GOODS RELATING TO THE STURGIS MOTORCYCLE RALLY, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 8-31-1986; IN COMMERCE 8-31-1986.

FOR: CLOTH AND EMBROIDERED PATCHES FOR CLOTHING, ORNAMENTAL CLOTH PATCHES, HAT PINS FOR SECURING HATS, BELT BUCKLES NOT OF PRECIOUS METAL, AND NOVELTY PINS, ALL OF THE AFOREMENTIONED GOODS RELATING TO THE STURGIS MOTORCYCLE RALLY, IN CLASS 26 (U.S. CLS. 37, 39, 40, 42 AND 50).

FIRST USE 8-31-1986; IN COMMERCE 8-31-1986.

FOR: CHRISTMAS TREE ORNAMENTS AND GAMING CHIPS, ALL OF THE AFOREMENTIONED GOODS RELATING TO THE STURGIS MOTORCYCLE RALLY, IN CLASS 28 (U.S. CLS. 22, 23, 38 AND 50).

FIRST USE 6-30-2001; IN COMMERCE 6-30-2001.

FOR: BOTTLED WATER AND BEER, ALL OF THE AFOREMENTIONED GOODS RELATING TO THE STURGIS MOTORCYCLE RALLY, IN CLASS 32 (U.S. CLS. 45, 46 AND 48).

FIRST USE 6-30-2005; IN COMMERCE 6-30-2005.

FOR: DISTILLED LIQUOR, ALL OF THE AFOREMENTIONED GOODS RELATING TO THE STURGIS MOTORCYCLE RALLY, IN CLASS 33 (U.S. CLS. 47 AND 49).

FIRST USE 6-30-2002; IN COMMERCE 6-30-2002.

FOR: ASHTRAYS NOT OF PRECIOUS METAL AND CIGARETTE LIGHTERS NOT OF PRECIOUS METAL, ALL OF THE AFOREMENTIONED GOODS RELATING TO THE STURGIS MOTORCYCLE RALLY, IN CLASS 34 (U.S. CLS. 2, 8, 9 AND 17).

FIRST USE 6-30-2007; IN COMMERCE 6-30-2007.

FOR: PROMOTING SPORTS COMPETITIONS AND CONDUCTING EVENTS OF OTHERS, NAMELY, MOTORCYCLE AND VEHICLE RALLIES, EXHIBITS, AND COMPETITIONS; PROMOTING ECONOMIC DEVELOPMENT IN THE CITY OF STURGIS AND THE BLACK HILLS AREA OF SOUTH DAKOTA AND WYOMING; AND ON-LINE RETAIL STORE SERVICES, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 6-30-2002; IN COMMERCE 6-30-2002.

**Reg. No. 3,955,170** FOR: ENTERTAINMENT SERVICES IN THE NATURE OF ORGANIZING, SPONSORING, AND CONDUCTING A MOTORCYCLE AND VEHICLE EXHIBITIONS AND RALLIES; AND ENTERTAINMENT SERVICES IN THE NATURE OF ORGANIZING, SPONSORING AND CONDUCTING CIVIC PRODUCTIONS AND LIVE MUSIC CONCERTS, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 6-30-2002; IN COMMERCE 6-30-2002.

OWNER OF U.S. REG. NO. 1,948,097.

SEC. 2(F).

SN 76-979,109, FILED 1-30-2001.

RONALD R. SUSSMAN, EXAMINING ATTORNEY