

TTAB FEE

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

UPPER PLAYGROUND ENT. INC.,

Opposer,
v.

GRUPO EMYCO, S.A. DE C.V.

Applicant.

OPPOSITION NO: _____
Serial No. 77/123,846
Mark: WALRUS

Box TTAB FEE
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

CERTIFICATE OF MAILING UNDER 37 C.F.R. 1.8

I hereby certify that this correspondence and the documents referred to as attached therein are being deposited today with the United States postal service as first class postage-prepaid mail in an envelope addressed to: Box TTAB FEE, Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

Date:

9/11/07

Charles L. Riddle
Reg. No. 54,779

AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT

The Commissioner is hereby authorized to charge any additional fees which may be required by this paper and during the pendency of this application to Account No. 05-0208.

Date:

9/11/07

Charles L. Riddle
Reg. No. 54,779

NOTICE OF OPPOSITION

In the matter of U.S. Trademark Serial No. 77/123,846 filed March 6, 2007 by Grupo Emyco, S.A. de C.V. (referred to hereinafter as "Applicant") of Monte Elbruz 124, 1° Piso, Edif. Prisma Col. Palmitas Chapultepec Mexico, DF MEXICO 11560, for registration of the mark WALRUS for "footwear; headwear" in International Class 025,

TTAB FEE

which mark was published of the Official Gazette on August 14, 2007, opposition is hereby entered against registration of said mark.

Upper Playground Enterprises, Inc. (hereinafter referred to as "Opposer"), a corporation organized under the laws of the California and having an address at 1661 Tennessee Street, Unit 3F, San Francisco, CA 94107, believes Opposer would be damaged by registration to Applicant of WALRUS and hereby opposes registration of said mark.

The grounds for opposition are as follows:

1. Applicant's Application Serial No. 77/123,846 was filed under Section 44(e) on March 6, 2007 on the basis of an intention to use the mark WALRUS.
2. Opposer, since long prior to Applicant's application filing date of March 6, 2007, has been, and is now, using the WALRUS design mark (Exhibit A) in interstate commerce in connection with the sale of t-shirts, sweatshirts, pants, shorts, jackets, bags, hats, and footwear. Said use has been in valid and continuous long prior to March 6, 2007, the date of filing of Applicant's application, and has not been abandoned. Said mark of Opposer is symbolic of extensive goodwill and consumer recognition built up by Opposer through substantial amounts of time in effort in advertising and promotion. In view of the similarity of the respective marks and the related nature of the goods provided by the Opposer and intended to be provided by Applicant, it is alleged that Applicant's mark so resembles Opposer's mark previously used in the United States, not abandoned, as to be likely to cause confusion, or to cause mistake, or to deceive.

TTAB FEE

3. The goods Applicant intends to sell are closely related to the goods of Opposer and are likely to be encountered by the same purchasers and users as those of Opposer.

4. Registration of the mark WALRUS to Applicant is likely to cause confusion or mistake or deception of the purchasers as to the respective marks of ownership thereof, and also to the source, origin, and sponsorship of goods.

5. Opposer asserts that by reason of the similarity of Applicant's mark and Opposer's marks and the nature of the goods provided by the Opposer and intended to be provided by Applicant, purchasers and prospective purchasers will assume that the products provided by Applicant under the mark WALRUS are being sold by Opposer or under its sponsorship or license, or that Applicant and Opposer are in some way related, and thereby immeasurably damage Opposer as a result of the likelihood of confusion, mistake or deception of purchasers and the trade.

WHEREFORE, Opposer requests that Applicant's Application Serial No. 77/123,846 be rejected, that registration of the mark of Applicant's Application Serial No. 77/123,846 be denied, and that this Opposition to registration of the mark be sustained.

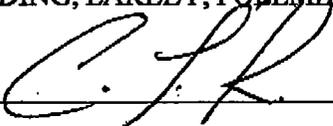
Opposer hereby appoints Charles L. Riddle, Registration No. 54,779, Frank J. Bonini, Jr., Registration No. 35,452, John F.A. Earley III, Registration No. 31,350, and Harding, Earley, Follmer & Frailey, 86 The Commons at Valley Forge East, 1288 Valley Forge Road, P.O. Box 750, Valley Forge, PA 19482-0750, Registration No. 11,926, all members of the bar of the Commonwealth of Pennsylvania, to act as attorneys for

TTAB FEE

Opposer herein with full power to prosecute said Opposition, to transact all relevant business with the Patent and Trademark Office and in the United States Courts and to receive all official communications in connection with this Opposition.

A duplicate copy of the Notice of Opposition and the fee as required by the Trademark Act are enclosed.

Respectfully submitted,
UPPER PLAYGROUND ENTERPRISES, INC.
By its attorneys,
HARDING, EARLEY, FOLLMER & FRAILEY

By:  _____

Charles L. Riddle, Registration No. 54,779
Frank J. Bonini, Jr., Registration No. 35,452
John F.A. Earley III, Registration No. 31,350
86 The Commons at Valley Forge East
1288 Valley Forge Road
P.O. Box 750
Valley Forge, PA 19482-0750
Telephone (610) 935-2300

Date: 9/11/07



EXHIBIT
A

HARDING, EARLEY, FOLLNER & FRAILEY P.C.
80 THE COMMONS AT VALLEY FORGE EAST
1288 VALLEY FORGE ROAD
VALLEY FORGE, PA 19482

PAY TO THE ORDER OF

Director of the U.S.P.T.O.

Three hundred & _____

300.00

XXX DOLLARS

Upper Playground R 5014
MEMO Opposition against 7/1/23, 8/16 (with RAS)

J. A. Earley

1137

9/11/07

September 11, 2007

Upper Playground Ent., Inc.
R5014

In re matter of Upper Playground Ent., Inc. for opposition of
Application Serial No. 77/123,846; filed March 6, 2007; for the mark
WALRUS

ENCLOSURES:

4-page Notice of Opposition with 1 page Exhibit 1 (in duplicate); check
in the amount of \$300.00, and post card to be stamped and returned.

PTO RECEIPT STAMP

Clara Vela
571 273 4316

September 11, 2007

Upper Playground Ent., Inc.
R5014

In re matter of Upper Playground Ent., Inc. for opposition of
Application Serial No. 77/123,846: filed March 6, 2007; for the mark
WALRUS



09-17-2007

ENCLOSURES:

U.S. Patent & TMO/PTO Mail Rept. 01, 438

4-page Notice of Opposition with 1 page Exhibit 1 (in duplicate); check
in the amount of \$300.00, and post card to be stamped and returned.

PTO RECEIPT STAMP