

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

COLUMBIA INSURANCE COMPANY and  
H.H. BROWN SHOE COMPANY, INC.,

Opposer,

v.

LENWORTH ALEXANDER HYATT

Applicant.

Opposition No.

In the matter of  
Application Serial No. 76-242,606

Published in the Official Gazette on October  
16, 2001

Mark: H & Crown Design

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

**NOTICE OF OPPOSITION**

Columbia Insurance Company, a Nebraska corporation, having its principal place of business at 4016 Farnam Street, Omaha, Nebraska 68131, and H.H. Brown Shoe Company, Inc., a Delaware corporation, having its principal place of business at 124 West Putnam Avenue, Greenwich, Connecticut, believe that they will be damaged by the registration of the mark shown in the above-identified application, and hereby oppose same.

The grounds for opposition are as follows:

1. Columbia Insurance Company is the owner of U.S. Trademark Registration No. 1,981,495 for the H & Crown Design trademark.

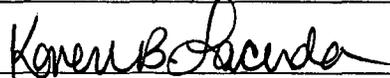
**CERTIFICATE OF MAILING BY FIRST CLASS MAIL**

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, Washington, D.C. 20231.

February 13, 2002

Date of Deposit

Signature



Karen B. Lacerda

Typed or Printed Name of Person Signing Certificate

2. H.H. Brown Shoe Company, Inc. is licensed by Columbia Shoe Company to use the H & Crown Design trademark.

3. Hereinafter Columbia Insurance Company and H.H. Brown Shoe Company, Inc. will be referred to collectively as Opposers.

4. Opposers use and have used since 1979, the H & Crown Design trademark in interstate commerce in connection with footwear and the like.

5. Applicant, Lenworth Alexander Hyatt, filed Application Serial No. 76-242,606 on April 17, 2001 on an intent-to-use basis for the mark Crown Design, to be used in connection with clothing for men, women, children and infants, namely footwear, pants, headwear, underwear, swimwear, lingerie, shirts, jackets, socks, dresses, blouses, stockings, sweaters, blazers, pajamas, robes, trench coats, sports, sports jerseys, gloves, overall, skirts, jump-suits, leotards, tank-tops, neck-ties, bow-ties, shorts, suits, scarves, handkerchiefs, vest, shawls, blazers in Int. Class 25. Said application was published in the Official Gazette of October 16, 2001.

6. Applicant's mark Crown Design, as applied to footwear, so resembles the previously used H and Crown Design trademark of Opposers, as used in connection with Opposers' goods, as to be likely to cause confusion or cause mistake, or to deceive consumers as to any association between Opposers' and Applicant.

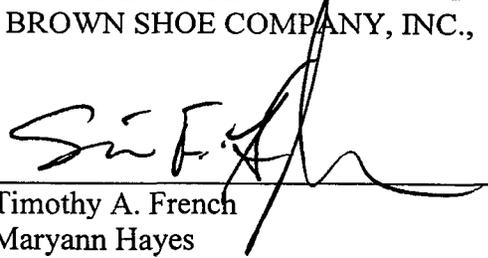
7. Applicant's mark Crown Design, as applied to footwear, so resembles the previously used H and Crown Design of Opposers, as used in connection with Opposers' goods, will likely dilute the distinctiveness of Opposers' trademark.

8. Based upon the foregoing, the registration of the mark depicted in Application Serial No. 76-242,606, filed on April 17, 2001, on the Principal Register of the United States Patent and Trademark Office, will cause injury and damage to Opposers.

WHEREFORE, Opposers requests that registration of Applicant's mark Crown Design, Application Serial No. 76-242,606, be denied.

COLUMBIA INSURANCE COMPANY and  
H.H. BROWN SHOE COMPANY, INC.,

By:

  
\_\_\_\_\_  
Timothy A. French  
Maryann Hayes  
Seán F. Heneghan

Opposer attorneys  
Fish & Richardson, P.C.  
225 Franklin Street  
Boston, MA 02110-2804  
(617) 542-5070

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**RECEIVED**

MAR 15 2002

**TRADEMARK DEPT.**

10294/602PP1 SFH

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

February 21, 2002

**RECEIVED**

MAR 15 2002

**FISH & RICHARDSON, P.C.**  
**BOSTON OFFICE**

Applicant: Lenworth Alexander Hyatt  
Serial No.: 76/242,606  
Filed: April 17, 2001  
Mark: MISC. DESIGN

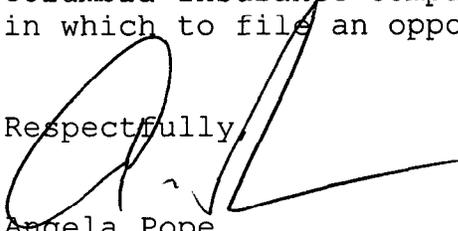
Sirs:

The record in this case now shows that the Trademark Examining Attorney has refused entry of applicant's proposed amendment filed herein on December 7, 2001. A copy of the Examining Attorney's telephone communication with applicant, explaining why the amendment cannot be entered, is forwarded herewith to the potential opposer.

Accordingly, proceedings with respect to the potential opposition are resumed and the potential opposer herein, Columbia Insurance Company, is allowed until March 23, 2002 in which to file an opposition to applicant's application.

70 opposition  
filed  
2/13/02

Respectfully,



Angela Pope  
Legal Assistant,  
Trademark Trial and Appeal Board  
(703)308-9300, Ext. 144

Lenworth Alexander Hyatt  
P.O. Box 4864  
Hollywood, FL 33083-4864

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prev status  
SEARCHED 5/13/02  
SERIALIZED 5/13/02  
INDEXED 5/13/02  
FILED 5/13/02  
BY SMN ON 3/18/02

## EXTENSIONS OF TIME TO OPPOSE

### 212.03 Form of Amendment

An amendment or other paper relating to an application which is the subject of a request for an extension of time to oppose should be in the normal form for an amendment or other paper relating to an application, except that it should be directed to the attention of the Trademark Trial and Appeal Board (i.e., BOX TTAB NO FEE, Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513), because the application file will be in the physical possession of the Board.

### 212.04 Action by Board--Upon Receipt of Amendment

When an amendment relating to an application which is the subject of a request for an extension of time to oppose is filed in the PTO, it is forwarded within the PTO to the physical location of the application. Normally, the file of such an application will be located at the offices of the Board. After the amendment has been placed in the application file, a Board administrative staff member will prepare a letter acknowledging receipt of the amendment, forwarding the application file to the Examining Attorney for consideration of the amendment, and explaining the effect the filing of the amendment has on the extension of time to oppose. *See, for example, In re MCI Communications Corp.*, 21 USPQ2d 1534 (Comm'r 1991).

For example, if an extension of time to oppose is running when the letter is prepared, the letter will acknowledge receipt of the amendment; note that the amendment requires consideration by the Examining Attorney; state that potential opposer has been granted an extension of time to oppose until a specified date; suspend the running of potential opposer's extension of time to oppose; forward the application to the Examining Attorney for consideration of the amendment; instruct the Examining Attorney to act on the amendment (either by approving it for entry or by telephoning the applicant, explaining why the amendment cannot be approved, and placing a record of the telephone call in the file), and then return the application to the Board; and indicate that after the application has been returned to the Board, proceedings with respect to the potential opposition will be resumed, and further appropriate action will be taken. *See In re MCI Communications Corp.*, 21 USPQ2d 1534 (Comm'r 1991). If the amendment is

## EXTENSIONS OF TIME TO OPPOSE

filed during an extension of time to oppose, and the Board's letter will not be ready for mailing prior to the date set for the expiration of the extension, the letter will include a statement that the filing of the amendment prior to the date set for the expiration of the extension served to suspend the running of the extension.

The reason for the suspension of the running of the extension period, in the example above, is that the potential opposer is entitled to know, before it files an opposition, whether or not the amendment has been approved. However, the suspension is solely for the benefit of the potential opposer, that is, to preserve potential opposer's time for opposing until potential opposer has been notified of the disposition of the amendment and has had adequate time thereafter to file an opposition. If, notwithstanding the Board's letter suspending the running of the extension, an opposition is filed prior to the expiration of the extension as originally set, the opposition will not be rejected by the Board as having been filed during the suspension; rather, potential opposer will be deemed to have waived the suspension of the running of its extension, and the opposition will be deemed timely. If the amendment is approved, and opposer does not wish to oppose the application as amended, opposer may request that the opposition not be instituted (or, if already instituted, that the institution be vacated), and that the opposition fee be refunded.

If an amendment is filed after the expiration of potential opposer's extension of time to oppose, and no opposition or request for a further extension of time to oppose has been timely filed, the Board's letter will acknowledge receipt of the amendment; note that the amendment requires consideration by the Examining Attorney; indicate that potential opposer's extension of time to oppose has expired, and that no opposition or request for a further extension of time to oppose has been timely filed; forward the application to the Examining Attorney for consideration of the amendment; and state that the Examining Attorney may treat the amendment in the same manner as any amendment after publication (TMEP §§1504.01 and 1505 *et seq.*), and need not return the application to the Board after consideration of the amendment.

If an amendment is filed prior to action by the Board on a request for an extension of time to oppose, and the request is appropriate for granting, the letter will acknowledge receipt of the request and the amendment; note that the amendment requires consideration by the Examining Attorney; grant the request; suspend the running of the extension period; forward the application to the Examining Attorney for consideration of the amendment; instruct the Examining Attorney to act on the amendment (either by approving it for entry or by telephoning the

# FISH & RICHARDSON P.C.

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February 13, 2002

U.S Patent & Trademark Office  
Trademark Trial & Appeal Board  
2900 Crystal Drive  
Arlington, VA 22202-3513



03-25-2002

U.S. Patent & TMO/TM Mail Rcpt Dt. #11

Re: In the matter of application Serial No. 76-242,606 - Notice of Opposition  
Our Ref.: 10294-602PP1



BOSTON

DALLAS

DELAWARE

NEW YORK

SAN DIEGO

SILICON VALLEY

TWIN CITIES

WASHINGTON, DC

Dear Sir/Madam:

Enclosed herewith please find a Notice of Opposition (in triplicate) and our check in the amount of \$600.00 in payment of the filing fee.

Please charge any additional fees or make any credits to Deposit Account No. 06-1050.

Very truly yours,

Seán F. Heneghan

Enclosures

20389652.doc

# FISH & RICHARDSON P.C.

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W.K. Richardson  
1859-1951

March 22, 2002

U.S. Patent & Trademark Office  
Trademark Trial & Appeal Board  
2900 Crystal Drive  
Arlington, VA 22202-3513



03-25-2002

U.S. Patent & TMO/TM Mail Rpt Dt. #11

Re: In the matter of application Serial No. 76-242,606 - Notice of Opposition  
Our Ref.: 10294-602PP1

Dear Sir/Madam:



Enclosed please find a copy of the Notice of Opposition for the above captioned matter that was filed on February 13, 2002 (in triplicate), along with the \$600.00 filing fee.

BOSTON

DALLAS

DELAWARE

NEW YORK

SAN DIEGO

SILICON VALLEY

TWIN CITIES

WASHINGTON, DC

At the time of the filing, potential Opposers were not clear as to the status of the application at issue so a Notice of Opposition was filed per the original extension deadline. Counsel for potential Opposers recently received a communication from the Board informing it that the Examining Attorney for the application at issue had refused entry of Applicant's proposed amendment and the suspension of the running extension lifted to a new deadline of March 23, 2002 (see enclosed).

In view of TBMP Section 212.04 and the new extension deadline, it is the position of potential Opposers that the Notice of Opposition has been timely filed and that the Board should view the suspension of the extension period as being waived by potential Opposers. Since the amendment was declined and the grounds for the Opposition are still live, the February 13, 2002 filing should be accepted by the Board.

Please charge any additional fees or make any credits to Deposit Account No. 06-1050.

Very truly yours,

Seán F. Heneghan

Enclosures

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