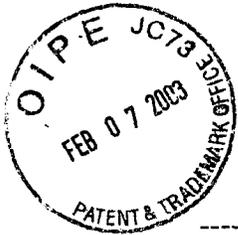


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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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BEAR U.S.A., INC.,	:
	:
Opposer,	:
	:
v.	:
	:
	Opposition No.:
	:
	Serial No.: 78/092,269
	:
JEAN M. ROMEO,	:
	:
Applicant.	:
-----X	

NOTICE OF OPPOSITION

In the matter of pending trademark application Serial No. 78/092,269, for the mark "BEARPAW" (hereinafter the "Mark") in International class 25 for "Footwear, shoes, boots, slippers, sandals, apparel, namely shirts, t-shirts, sweatshirts, pants, sweat pants, socks, jackets and hats" in International Class 25 (hereinafter "Applicant's goods"), filed by Jean M. Romeo, PMB 349, 4727 E. Bell Road, Phoenix, AZ 85032 (hereinafter "Applicant"), published in the Trademark Official Gazette of November 19, 2002, Opposer Bear U.S.A., Inc., whose address is 460 Bergen Boulevard, Palisades Park, NJ 07650 (hereinafter "Bear" or "Opposer"), believes it will be damaged by the registration of such Mark, and hereby opposes same.

As grounds for its opposition, Bear alleges as follows:

1. Opposer, Bear U.S.A., Inc., is a New Jersey Corporation having a place of business at 460 Bergen Boulevard, Palisades Park, New Jersey 07650.

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2. Opposer is and has been for several years an internationally known manufacturer and distributor of clothing, footwear and other items.

3. Since at least as early as June 1993, and well prior to the filing date of the intent-to-use application opposed herein, Opposer Bear has used, advertised and promoted in interstate commerce its "BEAR" trademarks on or in connection with its clothing products. Among the trademarks used, advertised and promoted by Bear are: BEAR, BEAR MOUNTAIN, BABY BEAR, BEAR MAX, AIRBEAR, BEAR U.S.A. and BEAR U.S.A. and design. In addition to the foregoing BEAR trademarks, Opposer Bear has also used, advertised and promoted its BEAR Paw design mark. These trademarks, including the BEAR Paw trademark, are hereafter collectively referred to as the "BEAR Trademarks".

4. Bear has sold many millions of dollars worth of clothing, footwear and other products under its BEAR Trademarks, and has spent many tens of thousands of dollars advertising and promoting its BEAR Trademarks and the products sold under those trademarks in interstate commerce.

5. By virtue of Opposer Bear's aforesaid advertising, promotion and extensive sales, Bear has acquired valid and enforceable trademark rights in the BEAR Trademarks for its products, and Opposer's BEAR Trademarks have come to represent an extremely valuable goodwill, which is owned by Opposer. Further, as a result of the foregoing sales, advertising and promotion, the BEAR Trademarks have become distinctive and exclusively associated with Opposer, and Opposer has acquired an eminent reputation and valuable goodwill in them.

6. In addition to Bear's common law rights in its BEAR Trademarks, Bear is also the owner of a number of trademark applications and several Federal Registrations for its trademarks. These registrations include, among others, Registration No. 2,191,596 for the mark BEAR-MAX; Registration Nos. 2,286,759, 2,559,155 and 2,556,355 for the mark BABY BEAR; Registration No. 2,199,122 for the mark AIRBEAR (Stylized); Registration No. 2,285,696 for the mark BEAR and Design; Registration No. 2,228,358 for the mark BEAR and Design; Registration No. 2,559,096 for the mark BEAR U.S.A. and Design; Registration No. 2,429,029 for the mark BEAR U.S.A., INC.; Registration No. 2,384,568 for the mark BEAR MOUNTAIN; Registration No. 2,199,119 for the "Bear Paw" design; and Registration No. 2, 276,955 for the mark BEAR U.S.A., Inc. and Design. In addition, Bear is the owner of numerous pending applications, including applications for the trademarks BEAR MOUNTAIN, BABY BEAR, BEAR CUB, BEAR U.S.A. and BEAR U.S.A. and Design, which applications have been filed with the United States Patent and Trademark Office. Opposer will make Certified copies of the foregoing registrations of record during its Testimony period.

7. Because the BEAR Trademarks and the goods sold, advertised and promoted by Bear under those trademarks are exclusively associated with Bear, the registration and use by Applicant of the mark "Bearpaw", which mark incorporates the primary source-identifying element of Bear's BEAR Trademarks, will inevitably cause confusion in the minds of the public, leading the public to believe that Applicant's clothing products emanate from Opposer or that Applicant is in some way associated with or connected to Opposer, when, in fact, no such relationship exists. Further, in view of the

similarities between Applicant's and Opposer's marks, and the nature of the clothing to be sold by Applicant under the Mark and the goods sold by Bear under its BEAR Trademarks, registration of the Mark by Applicant in connection with such goods is likely to mislead or deceive consumers as to the source, origin or sponsorship of Applicant's goods.

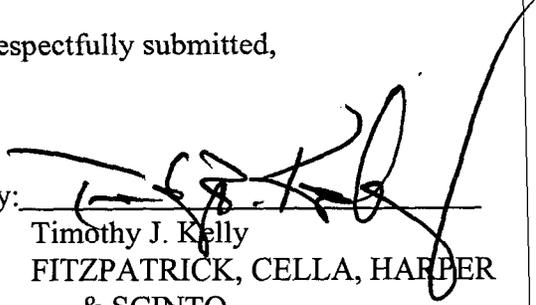
8. For the foregoing reasons, Opposer will be damaged by the registration of the Mark shown in the instant application for Applicant's goods, because the public and the trade will be caused to believe that the goods sold under that Mark are produced or licensed by Opposer, or are produced by Applicant under a mark confusingly similar to Opposer's BEAR Trademarks, with the authorization, permission or sponsorship of Opposer.

9. For the foregoing reasons, Applicant is not entitled to registration of its alleged mark "Bearpaw" for the goods set forth in its application, and is not entitled to the exclusive use thereof.

WHEREFORE, Opposer respectfully requests that this opposition be sustained and that registration of the mark "Bearpaw" as sought by Applicant be refused.

Dated: February 6, 2003

Respectfully submitted,

By: 

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