

TTAB

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

BALLY SCHUHFABRIKEN AG, )  
)  
Opposer, )  
)  
v )  
)  
BAKER FOOTWEAR GROUP, INC., )  
)  
Applicant. )  
\_\_\_\_\_ )

NOTICE OF OPPOSITION

Opposition No.



06-17-2004

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #22

NOTICE OF OPPOSITION

June 11, 2004

Bally Schuhfabriken AG hereby opposes the registration of United States Trademark Application Serial No. 78/048,493 published for opposition on March 31, 2004, for a "B" design mark. Bally Schuhfabriken AG has previously filed two Requests for Extension of Time to file a Notice of Opposition, to and including June 29, 2004. The following reasons are assigned in support of this Notice of Opposition:

1. Bally Schuhfabriken AG is a multinational corporation having its principal offices in the country of Switzerland.

2. Upon information and belief, Baker Footwear Group, Inc. is a corporation having offices in St. Louis, Missouri.

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3. Upon information and belief, on February 15, 2001, Baker Footwear Group, Inc. caused to be filed United States Trademark Application Serial No. 78/048,493 for a mark encompassing the letter "B" and of which the letter "B" is the dominant part. The said application was filed in International Classes 14, 18, 25, 26 and 35.

4. Bally Schuhfabriken AG is the owner of United States Trademark Registration No. 2,611,566 which issued on August 27, 2002, claiming priority of June 9, 2000, for a mark consisting of the stylized letter "B". Said registration claims goods in International Classes 3, 14, 18 and 25. The said registration is valid and in force.

5. Since long prior to the filing date of Trademark Application Serial No. 78/048,493, Bally Schuhfabriken AG has used in commerce in the United States a stylized "B" design as a trademark for goods including without limitation wallets, clothing, shoes, buckles for shoes and bags.

6. Bally Schuhfabriken AG owns a celebrated reputation for selling goods of the highest quality. Bally Schuhfabriken AG has expended millions of dollars in creating trademarks in the United States and elsewhere in the world which are immediately recognized as representing the highest degree of quality and reputation.

7. Applicant's mark is for the letter "B". Opposer's registered mark is also for the letter "B". The TESS system of the United States Trademark Office indicates that both marks are "word mark B".

8. Applicant seeks to register the letter "B" mark in Class 18 for handbags and purses.

9. Since long prior to the filing date of Trademark Application Serial No. 78/048,493, Bally Schuhfabriken AG has used the letter "B" design for goods, including handbags and purses. Trademark Registration No. 2,611,566 owned by Bally Schuhfabriken AG includes in its Listing of Goods handbags, shopping bags and various other types of bags, wallets and cases.

10. Applicant seeks to register the "B" design mark in International Class 25 for footwear, clothing, namely jackets, scarves, belts, socks, hosiery.

11. Since long prior to the filing date of Application Serial No. 78/048,493, Bally Schuhfabriken has used its "B" design on articles of clothing. Trademark Registration No. 2,611,566 owned by Bally Schuhfabriken AG contains International Class 25 clothing, namely belts, ties, shawls, scarves, dresses, blouses, sweaters, coats, jackets, pants, shirts, skirts, underwear, swimwear, footwear, inner soles, heel and shoe shanks; hats and caps.

12. Applicant's Trademark Application No. 78/048,493 includes international Class 26 for footwear ornaments not of precious metal.

13. Since long prior to the filing date of Application Serial No. 78/048,493, Bally Schuhfabriken has sold and offered for sale in the United States, shoes having ornaments not of precious metal containing applicant's letter "B" design.

14. The applicant's trademark is confusingly similar to opposers registered trademark. Both marks are for the letter "B" and the goods involved are identical.

15. Opposer, Bally Schuhfabriken AG will be damaged by the registration of Trademark Application Serial No. 78/048,493 in classes 18, 25 and 26, because consumers and potential consumers are likely to be confused as to the source or origin the goods of Bally Schuhfabriken AG. Defects in applicant's goods are likely to harm the valued reputation of the opposer.

In view of all of the above, sustaining of this opposition proceeding is respectfully requested.

It is requested that the required fee be debited to the account of the undersigned #19-4675.

Respectfully submitted,

A handwritten signature in black ink, consisting of several stylized, overlapping strokes that form a cursive-like name.

Michael J. Striker  
Attorney for Opposer  
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Huntington, New York 11743