ESTTA Tracking number: **ESTTA21864**

Filing date: **12/21/2004**

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

# Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

## Opposer Information

| | |
|---|---|
| **Name** | Target Brands, Inc. |
| **Granted to Date of previous extension** | 12/22/2004 |
| **Address** | 1000 Nicollet Mall TPS-3165<br>Minneapolis, MN 55403<br>UNITED STATES |

| | |
|---|---|
| **Attorney information** | Vanessa A. Ignacio, Esq.<br>Lowenstein Sandler PC<br>65 Livingston Avenue<br>Roseland, NJ 07068-1791<br>UNITED STATES<br>lstrademark@lowenstein.com Phone:973-597-2500 |

## Applicant Information

| | | | |
|---|---|---|---|
| **Application No** | 78170846 | **Publication date** | 08/24/2004 |
| **Opposition Filing Date** | 12/21/2004 | **Opposition Period Ends** | 12/22/2004 |
| **Applicant** | Shaun N.G. Hughes<br>2815 Wetmore Avenue<br>Everett, WA 98201 | | |

| | |
|---|---|
| | UNITED STATES |

**Goods/Services Affected by Opposition**

| |
|---|
| Class 025. First Use: 19920630First Use In Commerce: 19920630<br>All goods and sevices in the class are opposed, namely: Sun protective clothing for men, women and children, namely, shirts |

| | |
|---|---|
| **Attachments** | ULTIMATE POLO (Pleading).pdf ( 4 pages )<br>ULTIMATE POLO (Exhibit A, Target hang tags).pdf ( 2 pages )<br>ULTIMATE POLO (Exhibit B, webshots).pdf ( 9 pages )<br>ULTIMATE POLO (Exhibit C, Applicant's woven label and hang tag).pdf ( 2 pages )<br>ULTIMATE POLO (Exhibit D, definitions from dictionary).pdf ( 2 pages )<br>ULTIMATE POLO (Exhibit E, third party regs with disclaimer).pdf ( 18 pages ) |

| | |
|---|---|
| **Signature** | /Vanessa A. Ignacio/ |
| **Name** | Vanessa A. Ignacio, Esq. |
| **Date** | 12/21/2004 |

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

| | | |
|---|---|---|
| Target Brands, Inc.,<br>Opposer, | : | |
| v. | : | **Opposition No. _____** |
| Shaun N.G. Hughes,<br>Applicant. | : | **Application Serial No. 78/170,846** |

**NOTICE OF OPPOSITION**

In the matter of Trademark Application Serial No. 78/170,846 filed October 3, 2002, for the mark "ULTIMATE POLO" (the "Applicant's Mark") in International Class 025 for sun protective clothing for men, women and children, namely, shirts, published for Opposition in the Official Gazette on August 24, 2004, for which an Extension of Time to File Opposition was granted until December 22, 2004:

Target Brands, Inc. ("Target"), a Minnesota corporation located and doing business at 1000 Nicollet Mall, TPS-3165, Minneapolis, Minnesota 55403, believes that it will be damaged by registration of the Applicant's Mark and hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Since long prior to the filing date of Applicant's application herein opposed, Target has been in the business of selling clothing for men, women, and children and has built a large and profitable business in connection therewith.

2. Target has a real interest in the registration of the Applicant's Mark because such registration would interfere with its right to the lawful descriptive use of the terms and phrase "ULTIMATE POLO" to describe Target's clothing. Attached hereto as Exhibit A are copies of hang tags Target intends to use in connection with its line of polo shirts.

3. Other clothing retailers, such as Macy's, already employ the phrase ULTIMATE POLO to describe their clothing goods. Screen shots printed from a sampling of retailers' Internet web sites depicting descriptive uses of "ultimate polo" is attached hereto as Exhibit B. Such descriptive uses by Target, Macy's and other retailers demonstrate that the phrase ULTIMATE POLO should not be controlled by one person or entity and should remain in the public domain for all to use. If Applicant should receive registration for this descriptive phrase, Target, as well as other retailers, may be precluded from making legitimate, descriptive uses of "ultimate polo" to describe commonly sold polo shirts.

4. The Applicant's Mark, as used in connection with shirts, is not being used by the applicant as a trademark. Rather, it is a merely descriptive phrase, incapable of federal registration.[1] First, the word ULTIMATE is a laudatory term as defined by TMEP § 1209.03(k) ("Laudatory terms, those that attribute quality or excellence to goods or services, are merely descriptive under § 2(e)(1)."). Moreover, ULTIMATE is a merely descriptive term as defined by TMEP § 1209.01(b) ("A mark is considered merely descriptive if it describes an ingredient, quality, characteristic, function, feature, purpose or use of the specified goods or services."). Second, as noted by the Trademark Examining Attorney in an Office Action sent to Applicant on April 2, 2003, the "term 'polo' is generic for a type of shirt. Generic terms cannot acquire distinctiveness as to source and are incapable of identifying the applicant's goods and distinguishing them from those of others." That the term "polo" is generic in nature was the basis for the Trademark Examining Attorney to require the Applicant to expressly disclaim POLO in the application. See Id.

5. Applicant does not even make a trademark use of the phrase ULTIMATE POLO on any of the labels or tags affixed to the polo shirt which Applicant markets as the

---

[1] Although there are prior registrations of marks that include ULTIMATE, Target respectfully requests that the Trademark Trial and Appeal Board consider the Federal Circuit's finding in In re Nett Designs, that "[t]hese prior registrations do not conclusively rebut the Board's finding that ULTIMATE is descriptive in the context of [THE ULTIMATE BIKE RACK] . . . the PTO's allowance of such prior registrations does not bind the Board or this court." In re Nett Designs Inc., 57 U.S.P.Q.2d 1564, 236 F.3d 1339, 1342 (Fed. Cir. 2001).

ULTIMATE POLO on his web site located at www.sunprecautions.com. See Exhibit C. Copies of the woven label as affixed to the neck of Applicant's polo shirt as well as the informational hang tag attached to the shirt annexed hereto. Rather, Applicant prominently uses his registered SOLUMBRA trademark on both the woven label and the hang tag provided with the polo shirt. The only nominal use Applicant makes of ULTIMATE POLO anywhere on this garment is in small, inconspicuous typeface near the sku printed on the hang tag for apparently inventory purposes. See Id.

6. The following additional facts will help the Trademark Attorney properly assess whether ULTIMATE POLO is being used by applicant as a trademark or, instead, as a merely descriptive term:

a. Definitions of "ultimate" and "polo shirt" from the American Heritage Dictionary of the English Language (4th ed. 2000). See Exhibit D.

b. Nine third-party registrations in International Class 25 in which the word ULTIMATE has been disclaimed. See Exhibit E.

7. If Applicant is granted a registration for Applicant's Mark herein opposed in connection with the goods identified in Applicant's Application, Applicant would thereby obtain at least a *prima facie* exclusive right to use such mark, which registration would be a source of damage or injury to Target, other retailers, and the consuming public at large.

**WHEREFORE**, Target prays that Applicant's Application Serial No. 78/170,846 for the mark "ULTIMATE POLO" be rejected in connection with the goods identified therein, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Target.

Please charge our Attorneys' Deposit Account No. 501358 for the official filing fee in all classes (1). Any additional fees in connection with this opposition may also be charged to this account, and any overpayment may be credited to this account.

Respectfully submitted,

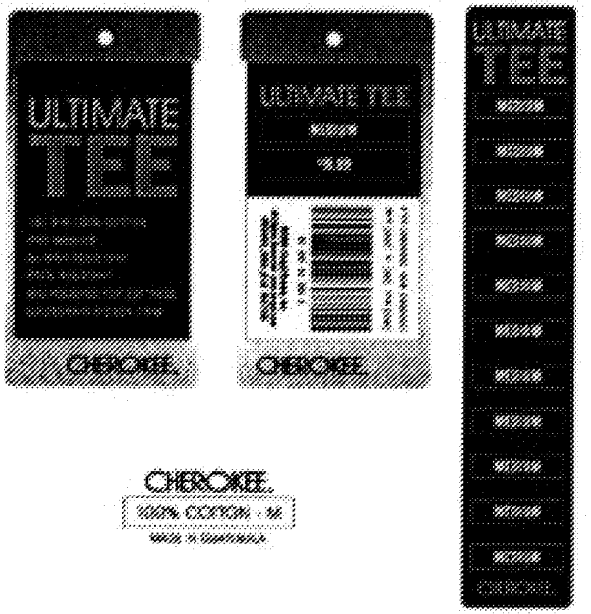
By: LOWENSTEIN SANDLER PC
65 Livingston Avenue
Roseland, New Jersey 07068
(973) 597-2500

ATTORNEYS FOR TARGET BRANDS, INC.

By: /Vanessa A. Ignacio/
Vanessa Ignacio, Esq.

Dated: December 21, 2004

ULTIMATE
POLO
CHEROKEE
ULTIMATE POLO
CHEROKEE
ULTIMATE POLO
CHEROKEE
XX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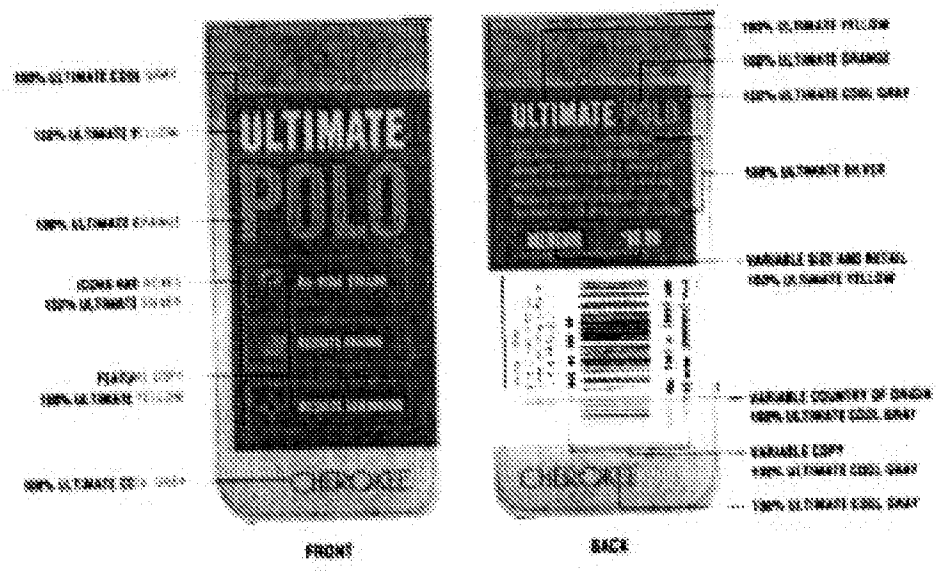
ULTIMATE
POLO
FRONT
BACK

EARN 10% REWARDS on almost all purchases made with your Macy's card

macy's easy to shop

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SEARCH GO HOLIDAY LANE THE BUZZ GIFTS GIFT CARDS BRID

WOMEN'S

Breast Cancer Awareness
BRANDS
FALL FASHION
JUNIORS/TWEST
PLUS SIZES
ATHLETIC SHOP
Accessories
Cashmere
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Dresses
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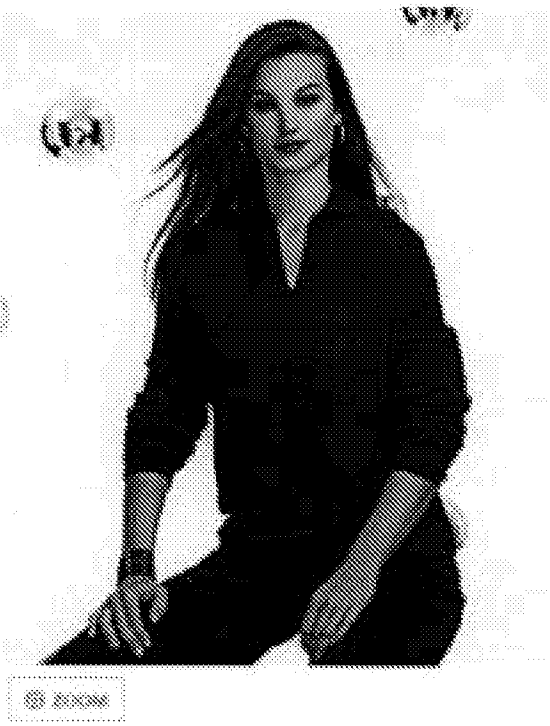
Intimate Apparel
Pants
Ponchos
Shoes
Shorts
Skirts
Sleepwear & Slippers
Suits
Sweaters
Cashmere
Cardigans
Cotton
Novelty
Silk
Wool
Turtlenecks
Tops
Warm-up Suits
Watches
SALE & VALUES
CLEARANCE
SWIM SALE

Glossary of Terms

Women's > Sweaters > Cashmere > CHARTER CLUB WOMAN CASHMERE POLO SWEATER



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Sweater

$109.99

The ultimate polo—in luxuriously soft 1
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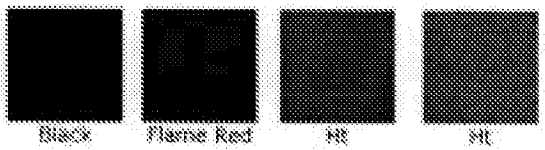
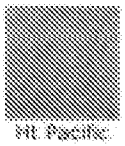
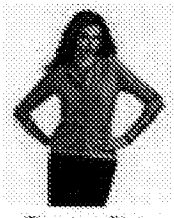


Black Flame Red Ht Amethyst Ht Cappucino



Ht Pacific

GREAT GIFTS



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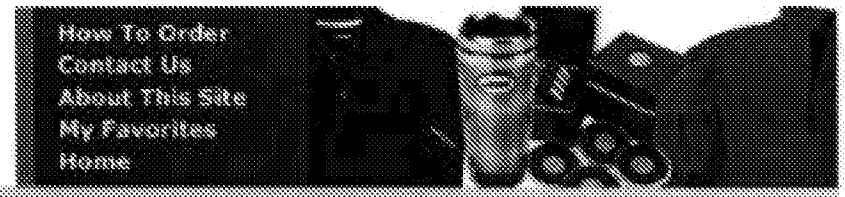


COMPANY BRANDS

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- Allen-Bradley
- DODGE/Reliance Electric
- Rockwell Software
- First Point Contact
- Additional Brands

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- Rockwell Automation Racing
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# Closeouts.....shirts

Search

Go

**100-Natural Ultimate Polo**

**Description:**
Solid piqué knit shirt in a double-mesh construction of 100% ring-spun, combed cotton; garment-washed for softness. Matching rib-knit trim on collar and sleeves; three-button placket with pearl buttons; taped shoulders; vented tail. Embroidered full-color Anniversary logo on left chest. S-3XL. Imported. Natural. While supplies last!

| Item ID | Size | In-Stock Qty |
|---|---|---|
| 4375283ADULT-3X | 6 | 0 |

**Pricing Info**

Qty 1+
Price $16.00

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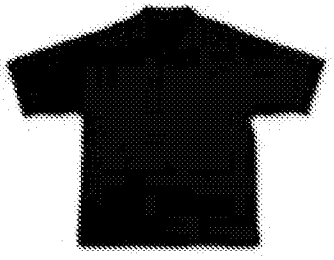

## Ultimate Polo

A little luxury and a lot of style this top of the range unisex polo is fashioned for today.

Style Number: **TB18005**

Options:
S, M, L, XL, 2XL, 3XL, **$39.95**

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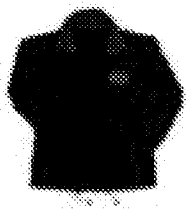
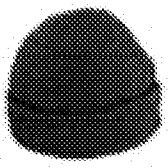


**Anorak**
Price: 79.95



**Micro Fleece Beanie**
Price: 5.95

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Items in Bag:
0 item(s)

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| | S | M | L | XL | 2XL | 3XL |
|---|---|---|---|---|---|---|
| **Black/White** | | | | | | |
| **Navy/Charcoal** | | | | | | |
| **Red/Navy** | | | | | | |

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PSEG
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CUSTOM ORDER
TO ORDER

**Black Ultimate Polo**

**Description:**
Partner comfort with style in this 100% cotton polo. Embroidered logo. Imported.

| Item ID | Size | In Stock | Qty |
|---|---|---|---|
| 389 | ADULT-S | 5 | 0 |

**Pricing Info**
Qty 1+
Price $20.15

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Classic Polo $24.99

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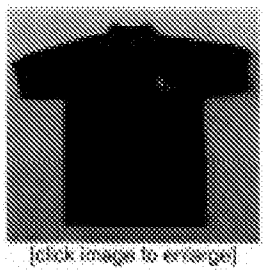
Visually stunning, our Polo is one real eye catcher! Super deluxe herringbone construction makes for an incredibly comfortable fit. Metal disk buttons add the perfect touch. Great for school, work, golf, or anytime you need to "dress up" a bit. 100% cotton.



[click image to enlarge]

Ultimate Polo $34.99

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In the office or on the course, our Ultimate Polo is a terrific way to look sharp yet feel relaxed. Unique cross pattern lends a high class touch. Casual Fridays never looked so good!

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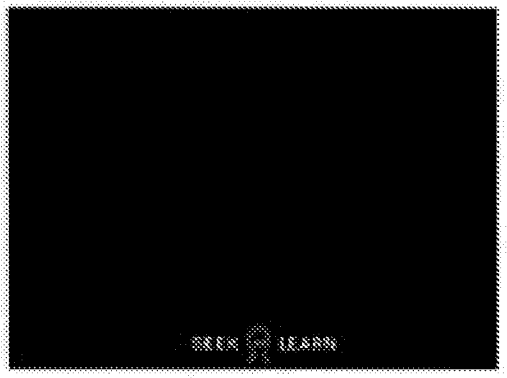


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## JT's ULTIMATE POLO SHIRT
(Reference #JT24)

- JT's Ultimate Polo Shirt
- 100% Combed Cotton
- 3 Button placket with horn buttons
- Ribbed cuff on sleeve
- Twin needle step back hem with taped side vents
- Herringbone tape at back neck and reinforced shoulders
- Back neck yoke
- Weight 240/245gms

Colours and sizes are for guidance only.

**Price: £12.00**

Quantity: 1

SIZE
S [to fit chest 36]

COLOUR
white

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Josens Uniforms: ADULTS POLO SHIRTS: PLAIN POLO SHIRTS: JT's ULTIMATE POLO SHIRT - JT24

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Personalisation for Embroidered Garments **£1.50** Buy

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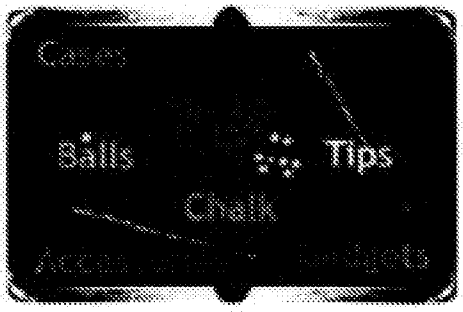

**CONTINUE**

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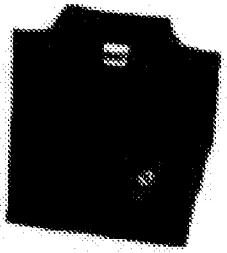

POLO ULTI EMB

**Ultimate Polo Shirt with Embroidered Logo**
The Ultimate polo is 100 percent pre-shrunk cotton (250GSM) and has side vents and ribbed tapered cuffs, Colours White, red, royal blue, bottle green, black, navy. (XS,S,M,L,XL,XXL,3XL)

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|---|---|
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| Total | **£14.99** |

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ANCIENT SCIENCE
AREA-51

# Earthlien® Ultimate Polo

Quantity in B
Code: **SP102**
Price: **$34.95**

Shipping We

**choose you size:**

Quantity: 1

Add to Wis

Super high quality. Box jacquard jersey pique. Embroidered logos on left front chest. The choice o
Specs: 75% ringspin cotton, 25% polyester. 6.5 oz.

In the office or on the course, our Ultimate Polo is a terrific way to look sharp yet feel relaxed. Unic
lends a high class touch. Casual Fridays never looked so good!

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1060A04 L WHT

8 07102 14945 9

Ultimate Polo L White

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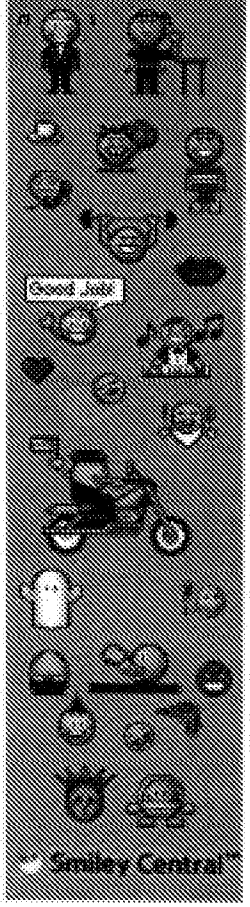



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The American Heritage® Dictionary of the English Language: Fourth Edition. 2000.

# ultimate

SYLLABICATION: ul·ti·mate

PRONUNCIATION: ˈŭl′tə-mĭt

ADJECTIVE: **1.** Being last in a series, process, or progression: *"As the ultimate arbiter of the Constitution, the Supreme Court occupies a central place in our scheme of government"* (Richard A. Epstein). **2.** Fundamental; elemental: *an ultimate truth.* **3a.** Of the greatest possible size or significance; maximum: *Has the ultimate diamond been found?* **b.** Representing or exhibiting the greatest possible development or sophistication: *the ultimate bicycle.* **c.** Utmost; extreme: *the ultimate insult.* **4.** Being most distant or remote; farthest. See synonyms at **last**[1]. **5.** Eventual: *hoped for ultimate victory.*

NOUN: **1.** The basic or fundamental fact, element, or principle. **2.** The final point; the conclusion. **3.** The greatest extreme; the maximum: *actions that represented the ultimate in political expediency.*

ETYMOLOGY: Latin *ultimātus*, past participle of *ultimāre*, to come to an end, from *ultimus*, last, superlative of **ulter*, on the other side. See **al-**[3] in Appendix I.

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The American Heritage® Dictionary of the English Language: Fourth Edition. 2000.

# polo shirt

NOUN: A pullover sport shirt of knitted cotton.

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UNITED STATES PATENT AND TRADEMARK OFFICE



## Trademark Electronic Search System(Tess)

*TESS was last updated on Tue Jul 20 04:44:36 EDT 2004*



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# Record 1 out of 1

Check Status *(TARR contains current status, correspondence address and attorney of record for this mark. Use the "Back" button of the Internet Browser to return to TESS)*

**Typed Drawing**

| | |
|---|---|
| **Word Mark** | ULTIMATE PRAISE |
| **Goods and Services** | IC 009. US 021 023 026 036 038. G & S: Phonograph records, audio cassettes, compact discs, and video tapes featuring music<br><br>IC 016. US 002 005 022 023 029 037 038 050. G & S: Posters and stickers<br><br>IC 025. US 022 039. G & S: Clothing, namely t-shirts, hats and sweatshirts |
| **Mark Drawing Code** | (1) TYPED DRAWING |
| **Serial Number** | 76406593 |
| **Filing Date** | May 9, 2002 |
| **Current Filing Basis** | 1B |
| **Original Filing Basis** | 1B |
| **Published for Opposition** | June 10, 2003 |
| **Owner** | (APPLICANT) Licciardello, Carman INDIVIDUAL UNITED STATES 8154 South 107th East Avenue Apt. #Q Tulsa OKLAHOMA 74133 |
| **Attorney of Record** | Stanley W. Sokoloff |
| **Disclaimer** | NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "ULTIMATE" APART FROM THE MARK AS SHOWN |
| **Type of Mark** | TRADEMARK |
| **Register** | PRINCIPAL |
| **Live/Dead Indicator** | LIVE |

# Trademark Electronic Search System(Tess)

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| | |
|---|---|
| Word Mark | XANTHIPPI PETRA THE ULTIMATE STYLE |
| Translations | The word "PETRA" translates from Greek to English as "stone". |
| Goods and Services | IC 025. US 022 039. G & S: wearing apparel, namely, skirts, shirts, shorts, dresses, slacks, tops, jackets and blouses. FIRST USE: 19830000. FIRST USE IN COMMERCE: 19980800 |
| Mark Drawing Code | (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS |
| Design Search Code | 260115 260121 |
| Serial Number | 75360588 |
| Filing Date | September 22, 1997 |
| Current Filing Basis | 1A |
| Original Filing Basis | 1B |
| Published for Opposition | October 12, 1999 |
| Registration Number | 2559087 |
| Registration Date | April 9, 2002 |
| Owner | (REGISTRANT) Xanthippi Petra Inc. CORPORATION CANADA 4600 Thimens Blvd. Montreal, Quebec CANADA H4R 2B2 |

| | |
|---|---|
| **Assignment Recorded** | ASSIGNMENT RECORDED |
| **Attorney of Record** | HOWARD N. ARONSON |
| **Disclaimer** | NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "THE ULTIMATE STYLE" APART FROM THE MARK AS SHOWN |
| **Description of Mark** | The mark consists of the words "XANTHIPPI PETRA" and "THE ULTIMATE STYLE" in stylized typeface surrounded by a double circle enclosure and an arbitrary assortment of bubbles in the background. |
| **Type of Mark** | TRADEMARK |
| **.egister** | PRINCIPAL |
| **Live/Dead Indicator** | LIVE |

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| | |
|---|---|
| Word Mark | STRENGTH THE ULTIMATE LEG TRAINING SYSTEM |
| Goods and Services | IC 025. US 039. G & S: footwear. FIRST USE: 19900500. FIRST USE IN COMMERCE: 19900500 |
| Mark Drawing Code | (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS |
| Design Search Code | 021108 090725 200306 260117 260121 261321 |
| Serial Number | 74390956 |
| Filing Date | May 17, 1993 |
| Current Filing Basis | 1A |
| Original Filing Basis | 1A |
| Published for Opposition | September 27, 1994 |
| Registration Number | 1868369 |
| Registration Date | December 20, 1994 |
| Owner | (REGISTRANT) STRENGTH FOOTWEAR, INC. CORPORATION LOUISIANA 450 31st Street Kenner LOUISIANA 70065<br><br>(LAST LISTED OWNER) Strength Systems, Inc. CORPORATION BY CHANGE OF NAME |

| | |
|---|---|
| | LOUISIANA 4920 Jefferson Highway Jefferson LOUISIANA 70121 |
| **Assignment Recorded** | ASSIGNMENT RECORDED |
| **Attorney of Record** | Stephen R. Doddy |
| **Prior Registrations** | 1473271 |
| **Disclaimer** | NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "THE ULTIMATE LEG TRAINING SYSTEM" APART FROM THE MARK AS SHOWN |
| **Type of Mark** | TRADEMARK |
| **Register** | PRINCIPAL |
| **Affidavit Text** | SECT 15. SECT 8 (6-YR). |
| **Live/Dead Indicator** | LIVE |

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| | |
|---|---|
| Word Mark | LOUNGE LIZARDS THE ULTIMATE LEISURE GENUINE LIZARD SKIN SHOES AND ACCESSORIES |
| Goods and Services | IC 025. US 039. G & S: REPTILE SKIN SHOES, NAMELY, YACHT SHOES AND WOMEN'S PUMPS. FIRST USE: 19851000. FIRST USE IN COMMERCE: 19851000 |
| Mark Drawing Code | (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS |
| Design Search Code | 032106 032126 110301 260101 |
| Serial Number | 73599941 |
| Filing Date | May 21, 1986 |
| Current Filing Basis | 1A |
| Original Filing Basis | 1A |
| Published for Opposition | July 21, 1987 |
| Registration Number | 1460999 |
| Registration Date | October 13, 1987 |
| Owner | (REGISTRANT) LOUNGE LIZARDS INC. CORPORATION FLORIDA SUITE A 2625 N.E. 14TH AVENUE WILTON MANORS FLORIDA 33334 |
| Attorney of | |

| | |
|---|---|
| **Record** | FRED CARY |
| **Prior Registrations** | 1367692 |
| **Disclaimer** | NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "THE ULTIMATE LEISURE GENUINE LIZARD SKIN SHOES AND ACCESSORIES" APART FROM THE MARK AS SHOWN |
| **Type of Mark** | TRADEMARK |
| **Register** | PRINCIPAL |
| **Affidavit Text** | SECT 15. SECT 8 (6-YR). |
| **Live/Dead Indicator** | LIVE |

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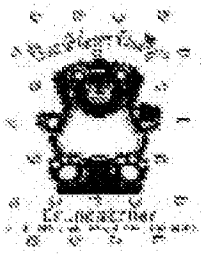

| | |
|---|---|
| Word Mark | BEARHEAR DESIGNS CRUMCATCHER THE ULTIMATE WATERPROOF CAR SEAT APRON |
| Goods and Services | IC 025. US 022 039. G & S: PLASTIC CHILD BIBS FOR CHILD RESTRAINT CAR SEATS. FIRST USE: 20001207. FIRST USE IN COMMERCE: 20001207 |
| Mark Drawing Code | (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS |
| Design Search Code | 021101 030114 120104 210111 260921 |
| Serial Number | 76192346 |
| Filing Date | January 10, 2001 |
| Current Filing Basis | 1A |
| Original Filing Basis | 1A |
| Published for Opposition | October 1, 2002 |
| Registration Number | 2665442 |
| Registration Date | December 24, 2002 |
| Owner | (REGISTRANT) Walker, Pat DBA BearHeart Designs INDIVIDUAL UNITED STATES 509 Whisper Lane Belton MISSOURI 64012 |
| Attorney of | |

| | |
|---|---|
| **Record** | Kyle L. Elliott |
| **Disclaimer** | NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "Designs" and "Ultimate Waterproof Car Seat Apron" APART FROM THE MARK AS SHOWN |
| **Type of Mark** | TRADEMARK |
| **Register** | PRINCIPAL |
| **Live/Dead Indicator** | LIVE |

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**Typed Drawing**

| | |
|---|---|
| **Word Mark** | ROLLERSPORT THE ULTIMATE DERBY EXPERIENCE |
| **Goods and Services** | IC 025. US 022 039. G & S: Clothing, namely, t-shirts, sweatshirts, sweatpants, socks, sweatbands, hats, caps, jackets and shorts<br><br>IC 041. US 100 101 107. G & S: Entertainment services in the nature of live sporting events featuring professional roller derby events |
| **Mark Drawing Code** | (1) TYPED DRAWING |
| **Serial Number** | 76447390 |
| **Filing Date** | September 6, 2002 |
| **Current Filing Basis** | 1B |
| **Original Filing Basis** | 1B |
| **Published for Opposition** | December 9, 2003 |
| **Owner** | (APPLICANT) Rollersport, Inc. CORPORATION FLORIDA 810 Jimmy Ann Drive, #8024 Daytona Beach FLORIDA 32117 |
| **Attorney of Record** | David L. Sigalow |
| **Disclaimer** | NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "ROLLERSPORT" and "ULTIMATE DERBY" APART FROM THE MARK AS SHOWN |
| **Type of Mark** | TRADEMARK. SERVICE MARK |
| **Register** | PRINCIPAL |
| **Live/Dead Indicator** | LIVE |

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WaterShed
TAKE SHELTER IN THE ULTIMATE RAINWEAR

| | |
|---|---|
| **Word Mark** | WATERSHED TAKE SHELTER IN THE ULTIMATE RAINWEAR |
| **Goods and Services** | IC 025. US 022 039. G & S: clothing, namely, rainwear. FIRST USE: 19831027. FIRST USE IN COMMERCE: 19831027 |
| **Mark Drawing Code** | (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS |
| **Design Search Code** | 070107 |
| **Serial Number** | **75679468** |
| **Filing Date** | April 12, 1999 |
| **Current Filing Basis** | 1A |
| **Original Filing Basis** | 1A |
| **Published for Opposition** | January 11, 2000 |
| **Registration Number** | 2370615 |
| **Registration Date** | July 25, 2000 |
| **Owner** | (REGISTRANT) Red Steer Glove Company CORPORATION OREGON 2895 Valpak Road N.E. Salem OREGON 97303 |
| **Attorney of Record** | Walter W. Karnstein |
| **Prior Registrations** | 1046441 |
| **Disclaimer** | NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "ULTIMATE RAINWEAR" APART FROM THE MARK AS SHOWN |

| | |
|---|---|
| **Type of Mark** | TRADEMARK |
| **Register** | PRINCIPAL |
| **Live/Dead Indicator** | LIVE |

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| | |
|---|---|
| **Word Mark** | SEVENBAR THE ULTIMATE HORSE STORE |
| **Goods and Services** | IC 035. US 100 101 102. G & S: retail store services and mail-order catalog services featuring clothing, leather-related products and products for animals. FIRST USE: 19970000. FIRST USE IN COMMERCE: 19970000 |
| **Mark Drawing Code** | (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS |
| **Design Search Code** | 010103 010109 030501 260108 261121 |
| **Serial Number** | 75261671 |
| **Filing Date** | March 21, 1997 |
| **Current Filing Basis** | 1A |
| **Original Filing Basis** | 1B |
| **Published for Opposition** | June 16, 1998 |
| **Registration Number** | 2302458 |
| **Registration Date** | December 21, 1999 |
| **Owner** | (REGISTRANT) Bandera Horse Supply, Inc. DBA Seven Bar CORPORATION TEXAS P.O. |

| | |
|---|---|
| | Box 1947 1203 Cedar Street Bandera TEXAS 78003 |
| **Attorney of Record** | LISA H. MEYERHOFF |
| **Disclaimer** | NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "THE ULTIMATE HORSE STORE" APART FROM THE MARK AS SHOWN |
| **Type of Mark** | SERVICE MARK |
| **Register** | PRINCIPAL |
| **Live/Dead Indicator** | LIVE |

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| | |
|---|---|
| **Word Mark** | UCM ULTIMATE COMFORT MANAGEMENT SYSTEM BY CHIPPEWA THE COLLECTION |
| **Goods and Services** | IC 025. US 022 039. G & S: footwear, namely boots. FIRST USE: 19981201. FIRST USE IN COMMERCE: 19981201 |
| **Mark Drawing Code** | (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS |
| **Design Search Code** | 020109 020131 020701 200306 240907 260101 261125 |
| **Serial Number** | 75752560 |
| **Filing Date** | July 16, 1999 |
| **Current Filing Basis** | 1A |
| **Original Filing Basis** | 1A |
| **Published for Opposition** | March 7, 2000 |
| **Registration Number** | 2353730 |
| **Registration Date** | May 30, 2000 |
| **Owner** | (REGISTRANT) Boot Royalty Company, L.P. Footwear Investment Company, a Delaware corporation LIMITED PARTNERSHIP DELAWARE 2821 West Seventh Street Fort Worth |

| | |
|---|---|
| | TEXAS 76107 |
| **Attorney of Record** | Charles S. Cotropia |
| **Prior Registrations** | 0773714;1327152;1661779;2198056;AND OTHERS |
| **Disclaimer** | NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "**ULTIMATE** COMFORT" and "COLLECTION" APART FROM THE MARK AS SHOWN |
| **Type of Mark** | TRADEMARK |
| **Register** | PRINCIPAL |
| **Live/Dead Indicator** | LIVE |