

ESTTA Tracking number: **ESTTA98656**

Filing date: **09/11/2006**

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	Lotto Sport Italia S.p.A.
Granted to Date of previous extension	09/10/2006
Address	Via S. Gaetano 200 Montebelluna (Treviso), ITALY

Domestic Representative	Jeffrey H. Kaufman Oblon Spivak McClelland Maier & Neustadt, P.C. 1940 Duke Street Alexandria, VA 22314 UNITED STATES tmdocket@oblon.com, jkaufman@oblon.com, kbunn@oblon.com Phone:703-413-3000
-------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Applicant Information

Application No	78784343	Publication date	03/14/2006
Opposition Filing Date	09/11/2006	Opposition Period Ends	09/10/2006
Applicant	FLIR Systems, Inc. 27700A SW Parkway Avenue Wilsonville, OR 97070 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. First Use: 1980/01/31 First Use In Commerce: 1980/01/31 All goods and services in the class are opposed, namely: Electronic visions systems, namely, image processors and cameras sensing electromagnetic radiation including visible light, infrared radiation and other thermal radiation

Attachments	289932us-nop.PDF (14 pages)(426089 bytes)
-------------	----------------------------------------------

Signature	/jeffrey h. kaufman/klb
Name	Jeffrey H. Kaufman
Date	09/11/2006

1. The Opposer, LOTTO SPORT ITALIA S.P.A., is a joint stock company duly organized and existing under the laws of Italy, having its principal offices at Via S. Gaetano 200, Montebelluna (Treviso) Italy.

2. Commencing prior to Applicant's filing date, Opposer has engaged, and is now engaged in the manufacture, distribution, sale, advertising and promotion in commerce with the United States of clothing, sporting goods and accessories (Opposer's Goods).

3. Commencing prior to Applicant's filing date, Opposer has used, and is now using Opposer's Rhombs Design trademark and its LOTTO & Rhombs Design trademark (hereinafter sometimes referred to as Opposer's Marks) in connection with Opposer's Goods distributed and sold by Opposer in commerce with the United States.

4. Opposer is the owner of, and will rely herein, upon the following Federal trademark registrations:

<u>MARK</u>	<u>REGISTRATION NO.</u>	<u>ISSUED</u>
LOTTO & Rhombs Design	1,023,806	October 28, 1975
LOTTO & Rhombs Design	1,638,407	March 19, 1991
LOTTO & Rhombs Design	2,514,566	December 4, 2001
Rhombs Design	1,378,169	January 14, 1986
Rhombs Design	1,656,254	September 10, 1991
Rhombs Design	2,452,969	May 22, 2001

Said registrations of Opposer are valid and subsisting. Registration Nos. 1,023,806; 1,378,169; 1,638,407; and 1,656,254 have achieved incontestable status, and are conclusive evidence of Opposer's exclusive right to use Opposer's Marks in commerce on the goods specified in said registrations. Copies of the above-identified registrations are attached hereto, as Opposer's Exhibit 1.

5. Opposer's Registration No. 2,514,566 covers *inter alia*, "spectacles, spectacle frames, spectacle cases, spectacle chains, spectacle cords, spectacle lenses, binoculars, compasses" in the International Class 9 identification of goods.

6. Since Opposer's initial use of the Rhombs Design and LOTTO & Rhombs Design marks, Opposer has made a substantial investment in advertising and promoting its goods under its trademarks. Opposer has extensively used, advertised, promoted and offered Opposer's Goods bearing the marks to the public through various channels of trade in commerce, with the result that Opposer's customers and the public in general have come to know and recognize Opposer's Marks and associate same with Opposer and/or goods sold by Opposer. Opposer has built extensive goodwill in connection with the sales of products under its marks.

7. Opposer's Rhombs Design Mark is famous.

8. Opposer will also rely herein on its common law rights in and to the Rhombs Design trademark and the LOTTO & Rhombs Design trademark used on other goods.

9. Upon information and belief, notwithstanding Opposer's rights in and to its marks, on January 3, 2006, Applicant filed an application for registration of its alleged Rhombs Design trademark for "electronic vision systems, namely, image processors and cameras sensing electromagnetic radiation including visible light, infrared radiation and other thermal radiation." Applicant's application was assigned Serial No. 78/784,343, and was published for Opposition in the *Official Gazette* of March 14, 2006, Vol. 1304, No. 2, at Page 464.

10. Applicant's Rhombs Design mark is a simulation and colorable imitation of, and so resembles Opposer's trademarks as to be likely, when applied to the identified goods of Applicant, to cause confusion or mistake or to deceive purchasers resulting in damage and detriment to Opposer and its reputation.

11. Upon information and belief, Opposer's and Applicant's goods could be promoted and sold under their respective Rhombs Design marks in and through the same channels of trade and purchased and consumed by the same general classes of purchasers.

12. Applicant's Rhombs Design mark is confusingly similar to Opposer's Rhombs Design mark in appearance and commercial impression.

13. Applicant's use and registration of a Rhombs Design mark will enable Applicant to trade upon and utilize the extensive goodwill established by Opposer in its Marks.

14. Opposer, upon information and belief, avers that its customers, and the public in general, are likely to be confused, mistaken or deceived as to the origin and sponsorship of Applicant's proposed goods to be marketed under Applicant's alleged Rhombs Design trademark and misled into believing that such goods are produced by, emanate from, or are in some way directly or indirectly associated with Opposer, to the damage and detriment of Opposer and its reputation.

15. Opposer, upon information and belief, avers that it will be damaged by the registration by Applicant of a Rhombs Design trademark, as set forth in Applicant's Trademark Application Serial No. 78/784,343, in that the mark is substantially similar to Opposer's Marks and common law rights and will be used in connection with goods related to the goods offered to the public by Opposer.

WHEREFORE, this Opposer, LOTTO SPORT ITALIA S.P.A., believes and avers that it is being and will continue to be damaged by registration of a Rhombs Design trademark as aforesaid, and prays that said Application Serial No. 78/783,343 be rejected, that no registration be issued thereon to Applicant, and that this Opposition be sustained in favor of Opposer.

Opposer has appointed JEFFREY H. KAUFMAN, a member of the Bar of the Commonwealth of Virginia, to prosecute this opposition proceeding and to transact all business in and before the United States Patent and Trademark Office in connection herewith. Please address all correspondence to:

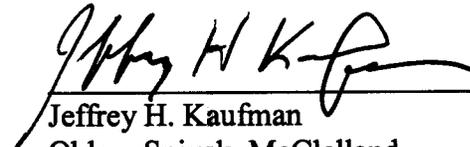
Jeffrey H. Kaufman
OBLON, SPIVAK, McCLELLAND, MAIER & NEUSTADT, P.C.
1940 Duke Street
Alexandria, Virginia 22314

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to Account No. 50-2014.

Respectfully submitted,

LOTTO SPORT ITALIA S.P.A.

By:



Jeffrey H. Kaufman
Oblon, Spivak, McClelland,
Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, Virginia 22314
(703) 413-3000
fax (703) 413-2220
e-mail: tmdocket@oblon.com

Date: September 11, 2006

JHK/klb {Documl:VATTYJHK272822-289932US-NOP.}

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **NOTICE OF OPPOSITION** was served on counsel for Applicant, this 11th day of September, 2006, by sending same via First Class mail, postage prepaid, to:

Ernest G. Bootsma, Esquire
ATER WYNNE LLP
KOIN Building
222 S.W. Columbia, Suite 1800
Portland, Oregon 97201

A handwritten signature in black ink, appearing to read "Ernest G. Bootsma", is written over a horizontal line.

EXHIBIT 1

Int. Cl.: 25

Prior U.S. Cl.: 22

United States Patent Office

Reg. No. 1,023,806

Registered Oct. 28, 1975

TRADEMARK
Principal Register



Calzaturificio Lotto S.r.l. (Italian limited liability company)
Via S. Gaetano
13, Treviso, Italy

For: SPORTING FOOTWEAR—NAMELY, SPORTING BOOTS AND SHOES—in CLASS 25 (U.S. CL. 22).
Priority claimed under Sec. 44(d) on Italian application filed Sept. 19, 1973; Reg. No. 284,493, dated Sept. 14, 1974.

Ser. No. 13,001, filed Mar. 4, 1974.

P. P. GRALNICK, Supervisory Examiner

Int. Cl.: 18

Prior U.S. Cls.: 1, 3 and 41

United States Patent and Trademark Office **Reg. No. 1,638,407**
Registered Mar. 19, 1991

**TRADEMARK
PRINCIPAL REGISTER**



LOTTO S.P.A. (ITALY JOINT STOCK COMPAN-
NY)
VIA S. GAETANO, 200
MONTEBELLUNA, TREVISO, ITALY

FOR: MATERIALS, NAMELY ANIMAL
SKINS AND ANIMAL HIDES, TRUNKS FOR
TRAVEL, LUGGAGE, TRAVELLING BAGS,
UMBRELLAS, PARASOLS AND WALKING
STICKS, WHIPS, HARNESS AND SADDLERY,
IN CLASS 18 (U.S. CLS. 1, 3 AND 41).

FIRST USE 11-30-1973; IN COMMERCE
11-30-1973.

OWNER OF U.S. REG. NO. 1,379,243.

THE DRAWING IS LINED FOR THE
COLORS RED AND BLUE.

SER. NO. 74-038,122, FILED 3-9-1990.

ANNE L. CORNELIUS, EXAMINING ATTOR-
NEY

Int. Cls.: 3, 9 and 16

Prior U.S. Cls.: 1, 2, 4, 5, 6, 21, 22, 23, 26, 29, 36, 37,
38, 50, 51 and 52

Reg. No. 2,514,566

United States Patent and Trademark Office

Registered Dec. 4, 2001

TRADEMARK
PRINCIPAL REGISTER



LOTTO SPORT ITALIA S.P.A. (ITALY JOINT
STOCK COMPANY)
VIA S. GAETANO 200
MONTEBELLUNA (TREVISO), ITALY

FOR: AFTER-SHAVE LOTIONS, SHAVING LOTIONS, SKIN CLEANSING LOTIONS, HAIR LOTIONS, BODY LOTIONS; SHAVING BALMS, NON-MEDICATED LIP BALMS; BATH GEL, HAIR GEL, SHOWER GEL, SHAVING GEL; BATH OIL, BODY OIL; BATH POWDER, BODY POWDER, FACE POWDER; BODY CREAMS, HAND CREAMS, SHAVING CREAMS, SKIN CREAMS, SKIN CLEANSING CREAMS; BUBBLE BATH; COLOGNE; PERFUMES; HAIR CONDITIONERS; DEODORANT SOAPS, SKIN SOAPS, TOILET SOAPS, LIQUID SOAPS FOR HANDS, FACE AND BODY; PERSONAL DEODORANTS, DEODORANTS AND ANTIPERSPIRANTS; PRE-MOISTENED COSMETIC TISSUES; HAIR SHAMPOO; SKIN MOISTURIZERS; SUN BLOCK PREPARATIONS; SUN SCREEN PREPARATIONS; HAIR POMADES, LIP POMADES, IN CLASS 3 (U.S. CLS. 1, 4, 6, 50, 51 AND 52).

FOR: SPECTACLES, SPECTACLE FRAMES, SPECTACLE CASES, SPECTACLE CHAINS, SPECTACLE CORDS, SPECTACLE LENSES, BINOCULARS, COMPASSES, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FOR: GENERAL PURPOSE PLASTIC BAGS, MERCHANDISE BAGS, PLASTIC OR PAPER BAGS FOR MERCHANDISE PACKAGING, BALL-POINT PENS, PAPER BANNERS, PRINTING BLOCKS, DRAWING BOARDS, MEMORANDUM BOARDS, SLATE BOARDS FOR WRITING, EXERCISE BOOKS, MEMORANDUM BOOKS, NOTE BOOKS, PENCIL BOXES, REPORTERS' NOTE BOOKS, STENOGRAPHERS' NOTE BOOKS, SKETCH BOOKS, DESK STANDS AND HOLDERS FOR PENS, PENCILS AND INK, DESK TOP ORGANIZERS, DIARIES,

CARDBOARD FLOOR DISPLAY UNITS FOR MERCHANDISING PRODUCTS, DOCUMENT FILE RACKS, DOCUMENT FILE TRAYS, DRAWING PENCILS, PENCILS, CHARCOAL PENCILS, SANDPAPER FOR SHARPENING DRAWING PENCILS, SANDPAPER PADS FOR SHARPENING DRAWING PENCILS, ENVELOPES, FILE FOLDERS, HANGING FOLDERS, STATIONERY FOLDERS, GLUE FOR STATIONERY OR HOUSEHOLD USE, HOUSE ORGANS, MARKERS, NOTE PAPER, PERSONAL ORGANIZERS, ORGANIZERS FOR STATIONERY USE, CALENDAR DESK PADS, DESK PADS, INKING PADS, NOTE PADS, PRESCRIPTION REMINDER PADS, STAMP PADS, WRITING PADS, SKETCH PADS, PAINTING SETS FOR CHILDREN, PEN AND PENCIL TRAYS, PEN CASES, PEN OR PENCIL HOLDERS, POCKET PEN SHIELDS, PENCIL BOXES, PENCIL CASES, PENCIL SHARPENERS, PAPER PENNANTS, PENS, ARTISTS' PENS, BALL-POINT PENS, INK PENS, CORKBOARD PINS, DAILY PLANNERS, DESK TOP PLANNERS, PERSONAL PLANNERS, POCKET CALENDARS, POCKET SECRETARIES, FILE POCKETS FOR STATIONERY USE, STATIONERY-TYPE PORTFOLIOS, PAPER SIGN HOLDERS, SKETCHES, ART SKETCHING BOARDS, FILE SORTERS, MEMO SORTERS, DRAWING SQUARES, RUBBER STAMPS, CALENDAR DESK STANDS, STATIONERY, STATIONERY BOXES, DESK MOUNTED STATIONERY CABINETS, DESK TOP STATIONERY CABINETS, STATIONERY FOLDERS, REINFORCED STATIONERY TABS, STATIONERY TYPE PORTFOLIOS, ORGANIZERS FOR STATIONERY USE, STATIONERY WRITING PAPER AND ENVELOPES, BOOKBINDING TAPE, PAPER TAPE, PAPER BOARDS, ADHESIVE TAPES FOR STATIONERY OR HOUSEHOLD PURPOSES, DISPENSERS FOR ADHESIVE TAPES FOR STATIONERY OR HOUSEHOLD USE, WALL CALENDARS, BOOKBINDING WIRE, WIRE-BOUND BOOKS, WRITING INK, WRITING PAPER,

WRITING TABLETS, IN CLASS 16 (U.S. CLS. 2, 5, 22,
23, 29, 37, 38 AND 50).

PRIORITY CLAIMED UNDER SEC. 44(D) ON
ITALY APPLICATION NO. TV99C000556, FILED 12-
24-1999, REG. NO. 00805205, DATED 12-4-1999, EX-
PIRES 12-24-2009.

THE STIPPLING IS FOR SHADING PURPOSES.

SER. NO. 76-053,495, FILED 5-19-2000.

EDD VASQUEZ, EXAMINING ATTORNEY

Int. Cls.: 25 and 28

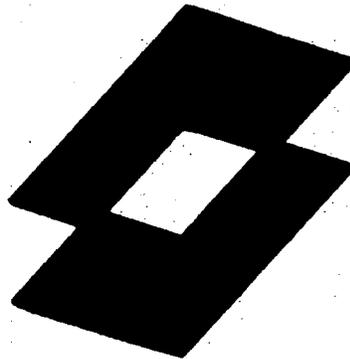
Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 1,378,169

Registered Jan. 14, 1986

**TRADEMARK
PRINCIPAL REGISTER**



**LOTTO S.P.A. (ITALY JOINT STOCK COMPANY)
VIA SAN GAETANO 131
MONTEBELLUNA (TREVISO), ITALY**

FOR: CLOTHING, NAMELY, SHORTS, TROUSERS, BLOUSES, SHIRTS, SOCKS, SHOES, SNEAKERS, HATS, GLOVES, SCARVES, SKIRTS AND DRESSES, IN CLASS 25 (U.S. CL. 39).

FOR: GYMNASTIC AND SPORTING EQUIPMENT, NAMELY, TENNIS RACKETS, TENNIS

RACKET COVERS, RACKET PADDLES AND TABLE TENNIS PADDLES, TENNIS BALLS, VOLLEYBALLS, BASKETBALLS, SOCCER BALLS, IN CLASS 28 (U.S. CL. 22).

PRIORITY CLAIMED UNDER SEC. 44(D) ON ITALY APPLICATION NO. 20997C/84, FILED 7-10-1984, REG. NO. 337790, DATED 11-6-1984, EXPIRES 7-10-2004.

SER. NO. 494,798, FILED 8-14-1984.

ERIC WACHSPRESS, EXAMINING ATTORNEY

Int. Cl.: 18

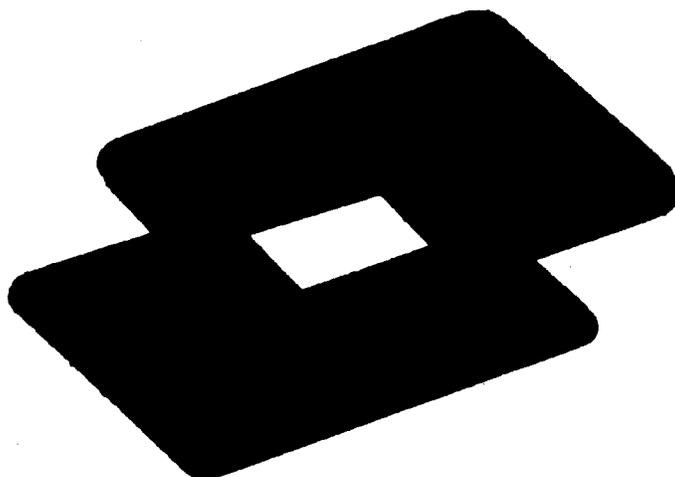
Prior U.S. Cls.: 1 and 3

United States Patent and Trademark Office

Reg. No. 1,656,254

Registered Sep. 10, 1991

**TRADEMARK
PRINCIPAL REGISTER**



**LOTTO, S.P.A. (ITALY JOINT STOCK COMPANY)
VIA S.GAETANO, 200
31044 MONTEBELLUNA/TV, ITALY**

**FOR: LEATHER SOLD IN BULK, LEATHER
AND IMITATION LEATHER HANDBAGS,
SUITCASES AND BRIEFCASE-TYPE PORTFOLIOS,
ANIMAL SKINS AND HIDES, TRUNKS**

**FOR TRAVELLING, IN CLASS 18 (U.S. CLS. 1
AND 3).**

**FIRST USE 11-11-1973; IN COMMERCE
11-11-1973.**

OWNER OF U.S. REG. NO. 1,378,169.

SER. NO. 74-042,317, FILED 3-23-1990.

ANNE L. CORNELIUS, EXAMINING ATTORNEY

Int. Cl.: 28

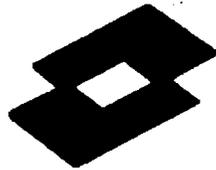
Prior U.S. Cls.: 22, 23, 38 and 50

United States Patent and Trademark Office

Reg. No. 2,452,969

Registered May 22, 2001

**TRADEMARK
PRINCIPAL REGISTER**



**LOTTO S.P.A (ITALY JOINT STOCK COMPANY)
VIA S. GAETANO, 200
MONTEBELLUNA (TREVISO), ITALY**

FIRST USE 11-6-1984; IN COMMERCE 1-14-1986.

**FOR: SHINGUARDS FOR ATHLETIC USE;
SPORT BALLS; BALLOONS, IN CLASS 28 (U.S. CLS.
22, 23, 38 AND 50).**

SER. NO. 75-937,717, FILED 3-7-2000.

REBECCA SMITH, EXAMINING ATTORNEY