

ESTTA Tracking number: **ESTTA101385**

Filing date: **09/27/2006**

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	Perry Swain d/b/a Mojo Originals
Granted to Date of previous extension	09/27/2006
Address	1016 Myrtle Avenue Greenville, NC 27834 UNITED STATES
Attorney information	J. Scott Evans ADAMS EVANS P.A. 301 S. Tryon Street 2180 Two Wachovia Center Charlotte, NC 28282 UNITED STATES j.scott.evans@adamspat.com Phone:704.375.9249

Applicant Information

Application No	78724605	Publication date	05/30/2006
Opposition Filing Date	09/27/2006	Opposition Period Ends	09/27/2006
Applicant	Good, Jeffrey Randall 12807 Valleyhill Street Woodbridge, VA 22192 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 2005/04/30 First Use In Commerce: 2005/04/30 All goods and services in the class are opposed, namely: (BASED ON USE) Hats; (BASED ON INTENT TO USE) Shirts; Shorts
Class 028. First Use: 2005/04/30 First Use In Commerce: 2005/04/30 All goods and services in the class are opposed, namely: (BASED ON USE) Surfboards; (BASED ON INTENT TO USE) Bags especially designed for surfboards; Surfboard fins; Surfboard leashes

Attachments	1232&18 Notice of Opp.pdf (4 pages)(77259 bytes)
Signature	/J. Scott Evans/
Name	J. Scott Evans
Date	09/27/2006

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

In Re Application Serial No. 78/724605 for the mark ISLAND MOJO + Design published in the *Official Gazette* on May 30, 2006

Perry Swain d/b/a)	
MOJO ORIGINALS)	
Opposer,)	
)	
v.)	
)	Opposition No. _____
Good Jeffrey Randall)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Perry Swain, a United States individual doing business as MOJO ORIGINALS (“Opposer”), having a principal place of business at 1016 Myrtle Avenue, Greenville, North Carolina 27834, believes he will be damaged by the registration of the mark shown in the above-identified application owned by Jeffrey Randall Good (“Applicant”), and hereby opposes the same.

The grounds for the Opposition are as follows:

1. Opposer is engaged in the manufacture and sale of various apparel products including, but not limited to, t-shirts, sweatshirts, caps, visors, sweat pants, gym shorts and long-sleeve t-shirts. Opposer has been in this business since at least as early as August 1, 1985 using the mark “MOJO ORIGINALS” on his apparel products.

2. On September 30, 2005, Applicant filed Application Serial No. 78/724605 seeking registration of the mark ISLAND MOJO + Design as a trademark for “hats; shirts; shorts” in International Class 25 and “bags especially designed for surfboards; surfboard fins; surfboard leashes; surfboards” in Class 28.

3. Long before Applicant's filing of its application to register the ISLAND MOJO + Design mark, Opposer adopted and has used the mark MOJO ORIGINALS for clothing products throughout the United States.

4. Opposer is the owner of 1,551,061 for the MOJO ORIGINALS mark.

5. Opposer's registration for the MOJO ORIGINALS mark is incontestable under Section 15 of the Lanham Act, 15 U.S.C. §1065, and has been used for such an extensive period of time, in excess of five years, that the registration constitutes conclusive evidence of the validity of the registered mark, of registration of the mark, of Opposer's ownership of the mark and of Opposer's exclusive right to use the register mark in commerce. 15 U.S.C. §1115.

6. Opposer has expended substantial sums of money in advertising, publicizing and policing Opposer's MOJO ORIGINALS mark which, together with the use of said trademark, has resulted in the acquisition of substantial goodwill therein.

7. Applicant seeks to register the ISLAND MOJO + Design mark for clothing in Class 25 and closely-related sporting products in Class 28.

8. Upon information and belief, Applicant's proposed trademark ISLAND MOJO + Design is so similar to Opposer's MOJO ORIGINALS trademark that use by Applicant of the mark ISLAND MOJO + Design on goods identical and/or so closely-related to those of Opposer is likely to cause confusion or mistake, or to deceive purchasers as to the origin of the goods.

9. Upon information and belief, the goods of Opposer and the goods of Applicant travel through the same or similar trade channels and are marketed to the same consumers.

10. Upon information and belief, the registration by Applicant of the ISLAND MOJO + Design mark for goods identical or closely-related to the goods of Opposer will impair Opposer's free use of Opposer's MOJO ORIGINALS mark, is likely to cause confusion or mistake or deceive

purchasers as to the origin of the goods of Opposer and Applicant's goods, and will result in dilution of the goodwill Opposer has acquired with respect to the Opposer's MOJO ORIGINALS mark, all to the Opposer's damage.

WHEREFORE, Opposer prays that the registration for which application has been made by Applicant be disallowed and that this Opposition be sustained.

Date: September 27, 2006.

Respectfully submitted,

ADAMS EVANS P.A.



J. Scott Evans
Attorney for Opposer
NC State Bar No. 22,714

Of Counsel:

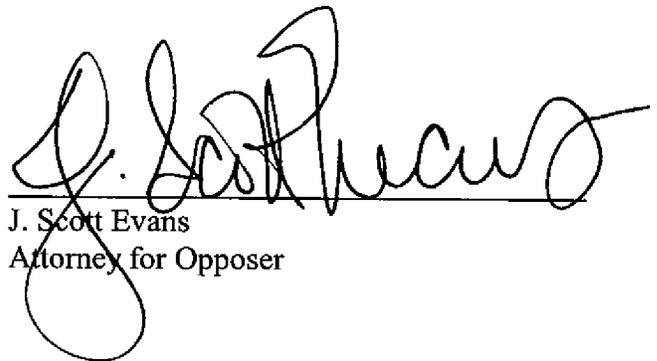
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Attorney Docket No:1256/18

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document, NOTICE OF OPPOSITION, was duly served upon the Applicant by delivering copies thereof via electronic mail to jrandyg@hotmail.com and via first class mail, postage prepaid and properly addressed to the following attorney of record:

**Mr. Jeffrey Randall Good
12807 Valleyhill Street
Woodbridge, VA 22192-6421**

This 27th day of September, 2006.



J. Scott Evans
Attorney for Opposer