

ESTTA Tracking number: **ESTTA131688**

Filing date: **03/23/2007**

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	Best Made Designs, L.L.C.
Granted to Date of previous extension	03/25/2007
Address	P.O. Box 475 Monahans, TX 79756 UNITED STATES
Attorney information	John J. Arnott HOWISON & ARNOTT, L.L.P. P.O. Box 741715 Dallas, TX 75374-1715 UNITED STATES jjarnott@dalpat.com, docket@dalpat.com, jjarnott@tx.rr.com, sguthrie@dalpat.com Phone:9724790462

Applicant Information

Application No	76642796	Publication date	09/26/2006
Opposition Filing Date	03/23/2007	Opposition Period Ends	03/25/2007
International Registration No.	NONE	International Registration Date	NONE
Applicant	Bacou-Dalloz Protective Apparel Ltd./ Bacou-Dalloz Vetements de Protection Ltee 4200 St-Laurent Blvd., 6th Floor Montreal, Quebec H2W 2R2, CANADA		

Goods/Services Affected by Opposition

Class 009. All goods and services in the class are opposed, namely: Protective clothing and accessories for protection against fire, heat, water, perforation, chemicals, gases, germs, bacteria, blood or body fluids, namely coats, hats, helmets, jackets, vests, pants, overalls, shirts, socks, stockings, under-tops, under-bottoms, jumpsuits, wet-suits, body suits, gloves, gauntlets, goggles, glasses, masks, belts, suspenders, shoes, and boots

Attachments	bes28248 Notice of Opp 03 23 07.pdf (4 pages)(15987 bytes)
Signature	/jja/
Name	John J. Arnott
Date	03/23/2007

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

BEST MADE DESIGNS, L.L.C.	§	Opposition No. _____
	§	
<i>Opposer,</i>	§	In the matter of:
	§	
v.	§	Application Serial No. 76/642,796
	§	Mark: SPECIAL OPS TRAINING
BACOU-DALLOZ PROTECTIVE	§	PACK
APPAREL LTD./BACOU-DALLOZ	§	
VETEMENTS DE PROTECTION LTEE	§	Filed on July 13, 2005
	§	
<i>Applicant.</i>	§	Published in the Official Gazette
	§	on September 26, 2006

NOTICE OF OPPOSITION

Opposer, Best Made Designs, L.L.C., a Texas limited liability company, having an address of P.O. Box 475, Monahans, Texas 79756 (“Opposer”), believes that it will be damaged by registration of the mark SPECIAL OPS TRAINING PACK (the “Opposed Mark”) shown in Application Serial No. 76/642,796, and hereby opposes that application.

As grounds for its opposition, Opposer alleges:

1. Applicant, Bacou-Dalloz Protective Apparel Ltd./Bacou-Dalloz Vetements de Protection Ltee (“Applicant”), seeks registration of the Opposed Mark for use on and in connection with “protective clothing and accessories for protection against fire, heat, water, perforation, chemicals, gases, germs, bacteria, blood or body fluids, namely coats, hats, helmets, jackets, vests, pants, overalls, shirts, socks, stockings, under-tops, under-bottoms, jumpsuits, wet-suits, body suits, gloves, gauntlets, goggles, glasses, masks, belts, suspenders, shoes, and boots” in International Class 9. Applicant filed this application on July 13, 2005, alleging that Applicant had a bona fide intention to use the Opposed Mark in commerce, and asserting a claim of priority based upon the following foreign application: Canadian Trademark Application No. 1,258,067, filed May 18, 2005.

2. Applicant subsequently amended the application to delete the intent-to-use basis under 15 U.S.C. 1052 Section 1(b), and to submit a copy of Canadian Trademark Registration No. TMA 665,950, registered June 13, 2006, corresponding to the Canadian Trademark Application No. 1,258,067. The Canadian Trademark Registration No. TMA 665,950 reflects a Declaration of Use filed May 8, 2006 on wares.

3. Since at least as early as July 2000, Opposer has used its SPEC.-OPS. mark on military gear in interstate commerce.

4. Opposer owns Registration No. 2,851,153 for the mark SPEC.-OPS. for use on “military gear, namely, gun cases, cases for cartridges, ammunition and ammunition magazines, pouches and packs for guns, cartridges, ammunition and ammunition magazines,” in International Class 013 and for use on “military gear, namely, rucksacks, drawstring pouches, tool pouches sold empty and document cases fitting within assault packs and rucksacks, pouches for hydration units, drawstring pouches, tool pouches sold empty and document cases for attachment to shoulder straps of packs and rucksacks, drawstring pouches, tool pouches sold empty and document cases fitting within side cargo pant pockets, drawstring pouches, tool pouches sold empty and document cases for attachment to sternum straps of packs and rucksacks,” in International Class 018. The application was filed on May 15, 2000, and the mark was registered on June 8, 2004.

5. Based on a review of company records, Opposer has continuously used its SPEC.-OPS. mark on its goods in interstate commerce since its adoption.

6. Opposer’s priority in its SPEC.-OPS. mark precedes Applicant’s filing date of July 13, 2005 for the Opposed Mark.

7. Since its adoption, Opposer has expended considerable sums of money in advertising, promoting, marketing, and otherwise developing its SPEC.-OPS. mark.

8. Due to Opposer’s distribution, sales and advertising of its goods under its SPEC.-OPS. mark, the mark has acquired goodwill and consumer recognition throughout the United States and the SPEC.-OPS. mark has become known throughout the United States as an indicator of goods provided by Opposer.

9. Opposer also owns pending Application No. 78/697,085 for the mark SPEC.-OPS. (identical to Opposer's registered mark) for use on "clothing, namely t-shirts, shirts, sweatshirts, sweaters, hats, caps, socks, jackets, coats, shorts, pants, belts, underwear; and footwear," in International Class 25. This application was filed on August 21, 2005, alleging a bona fide intention to use the mark in commerce.

10. In an Office Action dated March 8, 2006, the assigned examining attorney in Opposer's Application No. 78/697,085 found a likelihood of confusion between Opposer's mark SPEC.-OPS. and Applicant's Opposed Mark, and indicated this would be a possible basis for refusing registration of Opposer's mark if the referenced application (i.e., Applicant's application 76/642,796) matured into a registration.

11. Opposer initially believed there were sufficient differences between Opposer's SPEC.-OPS. mark and Applicant's Opposed Mark, in terms of appearance, goods and marketing, to avoid confusion among likely consumers. Opposer submitted such arguments to the examining attorney in Opposer's Application No. 78/697,085 in a Response to Office Action dated September 8, 2006.

12. In a Notice of Suspension dated October 5, 2006, the examining attorney in Opposer's Application No. 78/697,085 maintained the finding that a likelihood of confusion existed between Opposer's mark SPEC.-OPS. and Applicant's Opposed Mark.

13. The examining attorney's findings in Opposer's Application No. 78/697,085 compelled Opposer to reevaluate the extent of the differences between Opposer's mark SPEC.-OPS. and Applicant's Opposed Mark. Upon said reevaluation, it became apparent that the Opposed Mark is, in fact, confusingly similar to Opposer's SPEC.-OPS. mark in sight, sound and commercial impression.

14. The circumstances surrounding the marketing of the goods and services sold under the respective marks are such that they are likely to be encountered by the same persons under circumstances that would give rise to the mistaken belief that they originate from or are in some way associated with the same producer. Therefore, the Opposed Mark is likely to cause confusion, or to cause mistake, or to deceive.

15. On information and belief, Applicant's goods and services are or will be advertised and sold to the same customers as Opposer's goods. Consequently, Applicant's use of the Opposed Mark in connection with the goods and services listed in Serial No. 76/642,796 is likely to cause consumers to be confused, deceived or misled into the mistaken belief that Applicant's goods and services emanate from, are affiliated with, or are otherwise related to Opposer, when in fact they are not.

16. For the foregoing reasons, the Opposed Mark is likely to cause confusion, or to cause mistake, or to deceive.

17. Therefore, Opposer will be damaged and harmed by the use and registration of the Opposed Mark.

WHEREFORE, Opposer prays that Application Serial No. 76/642,796 be refused, that no registration be issued to Applicant, and that this opposition be sustained in favor of Opposer.

This Notice of Opposition is being submitted through the Electronic System for Trademark Trials and Appeals (ESTTA). Please charge the requisite \$300.00 fee and any additional fees required to Deposit Account No. 20-0780 of Howison & Arnott, L.L.P.

Respectfully submitted,

/jja/

John J. Arnott
Attorney for Opposer